

COAST GUARD IMPROVEMENT AND REFORM ACT OF 2017

MAY 18, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 1726]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1726) to amend title 14, United States Code, to improve the organization of such title and to incorporate certain transfers and modifications into such title, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE OF LEGISLATION

H.R. 1726, the Coast Guard Improvement and Reform Act of 2017, reorganizes and modernizes portions of title 14, United States Code, pertaining to the operation and administration of the United States Coast Guard (Coast Guard).

BACKGROUND AND NEED FOR LEGISLATION

Title 14 was codified in 1949 and has not been re-codified in the intervening 68 year period. H.R. 1726 better organizes title 14 by transferring and renumbering existing provisions, co-locating similar authorities, and creating more space in the title to accommodate future amendments and additions. Title I of the bill reorganizes the title, but makes no substantive change to law. Title II amends the title to create uniformity, better organize the Coast Guard's authorities, clarify Coast Guard authority when operating as a special service in the Navy, and repeal an obsolete personnel policy.

HEARINGS

The bill was not subject to a hearing by the Subcommittee on Coast Guard and Maritime Transportation principally because the legislation does not make any substantive policy changes to the underlying law. Subcommittee staff did develop the bill in close consultation with the House Office of the Legislative Counsel, the Office of the Law Revision Counsel, and with the Office of the Parliamentarian. Subcommittee staff also consulted extensively with the Coast Guard Legislative Counsel.

LEGISLATIVE HISTORY AND CONSIDERATION

On March 27, 2017, H.R. 1726 was introduced by Congressman Duncan Hunter (R-CA) and cosponsored by Congressman John Garamendi (D-CA).

On March 29, 2017, the Committee on Transportation and Infrastructure met in open session to consider H.R. 1726 and ordered the bill reported favorably to the House by voice vote with a quorum present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 1726. A motion to order H.R. 1726 reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 1726 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 26, 2017.

Hon. BILL SHUSTER,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1726, the Coast Guard Improvement and Reform Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 1726—Coast Guard Improvement and Reform Act of 2017

H.R. 1726 would reorganize, but not substantively alter, provisions of law that govern the authority of the U.S. Coast Guard. The bill would clarify the duties and defense-related responsibilities of that agency and establish a uniform administrative framework for its advisory committees.

Based on an analysis of information from the Coast Guard, CBO estimates that enacting H.R. 1726 would have no significant effect on the federal budget. According to the agency, the bill would not impose any new requirements or duties; as a result, CBO expects that any changes in the agency's annual costs—which would be subject to appropriation—would be negligible.

Enacting H.R. 1726 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 1726 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 1726 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to reorganize and modernize title 14 of the United States Code.

ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 1726 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee finds that enacting H.R. 1726 does not direct the completion of a specific rule making within the meaning of section 551 of title 5, United States Code.

FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 1726 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No new advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation. Title II of the legislation moves existing advisory committees from title 46, United States Code, into title 14, United States Code, as a unified new chapter.

APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF LEGISLATION

Section 1. Short Title; Table of Contents

(a) Short Title.—“Coast Guard Improvement and Reform Act of 2017”.

(b) Table of Contents.

TITLE I—REORGANIZATION OF TITLE 14, UNITED STATES CODE

Section 101. Initial Matter

This section amends title 14 by striking the title designation, the title heading, and the table of parts and inserting new subtitle designations.

Section 102. Subtitle I

This section amends Part I of title 14, United States Code, by striking the part designation, the part heading, and the table of chapters and replacing it with a new subtitle I.

Section 103. Chapter 1

This section amends Chapter 1 of title 14, United States Code, by striking the chapter designation, the chapter heading, and the table of sections and replacing it with the following:

CHAPTER 1—ESTABLISHMENT AND DUTIES

Section 101. Establishment of the Coast Guard. (Section 101 was previously section 1.)

Section 102. Primary Duties. (Section 102 was previously section 2.)

Section 103. Department in which the Coast Guard operates. (Section 103 was previously section 3.)

Section 104. Removing restrictions. (Section 104 was previously section 652.)

Section 105. Secretary defined. (Section 105 was previously section 4.)

Section 104. Chapter 3

This section amends Chapter 3 of title 14, United States Code, by striking the chapter designation, the chapter heading, and the table of sections and replacing it with the following:

CHAPTER 3—COMPOSITION AND ORGANIZATION

Section 301. Grades and rating. (Section 301 was previously section 41.)

Section 302. Commandant; appointment. (Section 302 was previously section 44.)

Section 303. Retirement of Commandant. (Section 303 was previously section 46.)

Section 304. Vice Commandant; appointment. (Section 304 was previously section 47.)

Section 305. Vice admirals. (Section 305 was previously section 50.)

Section 306. Retirement. (Section 306 was previously section 51.)

Section 307. Vice admirals and admiral, continuity of grade. (Section 307 was previously section 52.)

Section 308. Chief Acquisition Officer. (Section 308 was previously section 56.)

Section 309. Office of the Coast Guard Reserve; Director. (Section 309 was previously section 53.)

Section 310. Chief of Staff to President: appointment. (Section 310 was previously section 54.)

Section 311. Captains of the port. (Section 311 was previously subsection (a) of section 634.)

Section 312. Prevention and response workforces. (Section 312 was previously section 57.)

Section 313. Centers of expertise for Coast Guard prevention and response. (Section 313 was previously section 58.)

Section 314. Marine industry training program. (Section 314 was previously section 59.)

Section 315. Training course on workings of Congress. (Section 315 was previously section 60.)

Section 316. National Coast Guard Museum. (Section 316 was previously section 98.)

Section 317. United States Coast Guard Band; composition; director. (Section 314 was previously section 336.)

Section 318. Environmental Compliance and Restoration Program. (Section 318 was previously sections 690–693.)

Section 104 also includes conforming repeals of sections 634, 690, 691, 692, and 693 which were moved into sections 311 and 318.

Section 105. Chapter 5

This section amends Chapter 5 of title 14, United States Code, by striking the chapter designation, the chapter heading, and the table of sections and replacing it with the following:

CHAPTER 5—FUNCTIONS AND POWERS

SUBCHAPTER I—GENERAL POWERS (NEW SUBCHAPTER)

Section 501. Secretary; general powers. (Section 501 was previously section 92.)

Section 502. Delegation of powers by the Secretary. (Section 502 was previously section 631.)

Section 503. Regulations. (Section 503 was previously section 633)

Section 504. Commandant; general powers. (Section 504 was previously section 93.)

Section 505. Functions and powers vested in the Commandant. (Section 505 was previously section 632.)

Section 506. Prospective payment of funds necessary to provide medical care. (Section 506 was previously section 520.)

SUBCHAPTER II—LIFE SAVING AND LAW ENFORCEMENT AUTHORITIES
(NEW SUBCHAPTER)

Section 521. Saving life and property. (Section 521 was previously section 88.)

Section 522. Law enforcement. (Section 522 was previously section 89.)

Section 523. Enforcement authority. (Section 523 was previously section 99.)

Section 524. Enforcement of coastwise trade laws. (Section 524 was previously section 100.)

Section 525. Special agents of the Coast Guard Investigative Service law enforcement authority. (Section 525 was previously section 95.)

Section 526. Stopping vessels; indemnity for firing at or into vessel. (Section 526 was previously section 637.)

Section 527. Safety of naval vessels. (Section 527 was previously section 91.)

SUBCHAPTER III—AIDS TO NAVIGATION (NEW SUBCHAPTER)

Section 541. Aids to navigation authorized. (Section 541 was previously section 81.)

Section 542. Unauthorized aids to maritime navigation; penalty. (Section 542 was previously section 83.)

Section 543. Interference with aids to navigation; penalty. (Section 543 was previously section 84.)

Section 544. Aids to maritime navigation; penalty. (Section 544 was previously section 85.)

Section 545. Marking of obstructions. (Section 545 was previously section 86.)

Section 546. Deposit of damage payments. (Section 546 was previously section 642.)

Section 547. Rewards for apprehension of persons interfering with aids to navigation. (Section 547 was previously section 643.)

SUBCHAPTER IV—MISCELLANEOUS (NEW SUBCHAPTER)

Section 561. Icebreaking in polar regions. (Section 561 was previously section 87.)

Section 562. Appeals and waivers. (Section 562 was previously section 101.)

Section 563. Notification of certain determinations. (Section 563 was previously section 103.)

Section 106. Chapter 7.

This section amends Chapter 7 of title 14, United States Code, by striking the chapter designation, the chapter heading, and the table of sections and replacing it with the following:

CHAPTER 7—COOPERATION (TITLE AMENDED TO DROP “WITH OTHER AGENCIES”)

Section 701. Cooperation with other agencies, States, territories, and political subdivisions. (Section 701 was previously section 141.)

Section 702. State Department. (Section 702 was previously section 142.)

Section 703. Treasury Department. (Section 703 was previously section 143.)

Section 704. Department of the Army and Department of the Air Force. (Section 704 was previously section 144.)

Section 705. Navy Department. (Section 705 was previously section 145.)

Section 706. United States Postal Service. (Section 706 was previously section 146.)

Section 707. Department of Commerce. (Section 707 was previously section 147.)

Section 708. Department of Health and Human Services. (Section 708 was previously section 147(a).)

Section 709. Maritime instruction. (Section 709 was previously section 148.)

Section 710. Assistance to foreign governments and maritime authorities. (Section 710 was previously section 149.)

Section 711. Coast Guard officers as attachés to missions. (Section 711 was previously section 150.)

Section 712. Contracts with Government-owned establishments for work and material. (Section 712 was previously section 151.)

Section 713. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services. (Section 713 was previously section 152.)

Section 714. Appointment of judges. (Section 714 was previously section 153.)

Section 715. Arctic maritime domain awareness. (Section 715 was previously section 154.)

Section 716. Oceanographic research. (Section 716 was previously section 94.)

Section 717. Arctic maritime transportation. (Section 717 was previously section 90.)

Section 718. Agreements. (Section 718 was previously section 102.)

Section 107. Chapter 9

This section amends Chapter 9 of title 14, United States Code, by striking the chapter designation, the chapter heading, and the table of sections and replacing it with the following:

CHAPTER 9—ADMINISTRATION (PREVIOUSLY CHAPTER 17)

SUBCHAPTER I—REAL AND PERSONAL PROPERTY (NEW SUBCHAPTER)

Section 901. Disposal of certain material. (Section 901 was previously section 641.)

Section 902. Employment of draftsmen and engineers. (Section 902 was previously section 653.)

Section 903. Use of certain appropriated funds. (Section 903 was previously section 656.)

Section 904. Local hire. (Section 904 was previously section 666.)

Section 905. Procurement authority for family housing. (Section 905 was previously section 670.)

Section 906. Air Station Cape Cod improvements. (Section 906 was previously section 671.)

Section 907. Long-term lease of special purpose facilities. (Section 907 was previously section 672.)

Section 908. Long-term lease authority for lighthouse property. (Section 908 was previously section 672a.)

Section 909. Small boat station rescue capability. (Section 909 was previously section 674.)

Section 910. Small boat station closures. (Section 910 was previously section 675.)

Section 911. Search and rescue center standards. (Section 911 was previously section 676.)

Section 912. Air facility closures. (Section 912 was previously section 676a.)

Section 913. Turnkey selection procedures. (Section 913 was previously section 677.)

Section 914. Disposition of infrastructure related to E-LORAN. (Section 914 was previously section 681 of chapter 17.)

SUBCHAPTER II—MISCELLANEOUS (NEW SUBCHAPTER)

Section 931. Oath required for boards. (Section 931 was previously section 635.)

Section 932. Administration of oaths. (Section 932 was previously section 636.)

Section 933. Coast Guard ensigns and pennants. (Section 933 was previously section 638.)

Section 934. Penalty for unauthorized use of words “Coast Guard”. (Section 934 was previously section 639.)

Section 935. Coast Guard band recordings for commercial sale. (Section 935 was previously section 640.)

Section 936. Confidentiality of medical quality assurance records; qualified immunity for participants. (Section 936 was previously section 645.)

Section 937. Admiralty claims against the United States. (Section 937 was previously section 646.)

Section 938. Claims for damage to property of the United States. (Section 938 was previously section 647.)

Section 939. Accounting for industrial work. (Section 939 was previously section 648.)

Section 940. Supplies and equipment from stock. (Section 940 was previously section 649.)

Section 941. Coast Guard Supply Fund. (Section 941 was previously section 650.)

Section 942. Public and commercial vessels and other watercraft; sale of fuel, supplies, and services. (Section 942 was previously section 654.)

Section 943. Arms and ammunition; immunity from taxation. (Section 943 was previously section 655.)

Section 944. Confidential investigative expenses. (Section 944 was previously section 658.)

Section 945. Assistance to film producers. (Section 945 was previously section 659.)

Section 946. User fees. (Section 946 was previously section 664.)

Section 947. Vessel construction bonding requirements. (Section 947 was previously section 667.)

Section 948. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care. (Section 948 was previously section 668.)

Section 949. Telephone installation and charges. (Section 949 was previously section 669.)

Section 950. Designation, powers, and accountability of deputy disbursing officials. (Section 950 was previously section 673.)

Section 951. Aircraft accident investigations. (Section 951 was previously section 678.)

Section 108. Chapter 11

This section amends Chapter 11 of title 14, United States Code, by striking the chapter designation, the chapter heading, and the table of sections and replacing it with the following:

CHAPTER 11—ACQUISITIONS (PREVIOUSLY CHAPTER 15)

SUBCHAPTER I—GENERAL PROVISIONS

Section 1101. Acquisition directorate. (Section 1101 was previously section 561.)

Section 1102. Improvements in Coast Guard acquisition management. (Section 1102 was previously section 562.)

Section 1103. Role of Vice Commandant in major acquisition programs. (Section 1103 was section 578.)

Section 1104. Recognition of Coast Guard personnel for excellence in acquisition. (Section 1104 was previously section 563.)

Section 1105. Prohibition on use of lead systems integrators. (Section 1105 was previously section 564.)

Section 1106. Required contract terms. (Section 1106 was previously section 565.)

Section 1107. Extension of major acquisition program contracts. (Section 1107 was previously section 579.)

Section 1108. Department of Defense consultation. (Section 1108 was previously section 566.)

Section 1109. Undefined contractual actions. (Section 1109 was previously section 567.)

Section 1110. Guidance on excessive pass-through charges. (Section 1110 was previously section 568.)

Section 1111. Mission need statement. (Section 1111 was previously section 569.)

SUBCHAPTER II—IMPROVED ACQUISITION PROCESS AND PROCEDURES

Section 1131. Identification of major system acquisitions. (Section 1131 was previously section 571.)

Section 1132. Acquisition. (Section 1132 was previously section 572.)

Section 1133. Preliminary development and demonstration. (Section 1133 was previously section 573.)

Section 1134. Acquisition, production, deployment, and support. (Section 1134 was previously section 574.)

Section 1135. Acquisition program baseline breach. (Section 1135 was previously section 575.)

Section 1136. Acquisition approval authority. (Section 1136 was previously section 576.)

SUBCHAPTER III—PROCUREMENT (NEW SUBCHAPTER)

Section 1151. Restriction on construction of vessels in foreign shipyards. (Section 1151 was previously section 665.)

Section 1152. Advance procurement funding. (Section 1152 was previously section 577.)

Section 1153. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards. (Section 1153 was previously section 96.)

Section 1154. Procurement of buoy chain. (Section 1154 was previously section 97.)

SUBCHAPTER IV—DEFINITIONS (PREVIOUSLY SUBCHAPTER III)

Section 1171. Definitions. (Section 1171 was previously section 581.)

Section 109. Subtitle II.

This section further amends title 14, United States Code, by adding after chapter 11 a Subtitle II and a table of contents.

This section reserves Chapters 13, 14, 15, 17, and 18 in Subtitle II.

Section 110. Chapter 19.

This section amends Chapter 19 of title 14, United States Code, by striking the chapter designation, the chapter heading, and the table of sections at the beginning and inserting the following:

SUBTITLE II—PERSONNEL

CHAPTER 19—COAST GUARD ACADEMY (PREVIOUSLY CHAPTER 9)

SUBCHAPTER I—ADMINISTRATION (NEW SUBCHAPTER)

Section 1901. Administration of Academy. (Section 1901 was previously section 181.)

Section 1902. Policy on sexual harassment and sexual violence. (Section 1902 was previously section 200.)

Section 1903. Annual Board of Visitors. (Section 1903 was previously section 194.)

Section 1904. Participation in Federal, State, or other educational research grants. (Section 1904 was previously section 196.)

SUBCHAPTER II—CADETS (NEW SUBCHAPTER)

Section 1921. Corps of Cadets Authorized Strength. (Section 1921 was previously part of section 182(a).)

Section 1922. Appointments. (Section 1922 was previously part of section 182(a).)

Section 1923. Admission of foreign nationals for instruction; restrictions; conditions. (Section 1923 was previously section 195.)

Section 1924. Conduct. (Section 1924 was previously part of section 182(a).)

Section 1925. Agreement. (Section 1925 was previously part of section 182(b) through (g).)

Section 1926. Cadet applicants; preappointment travel to Academy. (Section 1926 was previously section 181a.)

Section 1927. Cadets; initial clothing allowance. (Section 1927 was previously section 183.)

Section 1928. Cadets; degree of bachelor of science. (Section 1928 was previously section 184.)

Section 1929. Cadets; appointment as ensign. (Section 1929 was previously section 185.)

Section 1930. Cadets; charges and fees for attendance; limitations. (Section 1930 was previously section 197.)

SUBCHAPTER III—FACULTY (NEW SUBCHAPTER)

Section 1941. Civilian teaching staff. (Section 1941 was previously section 186.)

Section 1942. Permanent commissioned teaching staff; composition. (Section 1942 was previously section 187.)

Section 1943. Appointment of permanent commissioned teaching staff. (Section 1943 was previously section 188.)

Section 1944. Grade of permanent commissioned teaching staff. (Section 1944 was previously section 189.)

Section 1945. Retirement of permanent commissioned teaching staff. (Section 1945 was previously section 190.)

Section 1946. Credit for service as member of civilian teaching staff. (Section 1946 was previously section 191.)

Section 1947. Assignment of personnel as instructors. (Section 1947 was previously section 192.)

Section 1948. Marine safety curriculum. (Section 1948 was previously section 199.)

Section 110 also includes a conforming repeal of section 182.

Section 111. Part II.

This section amends Part II provisions by striking the part designation, the part heading, and the table of chapters.

Section 112. Chapter 21.

This section amends Chapter 21 of title 14, United States Code, by striking the chapter designation, the chapter heading, and the table of sections and replacing it with the following:

CHAPTER 21—PERSONNEL; OFFICERS (NEW CHAPTER)

SUBCHAPTER I—APPOINTMENT AND PROMOTION (NEW SUBCHAPTER)

Section 2101. Original appointment of permanent commissioned officers. (Section 2101 was previously section 211.)

Section 2102. Active duty promotion list. (Section 2102 was previously section 41a.)

Section 2103. Number and distribution of commissioned officers on active duty promotion list. (Section 2103 was previously section 42.)

Section 2104. Appointment of temporary officers. (Section 2104 was previously section 214.)

Section 2105. Rank of warrant officers. (Section 2105 was previously section 215.)

Section 2106. Selection boards; convening of boards. (Section 2106 was previously section 251.)

Section 2107. Selection boards; composition of boards. (Section 2107 was previously section 252.)

Section 2108. Selection boards; notice of convening; communication with board. (Section 2108 was previously section 253.)

Section 2109. Selection boards; oath of members. (Section 2109 was previously section 254.)

Section 2110. Number of officers to be selected for promotion. (Section 2110 was previously section 255.)

Section 2111. Promotion zones. (Section 2111 was previously section 256.)

Section 2112. Promotion year; defined. (Section 2112 was previously section 256a.)

Section 2113. Eligibility of officers for consideration for promotion. (Section 2113 was previously section 257.)

Section 2114. Deputy United States Marshals in Alaska. (Section 2114 was previously subsection (b) of section 634.)

Section 2115. Selection boards; information to be furnished boards. (Section 2115 was previously section 258.)

Section 2116. Officers to be recommended for promotion. (Section 2116 was previously section 259.)

Section 2117. Selection boards; reports. (Section 2117 was previously section 260.)

Section 2118. Selection boards; submission of reports. (Section 2118 was previously section 261.)

Section 2119. Failure of selection for promotion. (Section 2119 was previously section 262.)

Section 2120. Special selection boards; correction of errors. (Section 2120 was previously section 263.)

Section 2121. Promotions; appointments. (Section 2121 was previously section 271.)

Section 2122. Removal of officer from list of selectees for promotion. (Section 2122 was previously section 272.)

Section 2123. Promotions; acceptance; oath of office. (Section 2123 was previously section 273.)

Section 2124. Promotions; pay and allowances. (Section 2124 was previously section 274.)

Section 2125. Wartime temporary service promotions. (Section 2125 was previously section 275.)

Section 2126. Promotion of officers not included on active duty promotion list. (Section 2126 was previously section 276.)

Section 2127. Recall to active duty during war or national emergency. (Section 2127 was previously section 331.)

Section 2128. Recall to active duty with consent of offer. (Section 2128 was previously section 332.)

Section 2129. Aviation cadets; appointment as Reserve officers. (Section 2129 was previously section 373.)

SUBCHAPTER II—DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS; SEPARATION FOR CAUSE (NEW SUBCHAPTER)

Section 2141. Revocation of commissions during first five years of commissioned service. (Section 2141 was previously section 281.)

Section 2142. Regular lieutenants (junior grade); separation for failure of selection for promotion. (Section 2142 was previously section 282.)

Section 2143. Regular lieutenants; separation for failure of selection for promotion; continuation. (Section 2143 was previously section 283.)

Section 2144. Regular Coast Guard; officers serving under temporary appointments. (Section 2144 was previously section 284.)

Section 2145. Regular lieutenant commanders and commanders; retirement for failure of selection for promotion. (Section 2145 was previously section 285.)

Section 2146. Discharge in lieu of retirement; separation pay. (Section 2146 was previously section 286.)

Section 2147. Regular warrant officers; separation pay. (Section 2147 was previously section 286a.)

Section 2148. Separation for failure of selection for promotion or continuation; time of. (Section 2148 was previously section 287.)

Section 2149. Regular captains; retirement. (Section 2149 was previously section 288.)

Section 2150. Captains; continuation on active duty; involuntary retirement. (Section 2150 was previously section 289.)

Section 2151. Rear admirals and rear admirals (lower half); continuation on active duty; involuntary retirement. (Section 2151 was previously section 290.)

Section 2152. Voluntary retirement after twenty years' service. (Section 2152 was previous section 291.)

Section 2153. Voluntary retirement after thirty years' service. (Section 2153 was previously section 292.)

Section 2154. Compulsory retirement. (Section 2154 was previously section 293.)

Section 2155. Retirement for physical disability after selection for promotion; grade in which retired. (Section 2155 was previously section 294.)

Section 2156. Deferment of retirement or separation for medical reasons. (Section 2156 was previously section 295.)

Section 2157. Flag officers. (Section 2157 was previously section 296.)

Section 2158. Review of records of officers. (Section 2158 was previously section 321.)

Section 2159. Boards of inquiry. (Section 2159 was previously section 322.)

Section 2160. Boards of review. (Section 2160 was previously section 323.)

Section 2161. Composition of boards. (Section 2161 was previously section 324.)

Section 2162. Rights and procedures. (Section 2162 was previously section 325.)

Section 2163. Removal of officer from active duty; action by Secretary. (Section 2163 was previously section 326.)

Section 2164. Officers considered for removal; retirement or discharge; separation benefits. (Section 2164 was previously section 327.)

Section 2165. Relief of retired officer promoted while on active duty. (Section 2165 was previously section 333.)

SUBCHAPTER III—GENERAL PROVISIONS (NEW SUBCHAPTER)

Section 2181. Physical fitness of officers. (Section 2181 was previously section 335.)

Section 2182. Multirater assessment of certain personnel. (Section 2182 was previously section 429.)

Section 113. Chapter 23

This section amends Chapter 23 of title 14, United States Code, by striking the chapter designation, the chapter heading, and the table of sections and replacing it with the following:

CHAPTER 23—PERSONNEL; ENLISTED (*new subchapter*)

Section 2301. Recruiting Campaigns. (Section 2301 was previously section 350.)

Section 2302. Enlistments; term, grade. (Section 2302 was previously section 351.)

Section 2303. Promotion. (Section 2303 was previously section 352.)

Section 2304. Compulsory retirement at age of sixty-two. (Section 2304 was previously section 353.)

Section 2305. Voluntary retirement after thirty years' service. (Section 2305 was previously section 354.)

Section 2306. Voluntary retirement after twenty years' service. (Section 2306 was previously section 355.)

Section 2307. Retirement of enlisted members: increase in retired pay. (Section 2307 was previously section 357.)

Section 2308. Recall to active duty during war or national emergency. (Section 2308 was previously section 359.)

Section 2309. Recall to active duty with consent of member. (Section 2309 was previously section 360.)

Section 2310. Relief of retired enlisted member promoted while on active duty. (Section 2310 was previously section 361.)

Section 2311. Retirement in cases where higher grade or rating has been held. (Section 2311 was previously section 362.)

Section 2312. Extension of enlistments. (Section 2312 was previously section 365.)

Section 2313. Retention beyond term of enlistment in case of disability. (Section 2313 was previously section 366.)

Section 2314. Detention beyond term of enlistment. (Section 2314 was previously section 367.)

Section 2315. Inclusion of certain conditions in enlistment contract. (Section 2315 was previously section 369.)

Section 2316. Discharge within three months before expiration of enlistment. (Section 2316 was previously section 370.)

Section 2317. Aviation cadets; procurement; transfer. (Section 2317 was previously section 371.)

Section 2318. Aviation cadets; benefits. (Section 2318 was previously section 372.)

Section 2319. Critical skill training bonus. (Section 2319 was previously section 374.)

Section 114. Chapter 25

This section amends Chapter 25 of title 14, United States Code, by striking the chapter designation, the chapter heading, and the table of sections and replacing it with the following:

CHAPTER 25—PERSONNEL; GENERAL PROVISIONS (NEW CHAPTER)

SUBCHAPTER I—GENERAL PROVISIONS (NEW SUBCHAPTER)

Section 2501. Grade on retirement. (Section 2501 was previously section 334.)

Section 2502. Retirement. (Section 2502 was previously section 421.)

Section 2503. Status of recalled personnel. (Section 2503 was previously section 422.)

Section 2504. Computation of retired pay. (Section 2504 was previously section 423.)

Section 2505. Limitations on retirement and retired pay. (Section 2505 was previously section 424.)

Section 2506. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution. (Section 2506 was previously section 424a.)

Section 2507. Board for Correction of Military Records deadline. (Section 2507 was previously section 425.)

Section 2508. Emergency leave retention authority. (Section 2508 was previously section 426.)

Section 2509. Prohibition of certain involuntary administrative separations. (Section 2509 was previously section 427.)

Section 2510. Sea service letters. (Section 2510 was previously section 428.)

Section 2511. Investigations of flag officers and Senior Executive Service employees. (Section 2511 was previously section 430.)

Section 2512. Leave policies for the Coast Guard. (Section 2512 was previously section 431.)

Section 2513. Computation of length of service. (Section 2513 was previously section 467.)

SUBCHAPTER II—LIGHTHOUSE SERVICE

Section 2531. Personnel of former Lighthouse Service. (Section 2531 was previously section 432.)

Section 115. Part III

This section amends Part III of title 14, United States Code, by striking the part designation, the part heading, and the table of chapters.

Section 116. Chapter 27

This section amends Chapter 27 of title 14, United States Code, by striking the chapter designation, the chapter heading, and the table of sections and replacing it with the following:

CHAPTER 27—PAY, ALLOWANCES, AWARDS, AND OTHER RIGHTS AND BENEFITS (WAS PREVIOUSLY CHAPTER 13)

SUBCHAPTER I—PERSONNEL RIGHTS AND BENEFITS (NEW SUBCHAPTER)

Section 2701. Procurement of personnel. (Section 2701 was previously section 468.)

Section 2702. Training. (Section 2702 was previously section 469.)

Section 2703. Contingent expenses. (Section 2703 was previously section 476.)

Section 2704. Equipment to prevent accidents. (Section 2704 was previously section 477.)

Section 2705. Clothing at the time of discharge for good service. (Section 2705 was previously section 482.)

Section 2706. Right to wear uniform. (Section 2706 was previously section 483.)

Section 2707. Protection of uniform. (Section 2707 was previously section 484.)

Section 2708. Clothing for officers and enlisted personnel. (Section 2708 was previously section 485.)

Section 2709. Procurement and sale of stores to members and civilian employees. (Section 2709 was previously section 487.)

Section 2710. Disposition of effects of decedents. (Section 2710 was previously section 507.)

Section 2711. Deserters; payment of expenses incident to apprehension and delivery; penalties. (Section 2711 was previously section 508.)

Section 2712. Payment for the apprehension of stragglers. (Section 2712 was previously section 644.)

SUBCHAPTER II—AWARDS (NEW SUBCHAPTER)

Section 2731. Delegation of powers to make awards; rules and regulations. (Section 2731 was previously section 499.)

Section 2732. Medal of honor. (Section 2732 was previously section 491.)

Section 2733. Medal of honor: duplicate medal. (Section 2733 was previously section 504.)

Section 2734. Medal of honor: presentation of Medal of Honor Flag. (Section 2734 was previously section 505.)

Section 2735. Coast Guard cross. (Section 2735 was previously section 491a.)

Section 2736. Distinguished service medal. (Section 2736 was previously section 492.)

Section 2737. Silver star medal. (Section 2737 was previously section 492a.)

Section 2738. Distinguished flying cross. (Section 2738 was previously section 492b.)

Section 2739. Coast Guard medal. (Section 2739 was previously section 493.)

Section 2740. Insignia for additional awards. (Section 2740 was previously section 494.)

Section 2741. Time limit on award; report concerning deed. (Section 2741 was previously section 496.)

Section 2742. Honorable subsequent service as condition to award. (Section 2742 was previously section 497.)

Section 2743. Posthumous awards. (Section 2743 was previously section 498.)

Section 2744. Life-saving medals. (Section 2744 was previously section 500.)

Section 2745. Replacement of medals. (Section 2745 was previously section 501.)

Section 2746. Award of other medals. (Section 2746 was previously section 502.)

Section 2747. Awards and insignia for excellence in service or conduct. (Section 2747 was previously section 503.)

Section 2748. Presentation of United States flag upon retirement. (Section 2748 was previously section 516.)

SUBCHAPTER III—PAYMENTS (NEW SUBCHAPTER)

Section 2761. Persons discharged as result of court-martial; allowances to. (Section 2761 was section 509.)

Section 2762. Shore patrol duty; payment of expenses. (Section 2762 was previously section 510.)

Section 2763. Compensatory absence from duty for military personnel at isolated duty stations. (Section 2763 was previously section 511.)

Section 2764. Monetary allowance for transportation of household effects. (Section 2764 was previously section 512.)

Section 2765. Retroactive payment of pay and allowances delayed by and administrative error or oversight. (Section 2765 was previously section 513.)

Section 2766. Travel card management. (Section 2766 was previously section 517.)

Section 2767. Reimbursement for medical-related travel expenses for certain persons residing on islands in the continental United States. (Section 2767 was previously section 518.)

Section 2768. Annual audit of pay and allowances of members undergoing permanent change of station. (Section 2768 was previously section 519.)

Section 2769. Remission of indebtedness. (Section 2769 was previously section 461.)

Section 2770. Special instruction at universities. (Section 2770 was previously section 470.)

Section 2771. Attendance at professional meetings. (Section 2771 was previously section 471.)

Section 2772. Education loan repayment program. (Section 2772 was previously section 472.)

Section 2773. Rations or commutation therefor in money. (Section 2773 was previously 478.)

Section 2774. Sales of ration supplies to messes. (Section 2774 was previously section 479.)

Section 2775. Flight rations. (Section 2775 was previously section 480.)

Section 2776. Payments at time of discharge for good service. (Section 2776 was previously section 481.)

Section 2777. Clothing for destitute shipwrecked persons. (Section 2777 was previously section 486.)

Section 2778. Advancement of public funds to personnel. (Section 2778 was previously section 488.)

Section 2779. Transportation to and from certain places of employment. (Section 2779 was previously section 660.)

Section 117. Chapter 29

This section amends Chapter 29 of title 14, United States Code, by striking the chapter designation, the chapter heading, and the table of sections and replacing it with the following:

CHAPTER 29—COAST GUARD FAMILY SUPPORT, CHILDCARE, AND HOUSING (FORMERLY CHAPTER 14)

SUBCHAPTER I—COAST GUARD FAMILIES

Section 2901. Work-life policies and programs. (Section 2901 was previously section 531.)

Section 2902. Surveys of Coast Guard families. (Section 2902 was previously section 532.)

Section 2903. Reimbursement for adoption expenses. (Section 2903 was previously section 541.)

Section 2904. Education and training opportunities for Coast Guard spouses. (Section 2904 was previously section 542.)

Section 2905. Youth sponsorship initiatives. (Section 2905 was previously section 543.)

Section 2906. Dependent school children. (Section 2906 was previously section 544.)

SUBCHAPTER II—COAST GUARD CHILD CARE

Section 2921. Definitions. (Section 2921 was previously section 551.)

Section 2922. Child development services. (Section 2922 was previously section 552.)

Section 2923. Child development center standards and inspections. (Section 2923 was previously section 553.)

Section 2924. Child development center employees. (Section 2924 was previously section 554.)

Section 2925. Parent partnerships with child development centers. (Section 2925 was previously section 555.)

SUBCHAPTER III—HOUSING (FORMERLY CHAPTER 18, NEW SUBCHAPTER)

Section 2941. Definitions. (Section 2941 was previously section 680 of chapter 18.)

Section 2942. General authority. (Section 2942 was previously section 681 of chapter 18.)

Section 2943. Leasing and hiring of quarters; rental of inadequate housing. (Section 2943 was previously section 475.)

Section 2944. Retired service members and dependents serving on advisory committees. (Section 2944 was previously section 680 of chapter 17.)

Section 29435. Conveyance of real property. (Section 2945 was previously section 685.)

Section 2946. Coast Guard Housing Fund. (Section 2946 was previously section 687.)

Section 2947. Reports. (Section 2947 was previously section 688.)

Section 118. Subtitle III and Chapter 37

This section further amends title 14, United States Code, by adding after Chapter 29, as amended by this title, the following:

SUBTITLE III—COAST GUARD RESERVE AND AUXILIARY (PREVIOUSLY PART II)

CHAPTER 37—COAST GUARD RESERVE (PREVIOUSLY CHAPTER 21)

SUBCHAPTER I—ADMINISTRATION

Section 3701. Organization. (Section 3701 was previously section 701.)

Section 3702. Authorized strength. (Section 3702 was previously section 702.)

Section 3703. Coast Guard Reserve Boards. (Section 3703 was previously section 703.)

Section 3704. Grades and ratings; military authority. (Section 3704 was previously section 704.)

Section 3705. Benefits. (Section 3705 was previously section 705.)

Section 3706. Temporary members of the Reserve; eligibility and compensation. (Section 3706 was previously section 706.)

Section 3707. Temporary members of the Reserve; disability or death benefits. (Section 3707 was previously section 707.)

Section 3708. Temporary members of the Reserve; certificate of honorable service. (Section 3708 was previously section 708.)

Section 3709. Reserve student aviation pilots; Reserve aviation pilots; appointments in commissioned grade. (Section 3709 was previously section 709.)

Section 3710. Reserve student pre-commissioning assistance program. (Section 3710 was previously section 709a.)

Section 3711. Appointment or wartime promotion; retention of grade upon release from active duty. (Section 3711 was previously section 710.)

Section 3712. Exclusiveness of service. (Section 3712 was previously section 711.)

Section 3713. Active duty for emergency augmentation of regular forces. (Section 3713 was previously section 712.)

Section 3714. Enlistment of members engaged in schooling. (Section 3714 was previously section 713.)

SUBCHAPTER II—PERSONNEL

Section 3731. Definitions. (Section 3731 was previously section 720.)

Section 3732. Applicability of this subchapter. (Section 3732 was previously section 721.)

Section 3733. Suspension of this subchapter in time of war or national emergency. (Section 3733 was previously section 722.)

Section 3734. Effect of this subchapter on retirement and retired pay. (Section 3734 was previously section 723.)

Section 3735. Authorized number of officers. (Section 3735 was previously section 724.)

Section 3736. Precedence. (Section 3736 was previously section 725.)

Section 3737. Running mates. (Section 3737 was previously section 726.)

Section 3738. Constructive credit upon initial appointment. (Section 3738 was previously section 727.)

Section 3739. Promotion of Reserve officers on active duty. (Section 3739 was previously section 728.)

Section 3740. Promotion; recommendations of selection boards. (Section 3740 was previously section 729.)

Section 3741. Selection boards; appointment. (Section 3741 was previously section 730.)

Section 3742. Establishment of promotion zones under running mate system. (Section 3742 was previously section 731.)

Section 3743. Eligibility for promotion. (Section 3743 was previously section 732.)

Section 3744. Recommendation for promotion of an officer previously removed from an active status. (Section 3744 was previously section 733.)

Section 3745. Qualifications for promotion. (Section 3745 was previously section 734.)

Section 3746. Promotion; acceptance; oath of office. (Section 3746 was previously section 735.)

Section 3747. Date of rank upon promotion; entitlement to pay. (Section 3747 was previously section 736.)

Section 3748. Type of promotion; temporary. (Section 3748 was previously section 737.)

Section 3749. Effect of removal by the President or failure of consent of the Senate. (Section 3749 was previously section 738.)

Section 3750. Failure of selection for promotion. (Section 3750 was previously section 739.)

Section 3751. Failure of selection and removal from active status. (Section 3751 was previously 740.)

Section 3752. Retention boards; removal from an active status to provide a flow of promotion. (Section 3752 was previously section 741.)

Section 3753. Maximum ages for retention in an active status. (Section 3753 was previously section 742.)

Section 3754. Rear admiral and rear admiral (lower half); maximum service in grade. (Section 3754 was previously section 743.)

Section 3755. Appointment of a former Navy or Coast Guard officer. (Section 3755 was previously section 744.)

Section 3756. Grade on entry upon active duty. (Section 3756 was previously section 745.)

Section 3757. Recall of a retired officer; grade upon release. (Section 3757 was previously section 746.)

Section 119. Chapter 39

This section further amends title 14, United States Code, by adding after Chapter 37, as amended by this title, the following:

CHAPTER 39—COAST GUARD AUXILIARY (PREVIOUSLY CHAPTER 23)

Section 3901. Administration of the Coast Guard Auxiliary. (Section 3901 was previously section 821.)

Section 3902. Purpose of the Coast Guard Auxiliary. (Section 3902 was previously section 822.)

Section 3903. Eligibility; enrollments. (Section 3903 was previously section 823.)

Section 3904. Members of the Auxiliary; status. (Section 3904 was previously section 823a.)

Section 3905. Disenrollment. (Section 3905 was previously section 824.)

Section 3906. Membership in other organizations. (Section 3906 was previously section 825.)

Section 3907. Use of member's facilities. (Section 3907 was previously section 826.)

Section 3908. Vessel deemed public vessel. (Section 3908 was previously section 827.)

Section 3909. Aircraft deemed public aircraft. (Section 3909 was previously section 828.)

Section 3910. Radio station deemed government station. (Section 3910 was previously section 829.)

Section 3911. Availability of appropriations. (Section 3911 was previously section 830.)

Section 3912. Assignment and performance of duties. (Section 3912 was previously section 831.)

Section 3913. Injury or death in line of duty. (Section 3913 was previously section 832.)

Section 120. Chapter 41

This section further amends title 14, United States Code, by adding after Chapter 39, as added by this title, the following:

CHAPTER 41—GENERAL PROVISIONS FOR COAST GUARD RESERVE AND AUXILIARY (PREVIOUSLY CHAPTER 25)

Section 4101. Flags; pennants; uniforms and insignia. (Section 4101 was previously section 891.)

Section 4102. Penalty. (Section 4102 was previously section 892.)

Section 4103. Limitation on rights of members of the Auxiliary and temporary members of the Reserve. (Section 4103 was previously section 893.)

Section 4104. Availability of facilities and appropriations. (Section 4104 was previously section 894.)

Section 121. Subtitle IV and Chapter 49

This section further amends title 14, United States Code, by adding after Chapter 41, as added by this title, the following:

SUBTITLE IV—COAST GUARD AUTHORIZATION AND REPORTS TO CONGRESS (PREVIOUSLY PART III)

CHAPTER 49—AUTHORIZATIONS (PREVIOUSLY CHAPTER 27)

Section 4901. Requirement for prior authorization of appropriations. (Section 4901 was previously section 2701.)

Section 4902. Authorization of appropriations. (Section 4902 was previously section 2702.)

Section 4903. Authorization of personnel end strengths. (Section 4903 was previously section 2703.)

Section 4904. Authorized levels of military strength and training. (Section 4904 was previously section 2704.)

Section 122. Chapter 51

This section further amends title 14, United States Code, by adding after Chapter 49, as added by this title, the following:

CHAPTER 51—REPORTS (PREVIOUSLY CHAPTER 29)

Section 5101. Transmission of annual Coast Guard authorization request. (Section 3501 was previously section 2901.)

Section 5102. Capital investment plan. (Section 5102 was previously section 2902.)

Section 5103. Major acquisitions. (Section 5103 was previously section 2903.)

Section 5104. Manpower requirements plan. (Section 5104 was previously section 2904.)

Section 5105. Inventory of real property. (Section 5105 was previously section 679.)

Section 123. References

Subsection (a) of this section provides definitions of “redesignated section” which are created in this title and a “source section” which is a section in effect prior to any redesignation.

Subsection (b) of this section states that any reference to a source section, including a reference in a regulation, order, or other law is deemed to refer to the corresponding redesignated section. It also states that each reference to a source section is amended by striking that reference and replacing it with redesignated sections provided in this title.

Subsection (c) of this section lists the conforming amendments made for section references in redesignated chapters and sections.

Section 124. Rule of Construction

This section explains that this title, including any amendments, is intended to reorganize title 14, United States Code. It should not be construed as altering: the effect of provisions in title 14, United States Code, or any authorities or requirements in such title; a department or agency interpretation with respect to such title; or, any judicial interpretation with respect to such title.

TITLE II—TRANSFERS AND MODIFICATIONS

Section 201. Amendments to title 14, United States Code, as amended by title I of this Act

This section states that except as otherwise expressly provided, whenever in this title, an amendment or repeal is expressed in terms of an amendment or, a repeal of, a section or other provision of title 14, United States Code, the reference shall be considered to be made to title 14, United States Code, as amended by title I of this Act.

Section 202. Primary Duties

This section amends section 102(7) of title 14, United States Code, to rewrite paragraph (7) to clarify the Coast Guard’s state of everyday readiness as an Armed Service, and its readiness in times of war as part of the Navy.

Section 203. Regattas and Marine Parades

This section amends Chapter 5 of title 14 to include a new section 564 dealing with regattas and marine parades. The text is transferred from the original statute passed in 1908 that was included in title 33, Navigation. The text is being moved to co-locate it with the Commandant’s other authorities to regulate vessel traffic.

This section also repeals the Act of April 28, 1908.

Section 204. Regulation of Vessels in Territorial Waters of United States

This section adds a new section 584 to chapter 5 of title 14, United States Code. The text is transferred from title 50, War and National Defense. The provisions govern the anchorage and move-

ment of vessels, including the seizure and forfeiture of such vessels during national emergencies. The text is being moved to co-locate the provisions with the Commandant's other authorities to regulate vessel traffic.

Section 205. National Maritime Transportation Advisory Committees

This section amends title 14, United States Code, to insert a new chapter 13 to establish and outline the functions and membership of the following Coast Guard national advisory committees: the National Chemical Transportation Safety Advisory Committee; the National Commercial Fishing Safety Advisory Committee; the National Merchant Marine Personnel Advisory Committee; the National Merchant Mariner Medical Advisory Committee; the National Boating Safety Advisory Committee; the National Offshore Safety Advisory Committee; the National Navigation Safety Advisory Committee; and the National Towing Safety Advisory Committee.

The advisory committee text is transferred from title 46, except for two advisory committees—the National Chemical Transportation Safety Advisory Committee and the National Offshore Safety Advisory Committee which were established by the Coast Guard under the Federal Advisory Committee Act. In addition, the membership of the National Merchant Mariner Medical Advisory Committee remains the same at 14, but the member makeup is changed. Members representing healthcare professionals on the committee are reduced from 10 to 9 and members representing professional mariners are increased from 4 to 5.

The new chapter 13 includes an administration section which will make the actions of each advisory committee uniform. Advisory committees will be required to meet at least once a year at the call of the Commandant or a majority of the committee. A member of a committee is not considered an employee of the federal government by reason of committee service. It outlines how advisory committee members may be compensated for performing duties of the committee, but does not require such compensation. Committees are allowed to accept volunteer services. Members appointed by the Secretary may represent a point of view of the entity or group that they are appointed to represent. Members representing the general public will be deemed a special government employee. Nomination solicitations will be posted in the Federal Register and appointments made by the Secretary after considering the nominations. Term lengths will be three years and members can serve two terms. Members who serve as chairmen may serve 3 terms. Reappointments do not need to go through the Federal Register nomination process, but a vacancy must go through the original appointment process. The Commandant shall provide any staff services needed for a committee to conduct its meetings. Committees can elect their chairman and vice chairman as well as create any needed subcommittees or working groups. The Commandant is required to consult with and consider the information, advice and recommendations of the advisory committees before taking any significant action. Each committee will terminate on September 20, 2027. The committees are required to submit their advice, reports, and recommendations to the House Committee on Transportation and

Infrastructure and the Senate Committee on Commerce, Science, and Transportation. Any federal agency with matters under that agency's jurisdiction related to the function of a committee established under this chapter is allowed to designate a representative to attend committee meetings and participate as an observer.

Due to the movement of the committees from title 46, the section makes a conforming amendment to repeal the prior authorities for the Commercial Fishing Safety Advisory Committee (46 U.S.C. 4508), the Merchant Mariner Medical Advisory Committee (46 U.S.C. 7115), the National Boating Safety Advisory Committee (46 U.S.C. 13110), the Navigation Safety Advisory Committee (33 U.S.C. 2073), the Towing Safety Advisory Committee (33 U.S.C. 1231a), the Commercial Fishing Safety Advisory Committee (46 U.S.C. 4508), and the Merchant Mariner Medical Advisory Committee (46 U.S.C. 7115).

This section states that any charter for an advisory committee in force on the day before the date of enactment of this section shall remain in force or in effect for a period of not more than two years from the date of enactment of this section. The enactment of this section shall not be the basis to deem, find, or declare such charter void, not in force, or not in effect or to suspend the activities of any advisory committee until the charter is amended. An advisory committee or any appointment of a member to an advisory committee that was valid before the day of enactment of this section shall remain authorized for not more than two years after the date of enactment of the section.

Section 206. Clothing at Time of Discharge for Good of Service

This section repeals section 2705 of title 14, United States Code (previously section 482 of title 14). The authority which allows enlisted members, discharged from the Service for bad conduct, undesirability, unsuitability, or inaptitude, to be furnished with civilian clothing, including an overcoat when necessary, is no longer used by the Commandant of the Coast Guard.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italics*, existing law in which no change is proposed is shown in *roman*):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in *roman*):

TITLE 14, UNITED STATES CODE

TITLE 14—COAST GUARD

Part	Sec.
I. Regular Coast Guard	1
II. Coast Guard Reserve and Auxiliary	701
III. Coast Guard Authorizations and Reports to Congress	2701
Subtitle.....	Sec.
I. <i>Establishment, Powers, Duties, and Administration</i>	101
II. <i>Personnel</i>	1901
III. <i>Coast Guard Reserve and Auxiliary</i>	3701
IV. <i>Coast Guard Authorizations and Reports to Congress</i>	4901

[PART I—REGULAR COAST GUARD]

SUBTITLE I—ESTABLISHMENT, POWERS,
DUTIES, AND ADMINISTRATION

Chap.	Sec.
[1. Establishment and Duties	1
[3. Composition and Organization	41
[5. Functions and Powers	81
[7. Cooperation With Other Agencies	141
[9. Coast Guard Academy	181
[11. Personnel	211
[13. Pay, Allowances, Awards, and Other Rights and Benefits	461
[14. Coast Guard Family Support and Child Care	531
[15. Acquisitions	561
[17. Administration	631
[18. Coast Guard Housing Authorities	680
[19. Environmental Compliance and Restoration Program	690
1. <i>Establishment and Duties</i>	101
3. <i>Composition and Organization</i>	301
5. <i>Functions and Powers</i>	501
7. <i>Cooperation</i>	701
9. <i>Administration</i>	901
11. <i>Acquisitions</i>	1101
13. <i>National Maritime Transportation Advisory Committees</i>	1301

CHAPTER 1—ESTABLISHMENT AND DUTIES

Sec.
[1. Establishment of Coast Guard.
[2. Primary duties.
[3. Department in which the Coast Guard operates.
[4. Secretary defined.]
101. <i>Establishment of Coast Guard.</i>
102. <i>Primary duties.</i>
103. <i>Department in which the Coast Guard operates.</i>
104. <i>Removing restrictions.</i>
105. <i>Secretary defined.</i>

§ [1] 101. Establishment of Coast Guard

The Coast Guard, established January 28, 1915, shall be a military service and a branch of the armed forces of the United States at all times.

§ [2] 102. Primary duties

The Coast Guard shall—

(1) enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States;

(2) engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States;

(3) administer laws and promulgate and enforce regulations for the promotion of safety of life and property on and under the high seas and waters subject to the jurisdiction of the United States, covering all matters not specifically delegated by law to some other executive department;

(4) develop, establish, maintain, and operate, with due regard to the requirements of national defense, aids to maritime navigation, icebreaking facilities, and rescue facilities for the promotion of safety on, under, and over the high seas and waters subject to the jurisdiction of the United States;

(5) pursuant to international agreements, develop, establish, maintain, and operate icebreaking facilities on, under, and over waters other than the high seas and waters subject to the jurisdiction of the United States;

(6) engage in oceanographic research of the high seas and in waters subject to the jurisdiction of the United States; and

【(7) maintain a state of readiness to function as a specialized service in the Navy in time of war, including the fulfillment of Maritime Defense Zone command responsibilities.】

(7) maintain a state of readiness to assist in the defense of the United States, including when functioning as a specialized service in the Navy pursuant to section 103.

§ [3] 103. Department in which the Coast Guard operates

(a) IN GENERAL.—The Coast Guard shall be a service in the Department of Homeland Security, except when operating as a service in the Navy.

(b) TRANSFERS.—Upon the declaration of war if Congress so directs in the declaration or when the President directs, the Coast Guard shall operate as a service in the Navy, and shall so continue until the President, by Executive order, transfers the Coast Guard back to the Department of Homeland Security. While operating as a service in the Navy, the Coast Guard shall be subject to the orders of the Secretary of the Navy, who may order changes in Coast Guard operations to render them uniform, to the extent such Secretary deems advisable, with Navy operations.

(c) OPERATION AS A SERVICE IN THE NAVY.—Whenever the Coast Guard operates as a service in the Navy—

(1) applicable appropriations of the Navy Department shall be available for the expense of the Coast Guard;

(2) applicable appropriations of the Coast Guard shall be available for transfer to the Navy Department;

(3) precedence between commissioned officers of corresponding grades in the Coast Guard and the Navy shall be determined by the date of rank stated by their commissions in those grades;

(4) personnel of the Coast Guard shall be eligible to receive gratuities, medals, and other insignia of honor on the same

basis as personnel in the naval service or serving in any capacity with the Navy; and

(5) the Secretary may place on furlough any officer of the Coast Guard and officers on furlough shall receive one half of the pay to which they would be entitled if on leave of absence, but officers of the Coast Guard Reserve shall not be so placed on furlough.

§ [652] 104. Removing restrictions

Any law removing for the duration of a war or national emergency proclaimed by the President any restriction contained in any then-existing law as applied to the Navy, including, but not limited to, restrictions relating to the manner in which purchases may be made and contracts awarded, fiscal operations, and personnel, shall, in the same manner and to the same extent, remove such restrictions as applied to the Coast Guard.

§ [4] 105. Secretary defined

In this title, the term “Secretary” means the Secretary of the respective department in which the Coast Guard is operating.

CHAPTER 3—COMPOSITION AND ORGANIZATION

Sec.

[41. Grades and ratings.

[41a. Active duty promotion list.

[42. Number and distribution of commissioned officers on active duty promotion list.]

[44. Commandant; appointment.]

[46. Retirement of Commandant.

[47. Vice Commandant; appointment.]

[50. Vice admirals.]

[51. Retirement.

[52. Vice admirals and admiral, continuity of grade.

[53. Office of the Coast Guard Reserve; Director.

[54. Chief of Staff to President: appointment.]

[56. Chief Acquisition Officer.

[57. Prevention and response workforces.

[58. Centers of expertise for Coast Guard prevention and response.

[59. Marine industry training programs.

[60. Training course on workings of Congress.]

301. *Grades and ratings.*

302. *Commandant; appointment.*

303. *Retirement of Commandant.*

304. *Vice Commandant; appointment.*

305. *Vice admirals.*

306. *Retirement.*

307. *Vice admirals and admiral, continuity of grade.*

308. *Chief Acquisition Officer.*

309. *Office of the Coast Guard Reserve; Director.*

310. *Chief of Staff to President: appointment.*

311. *Captains of the port.*

312. *Prevention and response workforces.*

313. *Centers of expertise for Coast Guard prevention and response.*

314. *Marine industry training program.*

315. *Training course on workings of Congress.*

316. *National Coast Guard Museum.*

317. *United States Coast Guard Band; composition; director.*

318. *Environmental Compliance and Restoration Program.*

§ [41] 301. Grades and ratings

In the Coast Guard there shall be admirals (two); vice admirals; rear admirals; rear admirals (lower half); captains; commanders; lieutenant commanders; lieutenants; lieutenants (junior grade); ensigns; chief warrant officers; cadets; warrant officers; and enlisted members. Enlisted members shall be distributed in ratings established by the Secretary.

§ [44] 302. Commandant; appointment

The President may appoint, by and with the advice and consent of the Senate, one Commandant for a period of four years, who may be reappointed for further periods of four years, who shall act as Chief of the Coast Guard. The term of an appointment, and any reappointment, shall begin on June 1 of the appropriate year and end on May 31 of the appropriate year, except that, in the event of death, retirement, resignation, or reassignment, or when the needs of the Service demand, the Secretary may alter the date on which a term begins or ends if the alteration does not result in the term exceeding a period of 4 years. The Commandant shall be appointed from the officers on the active duty promotion list serving above the grade of captain who have completed at least ten years of active service as a commissioned officer in the Coast Guard. The Commandant while so serving shall have the grade of admiral.

§ [46] 303. Retirement of Commandant

(a) A Commandant who is not reappointed shall be retired with the grade of admiral at the expiration of the appointed term, except as provided in section 51(d) of this title.

(b) A Commandant who is retired for physical disability shall be placed on the retired list with the grade of admiral.

(c) An officer who is retired prior to the expiration of his term, while serving as Commandant, may, in the discretion of the President, be retired with the grade of admiral.

§ [47] 304. Vice Commandant; appointment

The President may appoint, by and with the advice and consent of the Senate, one Vice Commandant who shall rank next after the Commandant, shall perform such duties as the Commandant may prescribe and shall act as Commandant during the absence or disability of the Commandant or in the event that there is a vacancy in the office of Commandant. The Vice Commandant shall be selected from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendation for such appointment. The Vice Commandant shall, while so serving, have the grade of admiral with pay and allowances of that grade. The appointment and grade of a Vice Commandant shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.

§ [50] 305. Vice admirals

(a)(1) The President may—

(A) designate, within the Coast Guard, no more than five positions of importance and responsibility that shall be held by officers who, while so serving—

(i) shall have the grade of vice admiral, with the pay and allowances of that grade; and

(ii) shall perform such duties as the Commandant may prescribe, except that if the President designates five such positions, one position shall be the Chief of Staff of the Coast Guard; and

(B) designate, within the executive branch, other than within the Coast Guard or the National Oceanic and Atmospheric Administration, positions of importance and responsibility that shall be held by officers who, while so serving, shall have the grade of vice admiral, with the pay and allowances of that grade.

(2) The President may appoint, by and with the advice and consent of the Senate, and reappoint, by and with the advice and consent of the Senate, to any such position an officer of the Coast Guard who is serving on active duty above the grade of captain. The Commandant shall make recommendations for such appointments.

(3)(A) Except as provided in subparagraph (B), one of the vice admirals designated under paragraph (1)(A) must have at least 10 years experience in vessel inspection, marine casualty investigations, mariner licensing, or an equivalent technical expertise in the design and construction of commercial vessels, with at least 4 years of leadership experience at a staff or unit carrying out marine safety functions and shall serve as the principal advisor to the Commandant on these issues.

(B) The requirements of subparagraph (A) do not apply to such vice admiral if the subordinate officer serving in the grade of rear admiral with responsibilities for marine safety, security, and stewardship possesses that experience.

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

(2) An officer who is appointed to a position designated under subsection (a) shall continue to hold the grade of vice admiral—

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

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

(C) at the discretion of the Secretary, while awaiting orders after being relieved from the position, beginning on the day the officer is relieved from the position, but not for more than 60 days; and

- (D) while awaiting retirement, beginning on the date the officer is detached from duty and ending on the day before the officer's retirement, but not for more than 60 days.
- (c)(1) An appointment of an officer under subsection (a) does not vacate the permanent grade held by the officer.
- (2) An officer serving in a grade above rear admiral who holds the permanent grade of rear admiral (lower half) shall be considered for promotion to the permanent grade of rear admiral as if the officer was serving in the officer's permanent grade.
- (d) Whenever a vacancy occurs in a position designated under subsection (a), the Commandant shall inform the President of the qualifications needed by an officer serving in that position or office to carry out effectively the duties and responsibilities of that position or office.

§ [51] 306. Retirement

- (a) An officer, other than the Commandant, who, while serving in the grade of admiral or vice admiral, is retired for physical disability shall be placed on the retired list with the highest grade in which that officer served.
- (b) An officer, other than the Commandant, who is retired while serving in the grade of admiral or vice admiral, or who, after serving at least 21/2 years in the grade of admiral or vice admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the highest grade in which that officer served.
- (c) An officer, other than the Commandant, who, after serving less than 21/2 years in the grade of admiral or vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade.
- (d) An officer serving in the grade of admiral or vice admiral shall continue to hold that grade—
- (1) while being processed for physical disability retirement, beginning on the day of the processing and ending on the day that officer is retired, but not for more than 180 days; and
 - (2) while awaiting retirement, beginning on the day that officer is relieved from the position of Commandant, Vice Commandant, or Vice Admiral and ending on the day before the officer's retirement, but not for more than 60 days.

§ [52] 307. Vice admirals and admiral, continuity of grade

The continuity of an officer's precedence on the active duty promotion list, date of rank, grade, pay, and allowances as a vice admiral or admiral shall not be interrupted by the termination of an appointment for the purpose of reappointment to another position as a vice admiral or admiral.

§ [56] 308. Chief Acquisition Officer

- (a) IN GENERAL.—There shall be in the Coast Guard a Chief Acquisition Officer selected by the Commandant who shall be a Rear Admiral or civilian from the Senior Executive Service (career reserved) and who meets the qualifications set forth under subsection (b). The Chief Acquisition Officer shall serve at the Assistant Com-

mandant level and have acquisition management as that individual's primary duty.

(b) QUALIFICATIONS.—

(1) The Chief Acquisition Officer and any flag officer serving in the Acquisition Directorate shall be an acquisition professional with a Level III acquisition management certification and must have at least 10 years experience in an acquisition position, of which at least 4 years were spent as—

(A) the program executive officer;

(B) the program manager of a Level 1 or Level 2 acquisition project or program;

(C) the deputy program manager of a Level 1 or Level 2 acquisition;

(D) the project manager of a Level 1 or Level 2 acquisition; or

(E) any other acquisition position of significant responsibility in which the primary duties are supervisory or management duties.

(2) The Commandant shall periodically publish a list of the positions designated under paragraph (1).

(3) In this subsection each of the terms “Level 1 acquisition” and “Level 2 acquisition” has the meaning that term has in chapter [15] 11 of this title.

(c) FUNCTIONS OF THE CHIEF ACQUISITION OFFICER.—The functions of the Chief Acquisition Officer include—

(1) monitoring the performance of acquisition projects and programs on the basis of applicable performance measurements and advising the Commandant, through the chain of command, regarding the appropriate business strategy to achieve the missions of the Coast Guard;

(2) maximizing the use of full and open competition at the prime contract and subcontract levels in the acquisition of property, capabilities, assets, and services by the Coast Guard by establishing policies, procedures, and practices that ensure that the Coast Guard receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Government's requirements, including performance and delivery schedules, at the lowest cost or best value considering the nature of the property, capability, asset, or service procured;

(3) making acquisition decisions in concurrence with the technical authority, or technical authorities, of the Coast Guard, as designated by the Commandant, consistent with all other applicable laws and decisions establishing procedures within the Coast Guard;

(4) ensuring the use of detailed performance specifications in instances in which performance-based contracting is used;

(5) managing the direction of acquisition policy for the Coast Guard, including implementation of the unique acquisition policies, regulations, and standards of the Coast Guard;

(6) developing and maintaining an acquisition career management program in the Coast Guard to ensure that there is an adequate acquisition workforce;

(7) assessing the requirements established for Coast Guard personnel regarding knowledge and skill in acquisition re-

sources and management and the adequacy of such requirements for facilitating the achievement of the performance goals established for acquisition management;

(8) developing strategies and specific plans for hiring, training, and professional development;

(9) reporting to the Commandant, through the chain of command, on the progress made in improving acquisition management capability; and

(10)(A) keeping the Commandant informed of the progress of major acquisition programs (as that term is defined in section 581);

(B) informing the Commandant on a continuing basis of any developments on such programs that may require new or revisited trade-offs among cost, schedule, technical feasibility, and performance, including—

(i) significant cost growth or schedule slippage; and

(ii) requirements creep (as that term is defined in section 2547(c)(1) of title 10); and

(C) ensuring that the views of the Commandant regarding such programs on cost, schedule, technical feasibility, and performance trade-offs are strongly considered by program managers and program executive officers in all phases of the acquisition process.

§ [53] 309. Office of the Coast Guard Reserve; Director

(a) ESTABLISHMENT OF OFFICE; DIRECTOR.—There is in the executive part of the Coast Guard an Office of the Coast Guard Reserve. The head of the Office is the Director of the Coast Guard Reserve. The Director of the Coast Guard Reserve is the principal adviser to the Commandant on Coast Guard Reserve matters and may have such additional functions as the Commandant may direct.

(b) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint the Director of the Coast Guard Reserve, from officers of the Coast Guard who—

(1) have had at least 10 years of commissioned service;

(2) are in a grade above captain; and

(3) have been recommended by the Secretary of Homeland Security.

(c) TERM.—(1) The Director of the Coast Guard Reserve holds office for a term determined by the President, normally two years, but not more than four years. An officer may be removed from the position of Director for cause at any time.

(2) The Director of the Coast Guard Reserve, while so serving, holds a grade above Captain, without vacating the officer's permanent grade.

(d) BUDGET.—The Director of the Coast Guard Reserve is the official within the executive part of the Coast Guard who, subject to the authority, direction, and control of the Secretary of Homeland Security and the Commandant, is responsible for preparation, justification, and execution of the personnel, operation and maintenance, and construction budgets for the Coast Guard Reserve. As such, the Director of the Coast Guard Reserve is the director and functional manager of appropriations made for the Coast Guard Reserve in those areas.

(e) ANNUAL REPORT.—The Director of the Coast Guard Reserve shall submit to the Secretary of Homeland Security and the Secretary of Defense an annual report on the state of the Coast Guard Reserve and the ability of the Coast Guard Reserve to meet its missions. The report shall be prepared in conjunction with the Commandant and may be submitted in classified and unclassified versions.

§ [54] 310. Chief of Staff to President: appointment

The President, by and with the advice and consent of the Senate, may appoint a flag officer of the Coast Guard as the Chief of Staff to the President.

§311. Captains of the port

Any officer, including any petty officer, may be designated by the Commandant as captain of the port or ports or adjacent high seas or waters over which the United States has jurisdiction, as the Commandant deems necessary to facilitate execution of Coast Guard duties.

§ [57] 312. Prevention and response workforces

(a) CAREER PATHS.—The Secretary, acting through the Commandant, shall ensure that appropriate career paths for civilian and military Coast Guard personnel who wish to pursue career paths in prevention or response positions are identified in terms of the education, training, experience, and assignments necessary for career progression of civilians and members of the Armed Forces to the most senior prevention or response positions, as appropriate. The Secretary shall make available published information on such career paths.

(b) QUALIFICATIONS FOR CERTAIN ASSIGNMENTS.—An officer, member, or civilian employee of the Coast Guard assigned as a—

(1) marine inspector shall have the training, experience, and qualifications equivalent to that required for a similar position at a classification society recognized by the Secretary under section 3316 of title 46 for the type of vessel, system, or equipment that is inspected;

(2) marine casualty investigator shall have the training, experience, and qualifications in investigation, marine casualty reconstruction, evidence collection and preservation, human factors, and documentation using best investigation practices by Federal and non-Federal entities;

(3) marine safety engineer shall have knowledge, skill, and practical experience in—

(A) the construction and operation of commercial vessels;

(B) judging the character, strength, stability, and safety qualities of such vessels and their equipment; or

(C) the qualifications and training of vessel personnel;

(4) waterways operations manager shall have knowledge, skill, and practical experience with respect to marine transportation system management; or

(5) port and facility safety and security specialist shall have knowledge, skill, and practical experience with respect to the safety, security, and environmental protection responsibilities associated with maritime ports and facilities.

(c) **APPRENTICESHIP REQUIREMENT TO QUALIFY FOR CERTAIN CAREERS.**—The Commandant may require an officer, member, or employee of the Coast Guard in training for a specialized prevention or response career path to serve an apprenticeship under the guidance of a qualified individual. However, an individual in training to become a marine inspector, marine casualty investigator, marine safety engineer, waterways operations manager, or port and facility safety and security specialist shall serve a minimum of one-year as an apprentice unless the Commandant authorizes a shorter period for certain qualifications.

(d) **MANAGEMENT INFORMATION SYSTEM.**—The Secretary, acting through the Commandant, shall establish a management information system for the prevention and response workforces that shall provide, at a minimum, the following standardized information on persons serving in those workforces:

(1) Qualifications, assignment history, and tenure in assignments.

(2) Promotion rates for military and civilian personnel.

(e) **SECTOR CHIEF OF PREVENTION.**—There shall be in each Coast Guard sector a Chief of Prevention who shall be at least a Lieutenant Commander or civilian employee within the grade GS-13 of the General Schedule, and who shall be a—

(1) marine inspector, qualified to inspect vessels, vessel systems, and equipment commonly found in the sector; and

(2) qualified marine casualty investigator, marine safety engineer, waterways operations manager, or port and facility safety and security specialist.

(f) **SIGNATORIES OF LETTER OF QUALIFICATION FOR CERTAIN PREVENTION PERSONNEL.**—Each individual signing a letter of qualification for marine safety personnel must hold a letter of qualification for the type being certified.

(g) **SECTOR CHIEF OF RESPONSE.**—There shall be in each Coast Guard sector a Chief of Response who shall be at least a Lieutenant Commander or civilian employee within the grade GS-13 of the General Schedule in each Coast Guard sector.

§ [58] 313. Centers of expertise for Coast Guard prevention and response

(a) **ESTABLISHMENT.**—The Commandant of the Coast Guard may establish and operate one or more centers of expertise for prevention and response missions of the Coast Guard (in this section referred to as a “center”).

(b) **MISSIONS.**—Any center established under subsection (a) shall—

(1) promote, facilitate, and conduct—

(A) education;

(B) training; and

(C) activities authorized under section 93(a)(4);

(2) be a repository of information on operations, practices, and resources related to the mission for which the center was established; and

(3) perform and support the mission for which the center was established.

(c) JOINT OPERATION WITH EDUCATIONAL INSTITUTION AUTHORIZED.—The Commandant may enter into an agreement with an appropriate official of an institution of higher education to—

- (1) provide for joint operation of a center; and
- (2) provide necessary administrative services for a center, including administration and allocation of funds.

(d) ACCEPTANCE OF DONATIONS.—

(1) Except as provided in paragraph (2), the Commandant may accept, on behalf of a center, donations to be used to defray the costs of the center or to enhance the operation of the center. Those donations may be accepted from any State or local government, any foreign government, any foundation or other charitable organization (including any that is organized or operates under the laws of a foreign country), or any individual.

(2) The Commandant may not accept a donation under paragraph (1) if the acceptance of the donation would compromise or appear to compromise—

(A) the ability of the Coast Guard or the department in which the Coast Guard is operating, any employee of the Coast Guard or the department, or any member of the Armed Forces to carry out any responsibility or duty in a fair and objective manner; or

(B) the integrity of any program of the Coast Guard, the department in which the Coast Guard is operating, or of any person involved in such a program.

(3) The Commandant shall prescribe written guidance setting forth the criteria to be used in determining whether or not the acceptance of a donation from a foreign source would have a result described in paragraph (2).

§ [59] 314. Marine industry training program

The Commandant shall, by policy, establish a program under which an officer, member, or employee of the Coast Guard may be assigned to a private entity to further the institutional interests of the Coast Guard with regard to marine safety, including for the purpose of providing training to an officer, member, or employee. Policies to carry out the program—

(1) with regard to an employee of the Coast Guard, shall include provisions, consistent with sections 3702 through 3704 of title 5, as to matters concerning—

- (A) the duration and termination of assignments;
- (B) reimbursements; and
- (C) status, entitlements, benefits, and obligations of program participants; and

(2) shall require the Commandant, before approving the assignment of an officer, member, or employee of the Coast Guard to a private entity, to determine that the assignment is an effective use of the Coast Guard's funds, taking into account the best interests of the Coast Guard and the costs and benefits of alternative methods of achieving the same results and objectives.

§ [60] 315. Training course on workings of Congress

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of the Coast Guard Authorization Act of 2016, the Commandant, in consultation with the Superintendent of the Coast Guard Academy and such other individuals and organizations as the Commandant considers appropriate, shall develop a training course on the workings of the Congress and offer that training course at least once each year.

(b) **COURSE SUBJECT MATTER.**—The training course required by this section shall provide an overview and introduction to the Congress and the Federal legislative process, including—

(1) the history and structure of the Congress and the committee systems of the House of Representatives and the Senate, including the functions and responsibilities of the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(2) the documents produced by the Congress, including bills, resolutions, committee reports, and conference reports, and the purposes and functions of those documents;

(3) the legislative processes and rules of the House of Representatives and the Senate, including similarities and differences between the two processes and rules, including—

(A) the congressional budget process;

(B) the congressional authorization and appropriation processes;

(C) the Senate advice and consent process for Presidential nominees;

(D) the Senate advice and consent process for treaty ratification;

(4) the roles of Members of Congress and congressional staff in the legislative process; and

(5) the concept and underlying purposes of congressional oversight within our governance framework of separation of powers.

(c) **LECTURERS AND PANELISTS.**—

(1) **OUTSIDE EXPERTS.**—The Commandant shall ensure that not less than 60 percent of the lecturers, panelists, and other individuals providing education and instruction as part of the training course required by this section are experts on the Congress and the Federal legislative process who are not employed by the executive branch of the Federal Government.

(2) **AUTHORITY TO ACCEPT PRO BONO SERVICES.**—In satisfying the requirement under paragraph (1), the Commandant shall seek, and may accept, educational and instructional services of lecturers, panelists, and other individuals and organizations provided to the Coast Guard on a pro bono basis.

(d) **COMPLETION OF REQUIRED TRAINING.**—

(1) **CURRENT FLAG OFFICERS AND EMPLOYEES.**—A Coast Guard flag officer appointed or assigned to a billet in the National Capital Region on the date of the enactment of this section, and a Coast Guard Senior Executive Service employee employed in the National Capital Region on the date of the enactment of this section, shall complete a training course that meets the requirements of this section within 60 days after the

date on which the Commandant completes the development of the training course.

(2) **NEW FLAG OFFICERS AND EMPLOYEES.**—A Coast Guard flag officer who is newly appointed or assigned to a billet in the National Capital Region, and a Coast Guard Senior Executive Service employee who is newly employed in the National Capital Region, shall complete a training course that meets the requirements of this section not later than 60 days after reporting for duty.

§ [98] 316. National Coast Guard Museum

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

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

(2) The Secretary shall fund the operation and maintenance of the National Coast Guard Museum with nonappropriated and non-Federal funds to the maximum extent practicable. The priority use of Federal operation and maintenance funds should be to preserve and protect historic Coast Guard artifacts, including the design, fabrication, and installation of exhibits or displays in which such artifacts are included.

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

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

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

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

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

§ [336] 317. United States Coast Guard Band; composition; director

(a) The United States Coast Guard Band shall be composed of a director and other personnel in such numbers and grades as the Secretary determines to be necessary.

(b) The Secretary may designate as the director any individual determined by the Secretary to possess the necessary qualifications. Upon the recommendation of the Secretary, an individual so designated may be appointed by the President, by and with the ad-

vice and consent of the Senate, to a commissioned grade in the Regular Coast Guard.

(c) The initial appointment to a commissioned grade of an individual designated as director of the Coast Guard Band shall be in the grade determined by the Secretary to be most appropriate to the qualifications and experience of the appointed individual.

(d) An individual who is designated and commissioned under this section shall not be included on the active duty promotion list. He shall be promoted under section 276 of this title. However, the grade of the director may not be higher than captain.

(e) The Secretary may revoke any designation as director of the Coast Guard Band. When an individual's designation is revoked, his appointment to commissioned grade under this section terminates and he is entitled, at his option—

- (1) to be discharged from the Coast Guard; or
- (2) to revert to the grade and status he held at the time of his designation as director.

§318. Environmental Compliance and Restoration Program

(a) *DEFINITIONS.—For the purposes of this section—*

(1) “environment”, “facility”, “person”, “release”, “removal”, “remedial”, and “response” have the same meaning they have in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601);

(2) “hazardous substance” has the same meaning it has in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), except that it also includes the meaning given “oil” in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); and

(3) “pollutant” has the same meaning it has in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362).

(b) *PROGRAM.—*

(1) *The Secretary shall carry out a program of environmental compliance and restoration at current and former Coast Guard facilities.*

(2) *Program goals include:*

(A) *Identifying, investigating, and cleaning up contamination from hazardous substances and pollutants.*

(B) *Correcting other environmental damage that poses an imminent and substantial danger to the public health or welfare or to the environment.*

(C) *Demolishing and removing unsafe buildings and structures, including buildings and structures at former Coast Guard facilities.*

(D) *Preventing contamination from hazardous substances and pollutants at current Coast Guard facilities.*

(3)(A) *The Secretary shall respond to releases of hazardous substances and pollutants—*

(i) *at each Coast Guard facility the United States owns, leases, or otherwise possesses;*

(ii) *at each Coast Guard facility the United States owned, leased, or otherwise possessed when the actions leading to contamination from hazardous substances or pollutants occurred; and*

(iii) *on each vessel the Coast Guard owns or operates.*

(B) *Subparagraph (A) of this paragraph does not apply to a removal or remedial action when a potentially responsible person responds under section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9622).*

(C) *The Secretary shall pay a fee or charge imposed by a State authority for permit services for disposing of hazardous substances or pollutants from Coast Guard facilities to the same extent that nongovernmental entities are required to pay for permit services. This subparagraph does not apply to a payment that is the responsibility of a lessee, contractor, or other private person.*

(4) *The Secretary may agree with another Federal agency for that agency to assist in carrying out the Secretary's responsibilities under this section. The Secretary may enter into contracts, cooperative agreements, and grant agreements with State and local governments to assist in carrying out the Secretary's responsibilities under this section. Services that may be obtained under this paragraph include identifying, investigating, and cleaning up off-site contamination that may have resulted from the release of a hazardous substance or pollutant at a Coast Guard facility.*

(5) *Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9619) applies to response action contractors that carry out response actions under this section. The Coast Guard shall indemnify response action contractors to the extent that adequate insurance is not generally available at a fair price at the time the contractor enters into the contract to cover the contractor's reasonable, potential, long-term liability.*

(c) *ENVIRONMENTAL COMPLIANCE AND RESTORATION ACCOUNT.—*

(1) *There is established for the Coast Guard an account known as the Coast Guard Environmental Compliance and Restoration Account. All sums appropriated to carry out the Coast Guard's environmental compliance and restoration functions under this section or another law shall be credited or transferred to the account and remain available until expended.*

(2) *Funds may be obligated or expended from the account to carry out the Coast Guard's environmental compliance and restoration functions under this section or another law.*

(3) *In proposing the budget for any fiscal year under section 1105 of title 31, the President shall set forth separately the amount requested for the Coast Guard's environmental compliance and restoration activities under this section or another law.*

(4) *Amounts recovered under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9607) for the Secretary's response actions at current and former Coast Guard facilities shall be credited to the account.*

(d) *ANNUAL LIST OF PROJECTS TO CONGRESS.—The Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a prioritized list of projects eligible for environmental compliance*

and restoration funding for each fiscal year concurrent with the President's budget submission for that fiscal year.

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§ [92] 501. Secretary; general powers

For the purpose of executing the duties and functions of the Coast Guard the Secretary may within the limits of appropriations made therefor:

(a) establish, change the limits of, consolidate, discontinue, and re-establish Coast Guard districts;

(b) arrange with the Secretaries of the Army, Navy and Air Force to assign members of the Coast Guard to any school maintained by the Army, Navy, and Air Force, for instruction and training, including aviation schools;

(c) construct, or cause to be constructed, Coast Guard shore establishments;

(d) design or cause to be designed, cause to be constructed, accept as gift, or otherwise acquire vessels, and subject to applicable regulations under subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 dispose of them;

(f) acquire land or interests in land, including acceptance of gifts thereof, where required for the purpose of carrying out any project or purpose for which an appropriation has been made;

(g) exchange land or interests in land in part or in full payment for such other land or interests in land as may be necessary or desirable, the balance of such part payment to be defrayable in accordance with other provisions of this section;

(h) exercise any of the powers vested by this title in the Commandant in any case in which the Secretary deems it appropriate; and

(i) do any and all things necessary to carry out the purposes of this title.

§ [631] 502. Delegation of powers by the Secretary

The Secretary is authorized to confer or impose upon the Commandant any of the rights, privileges, powers, or duties, in respect to the administration of the Coast Guard, vested in or imposed upon the Secretary by this title or other provisions of law.

§ [633] 503. Regulations

In addition to the authority conferred by other provisions of this title the Secretary may promulgate such regulations and orders as he deems appropriate to carry out the provisions of this title or any other law applicable to the Coast Guard.

§ [93] 504. Commandant; general powers

(a) For the purpose of executing the duties and functions of the Coast Guard the Commandant may:

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

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

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

(4) conduct experiments and investigate, or cause to be investigated, plans, devices, and inventions relating to the performance of any Coast Guard function, including research, development, test, or evaluation related to intelligence systems and capabilities;

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

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

(7) conduct or make available to personnel of the Coast Guard, and to eligible spouses as defined under section 542, such specialized training and courses of instruction, including correspondence courses and the textbooks, manuals, and other materials required as part of such training or course of instruction, as may be necessary or desirable for the good of the service;

(8) design or cause to be designed, cause to be constructed, accept as gift, or otherwise acquire patrol boats and other small craft, equip, operate, maintain, supply, and repair such patrol boats, other small craft, aircraft, and vehicles, and subject to applicable regulations under subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 dispose of them;

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

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

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

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

(13) rent or lease, under such terms and conditions as are deemed advisable, for a period not exceeding five years, such real property under the control of the Coast Guard as may not be required for immediate use by the Coast Guard, the monies received from any such rental or lease, less amount of expenses incurred (exclusive of governmental personal services), to be deposited in the fund established under section 687;

(14) grant, under such terms and conditions as are deemed advisable, permits, licenses, easements, and rights-of-way over, across, in, and upon lands under the control of the Coast Guard when in the public interest and without substantially

injuring the interests of the United States in the property thereby affected;

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

(16) establish, install, abandon, reestablish, change the location of, operate, maintain, and repair radio transmitting and receiving stations;

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

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

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

(A) the cooperative agreements shall each provide for the parties to contribute funds or services on a matching basis to defray the costs of such programs, projects, and activities under the agreement; and

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

(20) enter into cooperative agreements with other Government agencies and the National Academy of Sciences;

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

(22) provide for the honorary recognition of individuals and organizations that significantly contribute to Coast Guard pro-

grams, missions, or operations, including State and local governments and commercial and nonprofit organizations, and pay for, using any appropriations or funds available to the Coast Guard, plaques, medals, trophies, badges, and similar items to acknowledge such contribution (including reasonable expenses of ceremony and presentation);

(23) rent or lease, under such terms and conditions as are considered by the Secretary to be advisable, commercial vehicles to transport the next of kin of eligible retired Coast Guard military personnel to attend funeral services of the service member at a national cemetery;

(24) after informing the Secretary, make such recommendations to the Congress relating to the Coast Guard as the Commandant considers appropriate; and

(25) enter into cooperative agreements, contracts, and other agreements with Federal entities and other public or private entities, including academic entities, to develop a positioning, navigation, and timing system to provide redundant capability in the event Global Positioning System signals are disrupted, which may consist of an enhanced LORAN system.

(b)(1) Notwithstanding subsection (a)(13), a lease described in paragraph (2) of this subsection may be for a term of up to 20 years.

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

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

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

(c) MARINE SAFETY RESPONSIBILITIES.—In exercising the Commandant's duties and responsibilities with regard to marine safety, the individual with the highest rank who meets the experience qualifications set forth in section 50(a)(3) shall serve as the principal advisor to the Commandant regarding—

(1) the operation, regulation, inspection, identification, manning, and measurement of vessels, including plan approval and the application of load lines;

(2) approval of materials, equipment, appliances, and associated equipment;

(3) the reporting and investigation of marine casualties and accidents;

(4) the licensing, certification, documentation, protection and relief of merchant seamen;

(5) suspension and revocation of licenses and certificates;

(6) enforcement of manning requirements, citizenship requirements, control of log books;

(7) documentation and numbering of vessels;

(8) State boating safety programs;

(9) commercial instruments and maritime liens;

(10) the administration of bridge safety;

(11) administration of the navigation rules;

(12) the prevention of pollution from vessels;

(13) ports and waterways safety;

- (14) waterways management; including regulation for regattas and marine parades;
- (15) aids to navigation; and
- (16) other duties and powers of the Secretary related to marine safety and stewardship.

(d) OTHER AUTHORITY NOT AFFECTED.—Nothing in subsection (c) affects—

- (1) the authority of Coast Guard officers and members to enforce marine safety regulations using authority under section 89 of this title; or
- (2) the exercise of authority under section 91 of this title and the provisions of law codified at sections 191 through 195 of title 50 on the date of enactment of this paragraph.

(e) OPERATION AND MAINTENANCE OF COAST GUARD ASSETS AND FACILITIES.—All authority, including programmatic budget authority, for the operation and maintenance of Coast Guard vessels, aircraft, systems, aids to navigation, infrastructure, and other assets or facilities shall be allocated to and vested in the Coast Guard and the department in which the Coast Guard is operating.

(f) LEASING OF TIDELANDS AND SUBMERGED LANDS.—

(1) AUTHORITY.—The Commandant may lease under subsection (a)(13) submerged lands and tidelands under the control of the Coast Guard without regard to the limitation under that subsection with respect to lease duration.

(2) LIMITATION.—The Commandant may lease submerged lands and tidelands under paragraph (1) only if—

(A) the lease is for cash exclusively;

(B) the lease amount is equal to the fair market value of the use of the leased submerged lands or tidelands for the period during which such lands are leased, as determined by the Commandant;

(C) the lease does not provide authority to or commit the Coast Guard to use or support any improvements to such submerged lands and tidelands, or obtain goods and services from the lessee; and

(D) proceeds from the lease are deposited in the Coast Guard Housing Fund established under section 687.

§ [632] 505. Functions and powers vested in the Commandant

All powers and functions conferred upon the Coast Guard, or the Commandant, by or pursuant to this title or any other law shall, unless otherwise specifically stated, be executed by the Commandant subject to the general supervision of the Secretary. In order to execute the powers and functions vested in him, the Commandant may assign personnel of the Coast Guard to duty in the District of Columbia, elsewhere in the United States, in any territory of the United States, and in any foreign country, but such personnel shall not be assigned to duties in any foreign country without the consent of the government of that country; assign to such personnel such duties and authority as he deems necessary; and issue rules, orders, and instructions, not inconsistent with law, relating to the organization, internal administration, and personnel of the Coast Guard.

§ [520] 506. Prospective payment of funds necessary to provide medical care

(a) **PROSPECTIVE PAYMENT REQUIRED** In lieu of the reimbursement required under section 1085 of title 10, the Secretary of Homeland Security shall make a prospective payment to the Secretary of Defense of an amount that represents the actuarial valuation of treatment or care—

(1) that the Department of Defense shall provide to members of the Coast Guard, former members of the Coast Guard, and dependents of such members and former members (other than former members and dependents of former members who are a Medicare-eligible beneficiary or for whom the payment for treatment or care is made from the Medicare-Eligible Retiree Health Care Fund) at facilities under the jurisdiction of the Department of Defense or a military department; and

(2) for which a reimbursement would otherwise be made under section 1085.

(b) **AMOUNT** The amount of the prospective payment under subsection (a) shall be—

(1) in the case of treatment or care to be provided to members of the Coast Guard and their dependents, derived from amounts appropriated for the operating expenses of the Coast Guard;

(2) in the case of treatment or care to be provided former members of the Coast Guard and their dependents, derived from amounts appropriated for retired pay;

(3) determined under procedures established by the Secretary of Defense;

(4) paid during the fiscal year in which treatment or care is provided; and

(5) subject to adjustment or reconciliation as the Secretaries determine appropriate during or promptly after such fiscal year in cases in which the prospective payment is determined excessive or insufficient based on the services actually provided.

(c) **NO PROSPECTIVE PAYMENT WHEN SERVICE IN NAVY** No prospective payment shall be made under this section for any period during which the Coast Guard operates as a service in the Navy.

(d) **RELATIONSHIP TO TRICARE** This section shall not be construed to require a payment for, or the prospective payment of an amount that represents the value of, treatment or care provided under any TRICARE program.

*SUBCHAPTER II—LIFE SAVING AND LAW ENFORCEMENT
AUTHORITIES*

§ [88] 521. Saving life and property

(a) In order to render aid to distressed persons, vessels, and aircraft on and under the high seas and on and under the waters over which the United States has jurisdiction and in order to render aid to persons and property imperiled by flood, the Coast Guard may:

(1) perform any and all acts necessary to rescue and aid persons and protect and save property;

(2) take charge of and protect all property saved from marine or aircraft disasters, or floods, at which the Coast Guard is

present, until such property is claimed by persons legally authorized to receive it or until otherwise disposed of in accordance with law or applicable regulations, and care for bodies of those who may have perished in such catastrophes;

(3) furnish clothing, food, lodging, medicines, and other necessary supplies and services to persons succored by the Coast Guard; and

(4) destroy or tow into port sunken or floating dangers to navigation.

(b)(1) Subject to paragraph (2), the Coast Guard may render aid to persons and protect and save property at any time and at any place at which Coast Guard facilities and personnel are available and can be effectively utilized.

(2) The Commandant shall make full use of all available and qualified resources, including the Coast Guard Auxiliary and individuals licensed by the Secretary pursuant to section 8904(b) of title 46, United States Code, in rendering aid under this subsection in nonemergency cases.

(c) An individual who knowingly and willfully communicates a false distress message to the Coast Guard or causes the Coast Guard to attempt to save lives and property when no help is needed is—

(1) guilty of a class D felony;

(2) subject to a civil penalty of not more than \$10,000; and

(3) liable for all costs the Coast Guard incurs as a result of the individual's action.

(d) The Secretary shall establish a helicopter rescue swimming program for the purpose of training selected Coast Guard personnel in rescue swimming skills, which may include rescue diver training.

(e) An individual who knowingly and willfully operates a device with the intention of interfering with the broadcast or reception of a radio, microwave, or other signal (including a signal from a global positioning system) transmitted, retransmitted, or augmented by the Coast Guard for the purpose of maritime safety is—

(1) guilty of a class E felony; and

(2) subject to a civil penalty of not more than \$1,000 per day for each violation.

§ [89] 522. Law enforcement

(a) The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction, or to the operation of any law, of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance. When from such inquiries, examination, inspection, or search it appears that a breach of the laws of the United States rendering a person liable to arrest is being, or has been committed, by any person, such person shall be arrested or, if escaping to shore, shall be immediately pursued and arrested on shore, or other lawful and appropriate ac-

tion shall be taken; or, if it shall appear that a breach of the laws of the United States has been committed so as to render such vessel, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel, liable to forfeiture, or so as to render such vessel liable to a fine or penalty and if necessary to secure such fine or penalty, such vessel or such merchandise, or both, shall be seized.

(b) The officers of the Coast Guard insofar as they are engaged, pursuant to the authority contained in this section, in enforcing any law of the United States shall:

(1) be deemed to be acting as agents of the particular executive department or independent establishment charged with the administration of the particular law; and

(2) be subject to all the rules and regulations promulgated by such department or independent establishment with respect to the enforcement of that law.

(c) The provisions of this section are in addition to any powers conferred by law upon such officers, and not in limitation of any powers conferred by law upon such officers, or any other officers of the United States.

§ [99] 523. Enforcement authority

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

(1) carry a firearm; and

(2) while at a facility (as defined in section 70101 of title 46)—

(A) make an arrest without warrant for any offense against the United States committed in their presence; and

(B) seize property as otherwise provided by law.

§ [100] 524. Enforcement of coastwise trade laws

Officers and members of the Coast Guard are authorized to enforce chapter 551 of title 46. The Secretary shall establish a program for these officers and members to enforce that chapter.

§ [95] 525. Special agents of the Coast Guard Investigative Service law enforcement authority

(a)(1) A special agent of the Coast Guard Investigative Service designated under subsection (b) has the following authority:

(A) To carry firearms.

(B) To execute and serve any warrant or other process issued under the authority of the United States.

(C) To make arrests without warrant for—

(i) any offense against the United States committed in the agent's presence; or

(ii) any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing the felony.

(2) The authorities provided in paragraph (1) shall be exercised only in the enforcement of statutes for which the Coast Guard has law enforcement authority, or in exigent circumstances.

(b) The Commandant may designate to have the authority provided under subsection (a) any special agent of the Coast Guard Investigative Service whose duties include conducting, supervising, or coordinating investigation of criminal activity in programs and operations of the United States Coast Guard.

(c) The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Commandant and approved by the Attorney General and any other applicable guidelines prescribed by the Secretary or the Attorney General.

§ [637] 526. Stopping vessels; indemnity for firing at or into vessel

(a)(1) Whenever any vessel liable to seizure or examination does not stop on being ordered to do so or on being pursued by an authorized vessel or authorized aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for an authorized vessel or authorized aircraft, the person in command or in charge of the authorized vessel or authorized aircraft may, subject to paragraph (2), fire at or into the vessel which does not stop.

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

(b) The person in command of an authorized vessel or authorized aircraft and all persons acting under that person's direction shall be indemnified from any penalties or actions for damages for firing at or into a vessel pursuant to subsection (a). If any person is killed or wounded by the firing, and the person in command of the authorized vessel or authorized aircraft or any person acting pursuant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

(c) A vessel or aircraft is an authorized vessel or authorized aircraft for purposes of this section if—

(1) it is a Coast Guard vessel or aircraft;

(2) it is a surface naval vessel or military aircraft on which one or more members of the Coast Guard are assigned pursuant to section 379 of title 10; or

(3) it is any other vessel or aircraft on government non-commercial service when—

(A) the vessel or aircraft is under the tactical control of the Coast Guard; and

(B) at least one member of the Coast Guard is assigned and conducting a Coast Guard mission on the vessel or aircraft.

§ [91] 527. Safety of naval vessels

(a) The Secretary may control the anchorage and movement of any vessel in the navigable waters of the United States to ensure the safety or security of any United States naval vessel in those waters.

(b) If the Secretary does not exercise the authority in subsection (a) of this section and immediate action is required, the senior

naval officer present in command may control the anchorage or movement of any vessel in the navigable waters of the United States to ensure the safety and security of any United States naval vessel under the officer's command.

(c) If a person violates, or a vessel is operated in violation of, this section or a regulation or order issued under this section, the person or vessel is subject to the enforcement provisions in section 13 of the Ports and Waterways Safety Act (33 U.S.C. 1232).

(d) As used in this section "navigable waters of the United States" includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.

SUBCHAPTER III—AIDS TO NAVIGATION

§ [81] 541. Aids to navigation authorized

In order to aid navigation and to prevent disasters, collisions, and wrecks of vessels and aircraft, the Coast Guard may establish, maintain, and operate:

- (1) aids to maritime navigation required to serve the needs of the armed forces or of the commerce of the United States;
- (2) aids to air navigation required to serve the needs of the armed forces of the United States peculiar to warfare and primarily of military concern as determined by the Secretary of Defense or the Secretary of any department within the Department of Defense and as required by any of those officials; and
- (3) electronic aids to navigation systems (a) required to serve the needs of the armed forces of the United States peculiar to warfare and primarily of military concern as determined by the Secretary of Defense or any department within the Department of Defense; or (b) required to serve the needs of the maritime commerce of the United States; or (c) required to serve the needs of the air commerce of the United States as requested by the Administrator of the Federal Aviation Administration.

These aids to navigation other than electronic aids to navigation systems shall be established and operated only within the United States, the waters above the Continental Shelf, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and beyond the territorial jurisdiction of the United States at places where naval or military bases of the United States are or may be located. The Coast Guard may establish, maintain, and operate aids to maritime navigation under paragraph (1) of this section by contract with any person, public body, or instrumentality.

§ [83] 542. Unauthorized aids to maritime navigation; penalty

No person, or public body, or instrumentality, excluding the armed services, shall establish, erect, or maintain any aid to maritime navigation in or adjacent to the waters subject to the jurisdiction of the United States, its territories or possessions, or the Trust Territory of the Pacific Islands, or on the high seas if that person, or public body, or instrumentality is subject to the jurisdiction of the United States, without first obtaining authority to do so from

the Coast Guard in accordance with applicable regulations. Whoever violates the provisions of this section or any of the regulations issued by the Secretary in accordance herewith shall be guilty of a misdemeanor and shall be fined not more than \$1,500 for each offense. Each day during which such violation continues shall be considered as a new offense.

§ [84] 543. Interference with aids to navigation; penalty

It shall be unlawful for any person, or public body, or instrumentality, excluding the armed forces, to remove, change the location of, obstruct, wilfully damage, make fast to, or interfere with any aid to navigation established, installed, operated, or maintained by the Coast Guard pursuant to section 81 of this title, or with any aid to navigation lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of this title, or to anchor any vessel in any of the navigable waters of the United States so as to obstruct or interfere with range lights maintained therein. Whoever violates the provisions of this section shall be guilty of a misdemeanor and shall be fined not more than \$1,500 for each offense. Each day during which such violation shall continue shall be considered as a new offense.

§ [85] 544. Aids to maritime navigation; penalty

The Secretary shall prescribe and enforce necessary and reasonable rules and regulations, for the protection of maritime navigation, relative to the establishment, maintenance, and operation of lights and other signals on fixed and floating structures in or over waters subject to the jurisdiction of the United States and in the high seas for structures owned or operated by persons subject to the jurisdiction of the United States. Any owner or operator of such a structure, excluding an agency of the United States, who violates any of the rules or regulations prescribed hereunder, commits a misdemeanor and shall be punished, upon conviction thereof, by a fine of not exceeding \$1,500 for each day which such violation continues.

§ [86] 545. Marking of obstructions

The Secretary may mark for the protection of navigation any sunken vessel or other obstruction existing on the navigable waters or waters above the continental shelf of the United States in such manner and for so long as, in his judgment, the needs of maritime navigation require. The owner of such an obstruction shall be liable to the United States for the cost of such marking until such time as the obstruction is removed or its abandonment legally established or until such earlier time as the Secretary may determine. All moneys received by the United States from the owners of obstructions, in accordance with this section, shall be covered into the Treasury of the United States as miscellaneous receipts. This section shall not be construed so as to relieve the owner of any such obstruction from the duty and responsibility suitably to mark the same and remove it as required by law.

§ [642] 546. Deposit of damage payments

Whenever an aid to navigation or other property belonging to the Coast Guard is damaged or destroyed by a private person, and

such private person or his agent shall pay to the satisfaction of the proper official of the Coast Guard for the cost of repair or replacement of such property, the Commandant may accept and deposit such payments, through proper officers of the Fiscal Service, Treasury Department, in special deposit accounts in the Treasury, for payment therefrom to the person or persons repairing or replacing the damaged property and refundment of amounts collected in excess of the cost of the repairs or replacements concerned. In the event that repair or replacement of the damaged property is effected by the Coast Guard, the appropriations bearing the cost thereof and current at the time collection is made shall be reimbursed from the special deposit account.

§ [643] 547. Rewards for apprehension of persons interfering with aids to navigation

The Coast Guard may offer and pay rewards for the apprehension and conviction, or for information helpful therein, of persons found interfering in violation of law with aids to navigation maintained by the Coast Guard; or for information leading to the discovery of missing Coast Guard property or to recovery thereof.

SUBCHAPTER IV—MISCELLANEOUS

§ [87] 561. Icebreaking in polar regions

The President shall facilitate planning for the design, procurement, maintenance, deployment, and operation of icebreakers as needed to support the statutory missions of the Coast Guard in the polar regions by allocating all funds to support icebreaking operations in such regions, except for recurring incremental costs associated with specific projects, to the Coast Guard.

§ [101] 562. Appeals and waivers

Except for the Commandant of the Coast Guard, any individual adjudicating an appeal or waiver of a decision regarding marine safety, including inspection or manning and threats to the environment, shall—

- (1) be a qualified specialist with the training, experience, and qualifications in marine safety to effectively judge the facts and circumstances involved in the appeal and make a judgment regarding the merits of the appeal; or
- (2) have a senior staff member who—
 - (A) meets the requirements of paragraph (1);
 - (B) actively advises the individual adjudicating the appeal; and
 - (C) concurs in writing on the decision on appeal.

§ [103] 563. Notification of certain determinations

(a) *IN GENERAL.*—At least 90 days prior to making a final determination that a waterway, or a portion thereof, is navigable for purposes of the jurisdiction of the Coast Guard, the Commandant shall provide notification regarding the proposed determination to—

- (1) the Governor of each State in which such waterway, or portion thereof, is located;
- (2) the public; and

(3) the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) **CONTENT REQUIREMENT.**—Each notification provided under subsection (a) to an entity specified in paragraph (3) of that subsection shall include—

(1) an analysis of whether vessels operating on the waterway, or portion thereof, subject to the proposed determination are subject to inspection or similar regulation by State or local officials;

(2) an analysis of whether operators of commercial vessels on such waterway, or portion thereof, are subject to licensing or similar regulation by State or local officials; and

(3) an estimate of the annual costs that the Coast Guard may incur in conducting operations on such waterway, or portion thereof.

§ 564. Regattas and marine parades

(a) **IN GENERAL.**—*The Commandant of the Coast Guard may issue regulations to promote the safety of life on navigable waters during regattas or marine parades.*

(b) **DETAIL AND USE OF VESSELS.**—*To enforce regulations issued under this section—*

(1) *the Commandant may detail any public vessel in the service of the Coast Guard and make use of any private vessel tendered gratuitously for that purpose; and*

(2) *upon the request of the Commandant, the head of any other Federal department or agency may enforce the regulations by means of any public vessel of such department and any private vessel tendered gratuitously for that purpose.*

(c) **TRANSFER OF AUTHORITY.**—*The authority of the Commandant under this section may be transferred by the President for any special occasion to the head of another Federal department or agency whenever in the President's judgment such transfer is desirable.*

(d) **PENALTIES.**—

(1) **IN GENERAL.**—*For any violation of regulations issued pursuant to this section the following penalties shall be incurred:*

(A) *A licensed officer shall be liable to suspension or revocation of license in the manner prescribed by law for incompetency or misconduct.*

(B) *Any person in charge of the navigation of a vessel other than a licensed officer shall be liable to a penalty of \$5,000.*

(C) *The owner of a vessel (including any corporate officer of a corporation owning the vessel) actually on board shall be liable to a penalty of \$5,000, unless the violation of regulations occurred without the owner's knowledge.*

(D) *Any other person shall be liable to a penalty of \$2,500.*

(2) **MITIGATION OR REMISSION.**—*The Commandant may mitigate or remit any penalty provided for in this subsection in the manner prescribed by law for the mitigation or remission of penalties for violation of the navigation laws.*

SUBCHAPTER V—REGULATION OF VESSELS IN
TERRITORIAL WATERS OF UNITED STATES

§581. Regulation of anchorage and movement of vessels during national emergency

Whenever the President by proclamation or Executive order declares a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance or threatened disturbance of the international relations of the United States, or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to, or arriving off the coast of, the United States presents urgent circumstances requiring an immediate Federal response, the Secretary may make, subject to the approval of the President, rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, may inspect such vessel at any time, place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of the rights and obligations of the United States, may take, by and with the consent of the President, for such purposes, full possession and control of such vessel and remove therefrom the officers and crew thereof and all other persons not specially authorized by him to go or remain on board thereof.

Whenever the President finds that the security of the United States is endangered by reason of actual or threatened war, or invasion, or insurrection, or subversive activity, or of disturbances or threatened disturbances of the international relations of the United States, the President is authorized to institute such measures and issue such rules and regulations—

(a) to govern the anchorage and movement of any foreign-flag vessels in the territorial waters of the United States, to inspect such vessels at any time, to place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of rights and obligations of the United States, may take for such purposes full possession and control of such vessels and remove therefrom the officers and crew thereof, and all other persons not especially authorized by him to go or remain on board thereof;

(b) to safeguard against destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of similar nature, vessels, harbors, ports, and waterfront facilities in the United States and all territory and water, continental or insular, subject to the jurisdiction of the United States.

The President may delegate the authority to issue such rules and regulations to the Secretary. Any appropriation available to any of the Executive Departments shall be available to carry out the provisions of this subchapter.

§582. Seizure and forfeiture of vessel; fine and imprisonment

(a) IN GENERAL.—If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the

provisions of this subchapter, or obstructs or interferes with the exercise of any power conferred by this subchapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than ten years and may, in the discretion of the court, be fined not more than \$10,000.

(b) *APPLICATION TO OTHERS.*—If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this subchapter, or knowingly obstructs or interferes with the exercise of any power conferred by this subchapter, he shall be punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than \$10,000.

(c) *CIVIL PENALTY.*—A person violating this subchapter, or a regulation prescribed under this subchapter, shall be liable to the United States Government for a civil penalty of not more than \$25,000 for each violation. Each day of a continuing violation shall constitute a separate violation.

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

(e) *WITHHOLDING OF CLEARANCE.*—

(1) *IN GENERAL.*—If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (c), or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty or fine under this section, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

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

§ 583. Enforcement provisions

The President may employ such departments, agencies, officers, or instrumentalities of the United States as he may deem necessary to carry out this subchapter.

§ 584. Definitions

In this subchapter:

(1) *UNITED STATES.*—The term “United States” includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

(2) *TERRITORIAL WATERS.*—The term “territorial waters of the United States” includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.

CHAPTER 7—COOPERATION [WITH OTHER AGENCIES]

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§ [141] 701. Cooperation with other agencies, States, territories, and political subdivisions

(a) The Coast Guard may, when so requested by proper authority, utilize its personnel and facilities (including members of the Auxiliary and facilities governed under chapter [23] 39) to assist any Federal agency, State, Territory, possession, or political subdivision thereof, or the District of Columbia, to perform any activity for which such personnel and facilities are especially qualified. The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.

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

§ [142] 702. State Department

The Coast Guard, through the Secretary, may exchange information, through the Secretary of State, with foreign governments and suggest to the Secretary of State international collaboration and conferences on all matters dealing with the safety of life and property at sea, other than radio communication.

§ [143] 703. Treasury Department

Commissioned, warrant, and petty officers of the Coast Guard are deemed to be officers of the customs and when so acting shall, insofar as performance of the duties relating to customs laws are concerned, be subject to regulations issued by the Secretary of the Treasury governing officers of the customs.

§ [144] 704. Department of the Army and Department of the Air Force

(a) The Secretary of the Army or the Secretary of the Air Force at the request of the Secretary may, with or without reimbursement for the cost thereof, as agreed, receive members of the Coast Guard for instruction in any school, including any aviation school, maintained by the Army or the Air Force, and such members shall be subject to the regulations governing such schools.

(b) Officers and enlisted men of the Coast Guard shall be permitted to purchase quartermaster supplies from the Army at the same price as is charged the officers and enlisted men of the Army.

(c) Articles of ordnance property may be sold by the Secretary of the Army to officers of the Coast Guard for their use in the public service in the same manner as these articles are sold to officers of the Army.

§ [145] 705. Navy Department

(a) The Secretary of the Navy, at the request of the Secretary may, with or without reimbursement for the cost thereof, as agreed:

(1) build any vessel for the Coast Guard at such Navy yards as the Secretary of the Navy may designate;

(2) receive members of the Coast Guard for instruction in any school, including any aviation school maintained by the Navy, and such members shall be subject to the regulations governing such schools;

(3) permit personnel of the Coast Guard and their dependents to occupy any public quarters maintained by the Navy and available for the purpose; and

(4) detail personnel from the Chaplain Corps to provide services, pursuant to section 1789 of title 10, to the Coast Guard.

(b) Officers and enlisted men of the Coast Guard shall be permitted to purchase quartermaster supplies from the Navy and the Marine Corps at the same price as is charged the officers and enlisted men of the Navy and Marine Corps.

(c) When the Coast Guard is operating in the Department of Homeland Security, the Secretary shall provide for such peacetime training and planning of reserve strength and facilities as is necessary to insure an organized, manned, and equipped Coast Guard when it is required for wartime operation in the Navy. To this end, the Secretary of the Navy for the Navy, and the Secretary of Home-

land Security, for the Coast Guard, may from time to time exchange such information, make available to each other such personnel, vessels, facilities, and equipment, and agree to undertake such assignments and functions for each other as they may agree are necessary and advisable.

(d)(1) As part of the services provided by the Secretary of the Navy pursuant to subsection (a)(4), the Secretary may provide support services to chaplain-led programs to assist members of the Coast Guard on active duty and their dependents, and members of the reserve component in an active status and their dependents, in building and maintaining a strong family structure.

(2) In this subsection, the term “support services” include transportation, food, lodging, child care, supplies, fees, and training materials for members of the Coast Guard on active duty and their dependents, and members of the reserve component in an active status and their dependents, while participating in programs referred to in paragraph (1), including participation at retreats and conferences.

(3) In this subsection, the term “dependents” has the same meaning as defined in section 1072(2) of title 10.

§ [146] 706. United States Postal Service

Coast Guard facilities and personnel may be utilized for the transportation and delivery of mail matter during emergency conditions or at isolated locations under such arrangements as may be satisfactory to the Secretary and the United States Postal Service.

§ [147] 707. Department of Commerce

In order to promote the safety of life and property on and over the high seas and waters over which the United States has jurisdiction, and to facilitate the preparation and dissemination by the National Oceanic and Atmospheric Administration of the weather reports, forecasts, and warnings essential to the safe and efficient conduct of domestic and international commerce on and over such seas and waters, the Commandant may cooperate with the Administrator, National Oceanic and Atmospheric Administration by procuring, maintaining, and making available, facilities and assistance for observing, investigating, and communicating weather phenomena and for disseminating weather data, forecasts and warnings, the mutually satisfactory terms of such cooperation in weather service to be agreed upon and arranged between the Commandant and the Administrator, National Oceanic and Atmospheric Administration.

§ [147a] 708. Department of Health and Human Services

(a) The Commandant may assist the Secretary of Health and Human Services in providing medical emergency helicopter transportation services to civilians. The Commandant may prescribe conditions, including reimbursement, under which resources may be provided under this section. The following specific limitations apply to assistance provided under this section:

(1) Assistance may be provided only in areas where Coast Guard units able to provide the assistance are regularly assigned. Coast Guard units may not be transferred from one area to another to provide the assistance.

(2) Assistance may be provided only to the extent it does not interfere with the performance of the Coast Guard mission.

(3) Providing assistance may not cause an increase in amounts required for the operation of the Coast Guard.

(b) An individual (or the estate of that individual) who is authorized by the Coast Guard to provide a service under a program established under subsection (a) and who is acting within the scope of that individual's duties is not liable for injury to, or loss of, property or personal injury or death that may be caused incident to providing the service.

§ [148] 709. Maritime instruction

The Coast Guard may, when so requested by proper authority, detail members for duty in connection with maritime instruction and training by the several States, Territories, the District of Columbia, and Puerto Rico, and when requested by the Maritime Administrator, detail persons in the Coast Guard for duty in connection with maritime instruction and training by the United States. The service rendered by any person so detailed shall be considered Coast Guard duty.

§ [149] 710. Assistance to foreign governments and maritime authorities

(a) **DETAIL OF MEMBERS TO ASSIST FOREIGN GOVERNMENTS.**—The President may upon application from the foreign governments concerned, and whenever in his discretion the public interests render such a course advisable, detail members of the Coast Guard to assist foreign governments in matters concerning which the Coast Guard may be of assistance.

(b) **TECHNICAL ASSISTANCE TO FOREIGN MARITIME AUTHORITIES.**—The Commandant, in coordination with the Secretary of State, may provide, in conjunction with regular Coast Guard operations, technical assistance (including law enforcement and maritime safety and security training) to foreign navies, coast guards, and other maritime authorities.

(c) **GRANTS TO INTERNATIONAL MARITIME ORGANIZATIONS.**—After consultation with the Secretary of State, the Commandant may make grants to, or enter into cooperative agreements, contracts, or other agreements with, international maritime organizations for the purpose of acquiring information or data about merchant vessel inspections, security, safety, environmental protection, classification, and port state or flag state law enforcement or oversight.

(d) **AUTHORIZED ACTIVITIES.**—

(1) The Commandant may use funds for—

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

(B) the activities of maritime authority liaison teams of foreign governments making reciprocal visits to Coast Guard units, including any transportation expense, translation services expense, or administrative expense that is related to such activities;

(C) seminars and conferences involving members of maritime authorities of foreign governments;

(D) distribution of publications pertinent to engagement with maritime authorities of foreign governments; and

(E) personnel expenses for Coast Guard civilian and military personnel to the extent that those expenses relate to participation in an activity described in subparagraph (C) or (D).

(2) An activity may not be conducted under this subsection with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.

(3) The amount of funds used under this subsection may not exceed \$100,000 in any fiscal year.

§ [150] 711. Coast Guard officers as attachés to missions

Commissioned officers may, with the consent of the Secretary of State, be regularly and officially attached to the diplomatic missions of the United States in those nations with which the United States is extensively engaged in maritime commerce. Expenses for the maintenance of such Coast Guard attachés abroad, including office rental and pay of employees and allowances for living quarters, including heat, fuel, and light, may be defrayed by the Coast Guard.

§ [151] 712. Contracts with Government-owned establishments for work and material

(a) IN GENERAL.—All orders or contracts for work or material, under authorization of law, placed with Government-owned establishments by the Coast Guard, shall be considered as obligations in the same manner as provided for similar orders or contracts placed with private contractors, and appropriations for such work or material shall remain available for payment therefor as in the case of orders or contracts placed with private contractors.

(b) ORDERS AND AGREEMENTS FOR INDUSTRIAL ACTIVITIES.—Under this section, the Coast Guard industrial activities may accept orders from and enter into reimbursable agreements with establishments, agencies, and departments of the Department of Defense and the Department of Homeland Security.

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

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

§ [153] 714. Appointment of judges

The Secretary may appoint civilian employees of the department in which the Coast Guard is operating as appellate military judges, available for assignment to the Coast Guard Court of Criminal Appeals as provided for in section 866(a) of title 10.

§ [154] 715. Arctic maritime domain awareness

(a) IN GENERAL.—The Commandant shall improve maritime domain awareness in the Arctic—

- (1) by promoting interagency cooperation and coordination;
- (2) by employing joint, interagency, and international capabilities; and
- (3) by facilitating the sharing of information, intelligence, and data related to the Arctic maritime domain between the Coast Guard and departments and agencies listed in subsection (b).

(b) COORDINATION.—The Commandant shall seek to coordinate the collection, sharing, and use of information, intelligence, and data related to the Arctic maritime domain between the Coast Guard and the following:

- (1) The Department of Homeland Security.
- (2) The Department of Defense.
- (3) The Department of Transportation.
- (4) The Department of State.
- (5) The Department of the Interior.
- (6) The National Aeronautics and Space Administration.
- (7) The National Oceanic and Atmospheric Administration.
- (8) The Environmental Protection Agency.
- (9) The National Science Foundation.
- (10) The Arctic Research Commission.
- (11) Any Federal agency or commission or State the Commandant determines is appropriate.

(c) COOPERATION.—The Commandant and the head of a department or agency listed in subsection (b) may by agreement, on a reimbursable basis or otherwise, share personnel, services, equipment, and facilities to carry out the requirements of this section.

(d) 5-YEAR STRATEGIC PLAN.—Not later than January 1, 2016 and every 5 years thereafter, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a 5-year strategic plan to guide interagency and international intergovernmental cooperation and coordination for the purpose of improving maritime domain awareness in the Arctic.

(e) DEFINITIONS.—In this section the term “Arctic” has the meaning given that term in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111).

§ [94] 716. Oceanographic research

The Coast Guard shall conduct such oceanographic research, use such equipment or instruments, and collect and analyze such oceanographic data, in cooperation with other agencies of the Government, or not, as may be in the national interest.

§ [90] 717. Arctic maritime transportation

(a) PURPOSE.—The purpose of this section is to ensure safe and secure maritime shipping in the Arctic including the availability of aids to navigation, vessel escorts, spill response capability, and maritime search and rescue in the Arctic.

(b) INTERNATIONAL MARITIME ORGANIZATION AGREEMENTS.—To carry out the purpose of this section, the Secretary is encouraged

to enter into negotiations through the International Maritime Organization to conclude and execute agreements to promote coordinated action among the United States, Russia, Canada, Iceland, Norway, and Denmark and other seafaring and Arctic nations to ensure, in the Arctic—

- (1) placement and maintenance of aids to navigation;
- (2) appropriate marine safety, tug, and salvage capabilities;
- (3) oil spill prevention and response capability;
- (4) maritime domain awareness, including long-range vessel tracking; and
- (5) search and rescue.

(c) **COORDINATION BY COMMITTEE ON THE MARITIME TRANSPORTATION SYSTEM.**—The Committee on the Maritime Transportation System established under section 55501 of title 46, United States Code, shall coordinate the establishment of domestic transportation policies in the Arctic necessary to carry out the purpose of this section.

(d) **AGREEMENTS AND CONTRACTS.**—The Secretary may, subject to the availability of appropriations, enter into cooperative agreements, contracts, or other agreements with, or make grants to, individuals and governments to carry out the purpose of this section or any agreements established under subsection (b).

(e) **ICEBREAKING.**—The Secretary shall promote safe maritime navigation by means of icebreaking where necessary, feasible, and effective to carry out the purposes of this section.

(f) **ARCTIC DEFINITION.**—In this section, the term “Arctic” has the meaning given such term in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111).

§ [102] 718. Agreements

(a) **IN GENERAL.**—In carrying out section 93(a)(4), the Commandant may—

- (1) enter into cooperative agreements, contracts, and other agreements with—
 - (A) Federal entities;
 - (B) other public or private entities in the United States, including academic entities; and
 - (C) foreign governments with the concurrence of the Secretary of State; and
- (2) impose on and collect from an entity subject to an agreement or contract under paragraph (1) a fee to assist with expenses incurred in carrying out such section.

(b) **DEPOSIT AND USE OF FEES.**—Fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts. The fees may be used, to the extent provided in advance in an appropriation law, only to carry out activities under section 93(a)(4).

CHAPTER 9—[COAST GUARD ACADEMY] ADMINISTRATION

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[182. Cadets; number, appointment, obligation to serve.

[183. Cadets; initial clothing allowance.

- [184. Cadets; degree of bachelor of science.
- [185. Cadets; appointment as ensign.
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- [187. Permanent commissioned teaching staff; composition.
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- [189. Grade of permanent commissioned teaching staff.
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- [191. Credit for service as member of civilian teaching staff.
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SUBCHAPTER I—REAL AND PERSONAL PROPERTY

§ [641] 901. Disposal of certain material

(a) The Commandant subject to applicable regulations under subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 may dispose of, with or without charge, to the Coast Guard Auxiliary, including any incorporated unit thereof, to the sea-scout service of the Boy

Scouts of America, and to any public body or private organization not organized for profit having an interest therein for historical or other special reasons, such obsolete or other material as may not be needed for the Coast Guard.

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

(c)(1) The Commandant may—

(A) provide for the sale of recyclable materials that the Coast Guard holds;

(B) provide for the operation of recycling programs at Coast Guard installations; and

(C) designate Coast Guard installations that have qualified recycling programs for the purposes of subsection (d)(2).

(2) Recyclable materials shall be sold in accordance with sections 541–555 of title 40, except that the Commandant may conduct sales of materials for which the proceeds of sale will not exceed \$5,000 under regulations prescribed by the Commandant.

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

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

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

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

§ [653] 902. Employment of draftsmen and engineers

The Coast Guard may employ temporarily, at the seat of government, draftsmen and engineers for the preparation of plans and specifications for vessels, lighthouses, aids to navigation, and other projects for the Coast Guard that may be authorized or appropriated for by Congress, to be paid from the appropriations applicable to such projects.

§ [656] 903. Use of certain appropriated funds

(a) Funds appropriated to or for the use of the Coast Guard for acquisition, construction, and improvement of facilities, for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters shall remain available until expended.

(b) The Secretary may use any funds appropriated to or for the use of the Coast Guard for other construction purposes to restore, repair, or replace facilities that have been damaged or destroyed, including acquisition of sites.

(c) The Secretary may use any funds appropriated to or for the use of the Coast Guard for other construction purposes to acquire, construct, convert, extend, and install at Coast Guard installations and facilities, needed permanent or temporary public works, including the preparation of sites and the furnishing of appurtenances, utilities, and equipment, but excluding the construction of family quarters, costing not more than \$200,000 for any one project.

(d) MINOR CONSTRUCTION AND IMPROVEMENT.—

(1) IN GENERAL.—Subject to the reporting requirements set forth in paragraph (2), each fiscal year the Secretary may expend from amounts made available for the operating expenses of the Coast Guard not more than \$1,500,000 for minor construction and improvement projects at any location.

(2) REPORT.—Not later than the date on which the President submits to Congress a budget under section 1105 of title 31 each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing each project carried out under paragraph (1), in the most recently concluded fiscal year, for which the amount expended under such paragraph for such project was more than \$1,000,000. If no such project was carried out during a fiscal year, no report under this paragraph shall be required with respect to that fiscal year.

§ [666] 904. Local hire

(a) Notwithstanding any other law, each contract awarded by the Coast Guard for construction or services to be performed in whole or in part in a State that has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of the department in which the Coast Guard is operating may waive the requirements of this subsection in the interest of national security or economic efficiency.

(b) LOCAL RESIDENT DEFINED As used in this section, “local resident” means a resident of, or an individual who commutes daily to, a State described in subsection (a).

§ [670] 905. Procurement authority for family housing

(a) The Secretary is authorized—

(1) to acquire, subject to the availability of appropriations sufficient to cover its full obligations, real property or interests therein by purchase, lease for a term not to exceed 5 years, or otherwise, for use as Coast Guard family housing units, including the acquisition of condominium units, which may include the obligation to pay maintenance, repair, and other condominium-related fees; and

(2) to dispose of by sale, lease, or otherwise, any real property or interest therein used for Coast Guard family housing units for adequate consideration.

(b)(1) For the purposes of this section, a multiyear contract is a contract to lease Coast Guard family housing units for at least one, but not more than 5, fiscal years.

(2) The Secretary may enter into multiyear contracts under subsection (a) of this section whenever the Coast Guard finds that—

(A) the use of a contract will promote the efficiency of the Coast Guard family housing program and will result in reduced total costs under the contract; and

(B) there are realistic estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract.

(3) A multiyear contract authorized under subsection (a) of this section shall contain cancellation and termination provisions to the extent necessary to protect the best interests of the United States, and may include consideration of both recurring and nonrecurring costs. The contract may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.

§ [671] 906. Air Station Cape Cod Improvements

The Secretary may expend funds for the repair, improvement, restoration, or replacement of those federally or nonfederally owned support buildings, including appurtenances, which are on leased or permitted real property constituting Coast Guard Air Station Cape Cod, located on Massachusetts Military Reservation, Cape Cod, Massachusetts.

§ [672] 907. Long-term lease of special purpose facilities

(a) The Secretary is authorized, subject to the availability of appropriations, to enter into lease agreements to acquire real property or interests therein for a term not to exceed 20 years, inclusive of any automatic renewal clauses, for special purpose facilities, including, aids to navigation (hereafter in this section referred to as “ATON”) sites, vessel traffic service (hereafter in this section referred to as “VTS”) sensor sites, or National Distress System (hereafter in this section referred to as “NDS”) high level antenna sites. These lease agreements shall include cancellation and termination provisions to the extent necessary to protect the best interests of the United States. Cancellation payment provisions may include consideration of both recurring and nonrecurring costs associated with the real property interests under the contract. These lease agreements may provide for a cancellation payment to be made.

Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.

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

(c) In the case of ATON, VTS, or NDS sites, the Secretary may enter into multiyear lease agreements under subsection (a) of this section whenever the Secretary finds that—

(1) the use of such a lease agreement will promote the efficiency of the ATON, VTS, or NDS programs and will result in reduced total costs under the agreement;

(2) the minimum need for the real property or interest therein to be leased is expected to remain substantially unchanged during the contemplated lease period; and

(3) the estimates of both the cost of the lease and the anticipated cost avoidance through the use of a multiyear lease are realistic.

§ [672a] 908. Long-term lease authority for lighthouse property

(a) The Commandant of the Coast Guard may lease to non-Federal entities, including private individuals, lighthouse property under the administrative control of the Coast Guard for terms not to exceed 30 years. Consideration for the use and occupancy of lighthouse property leased under this section, and for the value of any utilities and services furnished to a lessee of such property by the Commandant, may consist, in whole or in part, of non-pecuniary remuneration including the improvement, alteration, restoration, rehabilitation, repair, and maintenance of the leased premises by the lessee. Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b) shall not apply to leases issued by the Commandant under this section.

(b) Amounts received from leases made under this section, less expenses incurred, shall be deposited in the fund established under section 687.

§ [674] 909. Small boat station rescue capability

The Secretary shall ensure that each Coast Guard small boat station (including a seasonally operated station) maintains, within the area of responsibility for the station, at least 1 vessel that is fully capable of performing offshore rescue operations, taking into consideration prevailing weather, marine conditions, and depositional geologic features such as sand bars.

§ [675] 910. Small boat station closures

(a) CLOSURES The Secretary may not close a Coast Guard multi-mission small boat station or subunit unless the Secretary—

(1) determines that—

(A) remaining search and rescue capabilities maintain the safety of the maritime public in the area of the station or subunit;

(B) regional or local prevailing weather and marine conditions, including water temperature or unusual tide and

current conditions, do not require continued operation of the station or subunit; and

(C) Coast Guard search and rescue standards related to search and rescue response times are met; and

(2) provides an opportunity for public comment and for public meetings in the area of the station or subunit with regard to the decision to close the station or subunit.

(b) **OPERATIONAL FLEXIBILITY** The Secretary may implement any management efficiencies within the small boat station system, such as modifying the operational posture of units or reallocating resources as necessary to ensure the safety of the maritime public nationwide. No stations or subunits may be closed under this subsection except in accordance with subsection (a).

§ [676] 911. Search and rescue center standards

(a) The Secretary shall establish, implement, and maintain the minimum standards necessary for the safe operation of all Coast Guard search and rescue center facilities, including with respect to the following:

(1) The lighting, acoustics, and temperature in the facilities.

(2) The number of individuals on a shift in the facility assigned search and rescue responsibilities (including communications), which may be adjusted based on seasonal workload.

(3) The length of time an individual may serve on watch to minimize fatigue, based on the best scientific information available.

(4) The scheduling of individuals having search and rescue responsibilities to minimize fatigue of the individual when on duty in the facility.

(5) The workload of each individual engaged in search and rescue responsibilities in the facility.

(6) Stress management for the individuals assigned search and rescue responsibilities in the facilities.

(7) The design of equipment and facilities to minimize fatigue and enhance search and rescue operations.

(8) The acquisition and maintenance of interim search and rescue command center communications equipment.

(9) Any other requirements that the Secretary believes will increase the safe operation of the search and rescue centers.

(b) **SENSE OF CONGRESS** It is the sense of the Congress that the Secretary should establish, implement, and maintain minimum standards necessary to ensure that an individual on duty or watch in a Coast Guard search and rescue command center facility does not work more than 12 hours in a 24-hour period, except in an emergency or unforeseen circumstances.

(c) **DEFINITION** For the purposes of this section, the term “search and rescue center facility” means a Coast Guard shore facility that maintains a search and rescue mission coordination and communications watch.

§ [676a] 912. Air facility closures

(a) **PROHIBITION**

(1) **IN GENERAL** The Coast Guard may not—

(A) close a Coast Guard air facility that was in operation on November 30, 2014; or

(B) retire, transfer, relocate, or deploy an aviation asset from an air facility described in subparagraph (A) for the purpose of closing such facility.

(2) SUNSET Paragraph (1) shall have no force or effect beginning on the later of—

(A) January 1, 2018; or

(B) the date on which the Secretary submits to the Committee on Transportation and Infrastructure of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, rotary wing strategic plans prepared in accordance with section 208(b) of the Coast Guard Authorization Act of 2016.

(b) CLOSURES

(1) IN GENERAL Beginning on January 1, 2018, the Secretary may not close a Coast Guard air facility, except as specified by this section.

(2) DETERMINATIONS The Secretary may not propose closing or terminating operations at a Coast Guard air facility unless the Secretary determines that—

(A) remaining search and rescue capabilities maintain the safety of the maritime public in the area of the air facility;

(B) regional or local prevailing weather and marine conditions, including water temperatures or unusual tide and current conditions, do not require continued operation of the air facility; and

(C) Coast Guard search and rescue standards related to search and response times are met.

(3) PUBLIC NOTICE AND COMMENT Prior to closing an air facility, the Secretary shall provide opportunities for public comment, including the convening of public meetings in communities in the area of responsibility of the air facility with regard to the proposed closure or cessation of operations at the air facility.

(4) NOTICE TO CONGRESS Prior to closure, cessation of operations, or any significant reduction in personnel and use of a Coast Guard air facility that is in operation on or after December 31, 2015, the Secretary shall—

(A) submit to the Congress a proposal for such closure, cessation, or reduction in operations along with the budget of the President submitted to Congress under section 1105(a) of title 31 for the fiscal year in which the action will be carried out; and

(B) not later than 7 days after the date a proposal for an air facility is submitted pursuant to subparagraph (A), provide written notice of such proposal to each of the following:

(i) Each member of the House of Representatives who represents a district in which the air facility is located.

(ii) Each member of the Senate who represents a State in which the air facility is located.

(iii) Each member of the House of Representatives who represents a district in which assets of the air facility conduct search and rescue operations.

(iv) Each member of the Senate who represents a State in which assets of the air facility conduct search and rescue operations.

(v) The Committee on Appropriations of the House of Representatives.

(vi) The Committee on Transportation and Infrastructure of the House of Representatives.

(vii) The Committee on Appropriations of the Senate.

(viii) The Committee on Commerce, Science, and Transportation of the Senate.

(c) **OPERATIONAL FLEXIBILITY** The Secretary may implement any reasonable management efficiencies within the air station and air facility network, such as modifying the operational posture of units or reallocating resources as necessary to ensure the safety of the maritime public nationwide.

§ [677] 913. Turnkey selection procedures

(a) **AUTHORITY TO USE** The Secretary may use one-step turnkey selection procedures for the purpose of entering into contracts for construction projects.

(b) **DEFINITIONS** In this section, the following definitions apply:

(1) The term “one-step turnkey selection procedures” means procedures used for the selection of a contractor on the basis of price and other evaluation criteria to perform, in accordance with the provisions of a firm fixed-price contract, both the design and construction of a facility using performance specifications supplied by the Secretary.

(2) The term “construction” includes the construction, procurement, development, conversion, or extension of any facility.

(3) The term “facility” means a building, structure, or other improvement to real property.

§ [681] 914. Disposition of infrastructure related to E-LORAN

(a) **IN GENERAL** The Secretary may not carry out activities related to the dismantling or disposal of infrastructure comprising the LORAN-C system until the date on which the Secretary provides to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate notice of a determination by the Secretary that such infrastructure is not required to provide a positioning, navigation, and timing system to provide redundant capability in the event the Global Positioning System signals are disrupted.

(b) **EXCEPTION** Subsection (a) does not apply to activities necessary for the safety of human life.

(c) **DISPOSITION OF PROPERTY**

(1) **IN GENERAL** On any date after the notification is made under subsection (a), the Administrator of General Services, acting on behalf of the Secretary, may, notwithstanding any other provision of law, sell any real and personal property under the administrative control of the Coast Guard and used for the LORAN-C system, subject to such terms and conditions

that the Secretary believes to be necessary to protect government interests and program requirements of the Coast Guard.

(2) AVAILABILITY OF PROCEEDS

(A) AVAILABILITY OF PROCEEDS The proceeds of such sales, less the costs of sale incurred by the General Services Administration, shall be deposited as offsetting collections into the Coast Guard “Environmental Compliance and Restoration” account and, without further appropriation, shall be available until expended for—

(i) environmental compliance and restoration purposes associated with the LORAN-C system;

(ii) the costs of securing and maintaining equipment that may be used as a backup to the Global Positioning System or to meet any other Federal navigation requirement;

(iii) the demolition of improvements on such real property; and

(iv) the costs associated with the sale of such real and personal property, including due diligence requirements, necessary environmental remediation, and reimbursement of expenses incurred by the General Services Administration.

(B) OTHER ENVIRONMENTAL COMPLIANCE AND RESTORATION ACTIVITIES After the completion of activities described in subparagraph (A), the unexpended balances of such proceeds shall be available for any other environmental compliance and restoration activities of the Coast Guard.

SUBCHAPTER II—MISCELLANEOUS

§ [635] 931. Oaths required for boards

The members of a retiring board, selection board, examining board, and any other board authorized to be assembled pursuant to this title shall be sworn to discharge their duties honestly and impartially, the oath to be administered to the members by the President or other presiding officer of the board, and to him by the junior member or recorder.

§ [636] 932. Administration of oaths

(a) Such commissioned and warrant officers of the Coast Guard as may be designated by the Commandant may, pursuant to rules prescribed by the Commandant, exercise the general powers of a notary public in the administration of oaths for the following purposes:

(1) execution, acknowledgment, and attestation of instruments and papers, oaths of allegiance in connection with recruiting, oaths in connection with courts and boards, and all other notarial acts in connection with the proper execution of Coast Guard functions;

(2) execution, acknowledgment, and attestation of instruments and papers, and all other notarial acts in time of war or national emergency; and

(3) execution, acknowledgment, and attestation of instruments and papers, and all other notarial acts in Alaska and

places beyond the continental limits of the United States where the Coast Guard is serving.

(b) No fee of any character shall be charged by any commissioned or warrant officer for performing notarial acts. The signature and indication of grade of any commissioned or warrant officer performing any notarial act shall be prima facie evidence of his authority.

§ [638] 933. Coast Guard ensigns and pennants

(a) Vessels and aircraft authorized by the Secretary shall be distinguished from other vessels and aircraft by an ensign, pennant, or other identifying insignia of such design as prescribed by the Secretary. Such ensign, pennant, or other identifying insignia shall be displayed in accordance with regulations prescribed by the Secretary.

(b) No vessel or aircraft without authority shall carry, hoist, or display any ensign, pennant, or other identifying insignia prescribed for, or intended to resemble, any ensign, pennant, or other identifying insignia prescribed for Coast Guard vessels or aircraft. Every person violating this subsection shall be fined not more than \$5,000, or imprisoned for not more than two years, or both.

§ [639] 934. Penalty for unauthorized use of words “Coast Guard”

No individual, association, partnership, or corporation shall, without authority of the Commandant, use the combination of letters “USCG” or “USCGR”, the words “Coast Guard,” “United States Coast Guard,” “Coast Guard Reserve,” “United States Coast Guard Reserve,” “Coast Guard Auxiliary,” “United States Coast Guard Auxiliary,” “Lighthouse Service,” “Life Saving Service,” or any combination or variation of such letters or words alone or with other letters or words, as the name under which he or it shall do business, for the purpose of trade, or by way of advertisement to induce the effect of leading the public to believe that any such individual, association, partnership, or corporation has any connection with the Coast Guard. No individual, association, partnership, or corporation shall falsely advertise, or otherwise represent falsely by any device whatsoever, that any project or business in which he or it is engaged, or product which he or it manufactures, deals in, or sells, has been in any way endorsed, authorized, or approved by the Coast Guard. Every person violating this section shall be fined not more than \$10,000, or imprisoned not more than one year, or both.

§ [640] 935. Coast Guard band recordings for commercial sale

(a) The Coast Guard band may produce recordings for commercial sale.

(b) Amounts received as proceeds from the sale of any such recordings may be credited to applicable appropriations of the Coast Guard for expenses of the Coast Guard band.

(c) The Secretary shall prescribe regulations governing the accounting of such proceeds.

§ [645] 936. Confidentiality of medical quality assurance records; qualified immunity for participants

(a) In this section—

(1) “medical quality assurance program” means any activity carried out by or for the Coast Guard to assess the quality of medical care, including activities conducted by individuals, military medical or dental treatment facility committees, or other review bodies responsible for quality assurance, credentials, infection control, patient care assessment (including treatment procedures, blood, drugs, and therapeutics) medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

(2) “medical quality assurance record” means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (1) and are produced or compiled by the Coast Guard as part of a medical quality assurance program.

(3) “health care provider” means any military or civilian health care professional who, under regulations prescribed by the Secretary, is granted clinical practice privileges to provide health care services in a military medical or dental treatment facility or who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

(b) Medical quality assurance records created by or for the Coast Guard as part of a medical quality assurance program are confidential and privileged. The records may not be disclosed to any person or entity except as provided in subsection (d).

(c)(1) Medical quality assurance records are not subject to discovery and may not be admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (d).

(2) Except as provided in this section, an individual who reviews or creates medical quality assurance records for the Coast Guard or who participates in any proceeding that reviews or creates the records may not testify in any judicial or administrative proceeding with respect to the records or with respect to any finding, recommendation, evaluation, opinion, or action taken by that person in connection with the records.

(d)(1) Subject to paragraph (2), a medical quality assurance record may be disclosed, and an individual referred to in subsection (c) may testify in connection with a record only as follows:

(A) To a Federal executive agency or private organization, if necessary to license, accredit, or monitor Coast Guard health care facilities.

(B) To an administrative or judicial proceeding commenced by a present or former Coast Guard or Coast Guard assigned Public Health Service health care provider concerning the termination, suspension, or limitation of clinical privileges of the health care provider.

(C) To a governmental board or agency or to a professional health care society or organization, if necessary to perform licensing, or privileging, or to monitor professional standards for a health care provider who is or was a member or an employee of the Coast Guard or the Public Health Service assigned to the Coast Guard.

(D) To a hospital, medical center, or other institution that provides health care services, if necessary to assess the professional qualifications of any health care provider who is or was a member or employee of the Coast Guard or the Public Health Service assigned to the Coast Guard and who has applied for or been granted authority or employment to provide health care services in or on behalf of the institution.

(E) To an officer, member, employee, or contractor of the Coast Guard or the Public Health Service assigned to the Coast Guard if for official purposes.

(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of the agency or instrumentality makes a written request that the record or testimony be provided for a purpose authorized by law.

(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of the proceeding.

(2) Except in a quality assurance action, the identity of any individual receiving health care services from the Coast Guard or the identity of any other individual associated with the agency for the purposes of a medical quality assurance program that is disclosed in a medical quality assurance record shall be deleted from that record or document before any disclosure of the record is made outside the Coast Guard. This requirement does not apply to the release of information under section 552a of title 5.

(e) Except as provided in this section, a person having possession of or access to a record or testimony described by this section may not disclose the contents of the record or testimony.

(f) Medical quality assurance records may not be made available to any person under section 552 of title 5.

(g) An individual who participates in or provides information to an individual that reviews or creates medical quality assurance records is not civilly liable for participating or providing the information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

(h) Nothing in this section shall be construed as—

(1) authority to withhold from any person aggregate statistical information regarding the results of Coast Guard medical quality assurance programs;

(2) authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the Government Accountability Office if the record pertains to any matter within their respective jurisdictions;

(3) limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

(i) Except as otherwise provided in this section, an individual who willfully discloses a medical quality assurance record knowing that the record is a medical quality assurance record, is liable to the United States Government for a civil penalty of not more than \$3,000 in the case of a first offense and not more than \$20,000 in the case of a subsequent offense.

§ [646] 937. Admiralty claims against the United States

(a) The Secretary may consider, ascertain, adjust, determine, compromise, or settle, and pay in an amount not more than \$100,000, an admiralty claim against the United States for—

(1) damage caused by a vessel in the Coast Guard service or by other property under the jurisdiction of the Department in which the Coast Guard is operating;

(2) compensation for towage and salvage services, including contract salvage, rendered to a vessel in the Coast Guard service or to other property under the jurisdiction of the Department in which the Coast Guard is operating; or

(3) damage caused by a maritime tort committed by an agent or employee of the Department in which the Coast Guard is operating or by property under the jurisdiction of that Department.

(b) Upon acceptance of payment by the claimant, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other law.

(c) If a claim under this section is settled or compromised for more than \$100,000, the Secretary shall certify it to Congress.

§ [647] 938. Claims for damage to property of the United States

The Secretary may consider, ascertain, adjust, determine, compromise, or settle claims for damage cognizable in admiralty in a district court of the United States and all claims for damage caused by a vessel or floating object, to property of the United States under the jurisdiction of the Coast Guard or property for which the Coast Guard may have assumed, by contract or otherwise, any obligation to respond for damage thereto. The Secretary is further authorized to receive in payment of any such claim the amount due the United States pursuant to determination, compromise, or settlement as herein authorized and, upon acceptance of such payment but not until then, such determination, settlement, or compromise of such claim shall be final and conclusive for all purposes, any law to the contrary notwithstanding. All such payments shall be deposited in the Treasury of the United States as miscellaneous receipts. The Secretary is further authorized to execute on behalf of the United States and to deliver in exchange for such payment a full release of such claim. This section, as respects the determination, compromise, settlement, and payment of claims, shall be supplementary to, and not in lieu of, all other provisions of law authorizing the determination, compromise, or settlement of claims for damage to property hereinabove described. No settlement or compromise where there is involved a payment in the net amount of over \$100,000 is authorized by this section.

§ [648] 939. Accounting for industrial work

The Secretary may prescribe regulations governing accounting for industrial work, including charges for overhead for civilian labor and for maintenance of industrial plant and equipment, performed at the Coast Guard Yard or such similar Coast Guard industrial establishments as he may designate. Any orders placed for such industrial work shall be covered by a transfer or advance of funds to cover the estimated cost thereof, and shall be credited to such accounts as may be necessary and established by the Secretary to carry out the provisions of this section. Accounts so established shall be available for materials, supplies, or equipment, and civilian labor, including overhead and maintenance, required in performing the work ordered. Upon completion of an order an adjustment will be made to make the amount transferred or advanced equal to the actual cost as computed in accordance with the accounting regulations prescribed by the Secretary.

§ [649] 940. Supplies and equipment from stock

Supplies and equipment for special work of the Coast Guard may be furnished from general stock and the applicable appropriation reimbursed therefor from the respective appropriations for such special work.

§ [650] 941. Coast Guard Supply Fund

(a) A Coast Guard Supply Fund is authorized. The Secretary may prescribe regulations for designating the classification of materials to be stocked. In these regulations, whenever the fund is extended to include items not previously stocked, or spare parts obtained as part of a procurement under a different account of major items such as vessels or aircraft, whether or not such parts were previously stocked, the Secretary may authorize an increase in the existing capital of the fund by the value of such usable materials transferred thereto from Coast Guard inventories carried in other accounts. Except for the materials so transferred, the fund shall be charged with the cost of materials purchased or otherwise acquired. The fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof.

(b) Obligations may, without regard to fiscal year limitations, be incurred against anticipated reimbursement to the Coast Guard Supply Fund in such amount and for such period, as the Secretary, with approval of the Director of the Office of Management and Budget, may determine to be necessary to maintain stock levels consistently with planned operations for the next year.

§ [654] 942. Public and commercial vessels and other watercraft; sale of fuel, supplies, and services

The Secretary under such regulations as he may prescribe, may sell to public and commercial vessels and other watercraft, such fuel, supplies and furnish such services as may be required to meet the necessities of the vessel or watercraft if such vessel or watercraft is unable—

- (1) to procure the fuel, supplies, or services from other sources at its present location; and

(2) to proceed to the nearest port where they may be obtained without endangering the safety of the ship, the health and comfort of its personnel, or the safe condition of the property carried aboard.

Sales under this section shall be at such prices as the Secretary considers reasonable. Payment will be made on a cash basis or on such other basis as will reasonably assure prompt payment. Amounts received from such a sale shall, unless otherwise directed by another provision of law, be credited to the current appropriation concerned and are available for the same purposes as that appropriation.

§ [655] 943. Arms and ammunition; immunity from taxation

No tax on the sale or transfer of firearms, pistols, revolvers, shells, or cartridges may be imposed on such articles when bought with funds appropriated for the Coast Guard.

§ [658] 944. Confidential investigative expenses

Not more than \$45,000 each fiscal year appropriated for necessary expenses for the operation of the Coast Guard shall be available for investigative expenses of a confidential character, to be expended on the approval or authority of the Commandant and payment to be made on his certificate of necessity for confidential purposes, and his determination shall be final and conclusive upon the accounting officers of the Government.

§ [659] 945. Assistance to film producers

(a) Notwithstanding any other provision of law, when the Secretary determines that it is appropriate, and that it will not interfere with Coast Guard missions, the Secretary may conduct operations with Coast Guard vessels, aircraft, facilities, or personnel, in such a way as to give assistance to film producers. As used in this section, "film producers" includes commercial or noncommercial producers of material for cinema, television, or videotape.

(b) The Secretary shall keep account of costs incurred as a result of providing assistance to film producers, not including costs which would otherwise be incurred in Coast Guard operations or training, or shall estimate such costs in advance, and such costs shall be paid to the Secretary by the film producers who request such assistance, on terms determined by the Secretary. The Secretary may waive costs not exceeding \$200 for one production, and may waive other costs related to noncommercial productions which the Secretary determines to be in the public interest. The Secretary shall reimburse the amounts collected under this section to the Coast Guard appropriation account under which the costs were incurred.

§ [664] 946. User fees

(a) A fee or charge for a service or thing of value provided by the Coast Guard shall be prescribed as provided in section 9701 of title 31.

(b) Amounts collected by the Secretary for a service or thing of value provided by the Coast Guard shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

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

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

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

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

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

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

(e)(1) In addition to the collection of fees and charges established under this section, in the provision of a service or thing of value by the Coast Guard the Secretary may accept in-kind transportation, travel, and subsistence.

(2) The value of in-kind transportation, travel, and subsistence accepted under this paragraph may not exceed applicable per diem rates set forth in regulations prescribed under section 464 of title 37.

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

(g) Before January 1 of each year, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that includes—

(1) a verification of each activity for which a fee or charge is collected under any law stating—

(A) the amount collected in the prior fiscal year; and

(B) that the amount spent on that activity in that fiscal year is not less than the amount collected; and

(2) the amount expected to be collected under any law in the current fiscal year for each activity for which a fee or charge is expected to be collected.

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

§ [667] 947. Vessel construction bonding requirements

The Secretary or the Commandant may require bid, payment, performance, payment and performance, or completion bonds or other financial instruments from contractors for construction, alteration, repair, or maintenance of Coast Guard vessels if—

(1) the bond is required by law; or

(2) the Secretary or Commandant determines after investigation that the amount of the bond in excess of 20 percent of the value of the base contract quantity excluding options, would

not prevent a responsible bidder or offeror from competing for award of the contract.

§ [668] 948. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care

(a) The Secretary may contract for the delivery of health care to which covered beneficiaries are entitled under chapter 55 of title 10. The Secretary may enter into a contract under this section with any of the following:

- (1) Health maintenance organizations.
- (2) Preferred provider organizations.
- (3) Individual providers, individual medical facilities, or insurers.
- (4) Consortiums of these providers, facilities, or insurers.

(b) A contract entered into under this section may provide for the delivery of—

- (1) selected health care services;
- (2) total health care services for selected covered beneficiaries; or
- (3) total health care services for all covered beneficiaries who reside in a geographic area designated by the Secretary.

(c) The Secretary may prescribe a premium, deductible, copayment, or other change for health care provided under this section.

§ [669] 949. Telephone installation and charges

Under regulations prescribed by the Secretary, amounts appropriated to the Department of Homeland Security are available to install, repair, and maintain telephone wiring in residences owned or leased by the United States Government and, if necessary for national defense purposes in other private residences.

§ [673] 950. Designation, powers, and accountability of deputy disbursing officials

(a)(1) Subject to paragraph (3), a disbursing official of the Coast Guard may designate a deputy disbursing official—

- (A) to make payments as the agent of the disbursing official;
- (B) to sign checks drawn on disbursing accounts of the Secretary of the Treasury; and
- (C) to carry out other duties required under law.

(2) The penalties for misconduct that apply to a disbursing official apply to a deputy disbursing official designated under this subsection.

(3) A disbursing official may make a designation under paragraph (1) only with the approval of the Secretary.

(b)(1) If a disbursing official of the Coast Guard dies, becomes disabled, or is separated from office, a deputy disbursing official may continue the accounts and payments in the name of the former disbursing official until the last day of the second month after the month in which the death, disability, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary of the Treasury shall honor checks signed in the name of the former disbursing official in the same way as if the former disbursing official had continued in office.

(2) The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official, is liable for the actions of the deputy disbursing official under this subsection.

(c)(1) Except as provided in paragraph (2), this section does not apply to the Coast Guard when section 2773 of title 10 applies to the Coast Guard by reason of the operation of the Coast Guard as a service in the Navy.

(2) A designation of a deputy disbursing official under subsection (a) that is made while the Coast Guard is not operating as a service in the Navy continues in effect for purposes of section 2773 of title 10 while the Coast Guard operates as a service in the Navy unless and until the designation is terminated by the disbursing official who made the designation or an official authorized to approve such a designation under subsection (a)(3) of such section.

§ [678] 951. Aircraft accident investigations

(a) IN GENERAL Whenever the Commandant of the Coast Guard conducts an accident investigation of an accident involving an aircraft under the jurisdiction of the Commandant, the records and report of the investigation shall be treated in accordance with this section.

(b) PUBLIC DISCLOSURE OF CERTAIN ACCIDENT INVESTIGATION INFORMATION

(1) IN GENERAL Subject to paragraph (2), the Commandant, upon request, shall publicly disclose unclassified tapes, scientific reports, and other factual information pertinent to an aircraft accident investigation.

(2) CONDITIONS The Commandant shall only disclose information requested pursuant to paragraph (1) if the Commandant determines—

(A) that such tapes, reports, or other information would be included within and releasable with the final accident investigation report; and

(B) that release of such tapes, reports, or other information—

(i) would not undermine the ability of accident or safety investigators to continue to conduct the investigation; and

(ii) would not compromise national security.

(3) RESTRICTION A disclosure under paragraph (1) may not be made by or through officials with responsibility for, or who are conducting, a safety investigation with respect to the accident.

(c) OPINIONS REGARDING CAUSATION OF ACCIDENT Following an aircraft accident referred to in subsection (a)—

(1) if the evidence surrounding the accident is sufficient for the investigators who conduct the accident investigation to come to an opinion as to the cause or causes of the accident, the final report of the accident investigation shall set forth the opinion of the investigators as to the cause or causes of the accident; and

(2) if the evidence surrounding the accident is not sufficient for the investigators to come to an opinion as to the cause or

causes of the accident, the final report of the accident investigation shall include a description of those factors, if any, that, in the opinion of the investigators, substantially contributed to or caused the accident.

(d) USE OF INFORMATION IN CIVIL OR CRIMINAL PROCEEDINGS For purposes of any civil or criminal proceeding arising from an aircraft accident referred to in subsection (a), any opinion of the accident investigators as to the cause of, or the factors contributing to, the accident set forth in the accident investigation report may not be considered as evidence in such proceeding, nor may such report be considered an admission of liability by the United States or by any person referred to in such report.

(e) DEFINITIONS For purposes of this section—

(1) the term “accident investigation” means any form of investigation by Coast Guard personnel of an aircraft accident referred to in subsection (a), other than a safety investigation; and

(2) the term “safety investigation” means an investigation by Coast Guard personnel of an aircraft accident referred to in subsection (a) that is conducted solely to determine the cause of the accident and to obtain information that may prevent the occurrence of similar accidents.

§ 182. Cadets; number, appointment, obligation to serve

[(a) The number of cadets appointed annually to the Academy shall be as determined by the Secretary but the number appointed in any one year shall not exceed six hundred. Appointments to cadetships shall be made under regulations prescribed by the Secretary, who shall determine age limits, methods of selection of applicants, term of service as a cadet before graduation, and all other matters affecting such appointments. In the administration of this chapter, the Secretary shall take such action as may be necessary and appropriate to insure that female individuals shall be eligible for appointment and admission to the Coast Guard Academy, and that the relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals. The Secretary may summarily dismiss from the Coast Guard any cadet who, during his cadetship, is found unsatisfactory in either studies or conduct, or may be deemed not adapted for a career in the Coast Guard. Cadets shall be subject to rules governing discipline prescribed by the Commandant.

[(b) Each cadet shall sign an agreement with respect to the cadet's length of service in the Coast Guard. The agreement shall provide that the cadet agrees to the following:

[(1) That the cadet will complete the course of instruction at the Coast Guard Academy.

[(2) That upon graduation from the Coast Guard Academy the cadet—

[(A) will accept an appointment, if tendered, as a commissioned officer of the Coast Guard; and

[(B) will serve on active duty for at least five years immediately after such appointment.

[(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer before the completion of the commissioned service obligation of the cadet, the cadet—

[(A) will accept an appointment as a commissioned officer in the Coast Guard Reserve; and

[(B) will remain in that reserve component until completion of the commissioned service obligation of the cadet.

[(c)(1) The Secretary may transfer to the Coast Guard Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a cadet who breaches an agreement under subsection (b). The period of time for which a cadet is ordered to active duty under this paragraph may be determined without regard to section 651(a) of title 10.

[(2) A cadet who is transferred to the Coast Guard Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

[(3) For the purposes of paragraph (1), a cadet shall be considered to have breached an agreement under subsection (b) if the cadet is separated from the Coast Guard Academy under circumstances which the Secretary determines constitute a breach by the cadet of the cadet's agreement to complete the course of instruction at the Coast Guard Academy and accept an appointment as a commissioned officer upon graduation from the Coast Guard Academy.

[(d) The Secretary shall prescribe regulations to carry out this section. Those regulations shall include—

[(1) standards for determining what constitutes, for the purpose of subsection (c), a breach of an agreement under subsection (b);

[(2) procedures for determining whether such a breach has occurred; and

[(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (c).

[(e) In this section, "commissioned service obligation", with respect to an officer who is a graduate of the Academy, means the period beginning on the date of the officer's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary, any later date up to the eighth anniversary of such appointment.

[(f)(1) This section does not apply to a cadet who is not a citizen or national of the United States.

[(2) In the case of a cadet who is a minor and who has parents or a guardian, the cadet may sign the agreement required by subsection (b) only with the consent of the parent or guardian.

[(g) A cadet or former cadet who does not fulfill the terms of the obligation to serve as specified under section (b), or the alternative obligation imposed under subsection (c), shall be subject to the repayment provisions of section 303a(e) of title 37.]

CHAPTER 11—[PERSONNEL] ACQUISITIONS

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*SUBCHAPTER I—GENERAL PROVISIONS***§ [561] 1101. Acquisition directorate**

(a) ESTABLISHMENT.—The Commandant of the Coast Guard shall establish an acquisition directorate to provide guidance and oversight for the implementation and management of all Coast Guard acquisition processes, programs, and projects.

(b) MISSION.—The mission of the acquisition directorate is—

(1) to acquire and deliver assets and systems that increase operational readiness, enhance mission performance, and create a safe working environment;

(2) to assist in the development of a workforce that is trained and qualified to further the Coast Guard's missions and deliver the best-value products and services to the Nation; and

(3) to meet the needs of customers of major acquisition programs in the most cost-effective manner practicable.

§ [562] 1102. Improvements in Coast Guard acquisition management

(a) PROJECT OR PROGRAM MANAGERS.—

(1) LEVEL 1 PROJECTS.—An individual may not be assigned as the project or program manager for a Level 1 acquisition unless the individual holds a Level III acquisition certification as a program manager.

(2) LEVEL 2 PROJECTS.—An individual may not be assigned as the project or program manager for a Level 2 acquisition unless the individual holds a Level II acquisition certification as a program manager.

(b) ACQUISITION WORKFORCE.—

(1) IN GENERAL.—The Commandant shall designate a sufficient number of positions to be in the Coast Guard's acquisition workforce to perform acquisition-related functions at Coast Guard headquarters and field activities.

(2) REQUIRED POSITIONS.—In designating positions under subsection (a), the Commandant shall include, at a minimum, positions encompassing the following competencies and functions:

(A) Program management.

(B) Systems planning, research, development, engineering, and testing.

(C) Procurement, including contracting.

(D) Industrial and contract property management.

(E) Life-cycle logistics.

(F) Quality control and assurance.

(G) Manufacturing and production.

(H) Business, cost estimating, financial management, and auditing.

(I) Acquisition education, training, and career development.

(J) Construction and facilities engineering.

(K) Testing and evaluation.

(3) ACQUISITION MANAGEMENT HEADQUARTER ACTIVITIES.—The Commandant shall also designate as positions in the acquisition workforce under paragraph (1) those acquisition-related positions located at Coast Guard headquarters units.

(4) APPROPRIATE EXPERTISE REQUIRED.—The Commandant shall ensure that each individual assigned to a position in the acquisition workforce has the appropriate expertise to carry out the responsibilities of that position.

(c) MANAGEMENT INFORMATION SYSTEM.—

(1) IN GENERAL.—The Commandant shall establish a management information system capability to improve acquisition workforce management and reporting.

(2) INFORMATION MAINTAINED.—Information maintained with such capability shall include the following standardized information on individuals assigned to positions in the workforce:

(A) Qualifications, assignment history, and tenure of those individuals assigned to positions in the acquisition workforce or holding acquisition-related certifications.

(B) Promotion rates for officers and members of the Coast Guard in the acquisition workforce.

(d) APPOINTMENTS TO ACQUISITION POSITIONS.—The Commandant shall ensure that no requirement or preference for officers or members of the Coast Guard is used in the consideration of persons for positions in the acquisition workforce.

(e) CAREER PATHS.—

(1) IDENTIFICATION OF CAREER PATHS.—To establish acquisition management as a core competency of the Coast Guard, the Commandant shall—

(A) ensure that career paths for officers, members, and employees of the Coast Guard who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of those officers, members, and employees to the most senior positions in the acquisition workforce; and

(B) publish information on such career paths.

(2) PROMOTION PARITY.—The Commandant shall ensure that promotion parity is established for officers and members of the Coast Guard who have been assigned to the acquisition workforce relative to officers and members who have not been assigned to the acquisition workforce.

§ [578] 1103. Role of Vice Commandant in major acquisition programs

The Vice Commandant—

(1) shall represent the customer of a major acquisition program with regard to trade-offs made among cost, schedule, technical feasibility, and performance with respect to such program; and

(2) shall advise the Commandant in decisions regarding the balancing of resources against priorities, and associated trade-offs referred to in paragraph (1), on behalf of the customer of a major acquisition program.

§ [563] 1104. Recognition of Coast Guard personnel for excellence in acquisition

(a) **IN GENERAL.**—The Commandant shall maintain a program to recognize excellent performance by individuals and teams comprised of officers, members, and employees of the Coast Guard that contributed to the long-term success of a Coast Guard acquisition project or program.

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

(1) specific award categories, criteria, and eligibility and manners of recognition;

(2) procedures for the nomination by personnel of the Coast Guard of individuals and teams comprised of officers, members, and employees of the Coast Guard for recognition under the program; and

(3) procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the Government, academia, and the private sector who have such expertise and are appointed in such manner as the Commandant shall establish for the purposes of this program.

(c) **AWARD OF CASH BONUSES.**—As part of the program required by subsection (a), the Commandant, subject to the availability of appropriations, may award to any civilian employee recognized pursuant to the program a cash bonus to the extent that the performance of such individual so recognized warrants the award of such bonus.

§ [564] 1105. Prohibition on use of lead systems integrators

(a) **IN GENERAL.**—

(1) **USE OF LEAD SYSTEMS INTEGRATOR.**—The Commandant may not use a private sector entity as a lead systems integrator.

(2) **FULL AND OPEN COMPETITION.**—The Commandant shall use full and open competition for any acquisition contract unless otherwise excepted in accordance with Federal acquisition laws and regulations promulgated under those laws, including the Federal Acquisition Regulation.

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

(b) **LIMITATION ON FINANCIAL INTEREST IN SUBCONTRACTORS.**—Neither an entity performing lead systems integrator functions for a Coast Guard acquisition nor a Tier 1 subcontractor for any acquisition may have a financial interest in a subcontractor below the Tier 1 subcontractor level unless—

(1) the subcontractor was selected by the prime contractor through full and open competition for such procurement;

(2) the procurement was awarded by an entity performing lead systems integrator functions or a subcontractor through full and open competition;

(3) the procurement was awarded by a subcontractor through a process over which the entity performing lead systems integrator functions or a Tier 1 subcontractor exercised no control; or

(4) the Commandant has determined that the procurement was awarded in a manner consistent with Federal acquisition laws and regulations promulgated under those laws, including the Federal Acquisition Regulation.

§ [565] 1106. Required contract terms

(a) IN GENERAL.—The Commandant shall ensure that a contract awarded or a delivery order or task order issued for an acquisition of a capability or an asset with an expected service life of 10 or more years and with a total acquisition cost that is equal to or exceeds \$10,000,000 awarded or issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act of 2010—

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

(2) provides that the Commandant shall maintain the authority to establish, approve, and maintain technical requirements;

(3) requires that any measurement of contractor and subcontractor performance be based on the status of all work performed, including the extent to which the work performed met all performance, cost, and schedule requirements;

(4) specifies that, for the acquisition or upgrade of air, surface, or shore capabilities and assets for which compliance with TEMPEST certification is a requirement, the standard for determining such compliance will be the air, surface, or shore standard then used by the Department of the Navy for that type of capability or asset; and

(5) for any contract awarded to acquire an Offshore Patrol Cutter, includes provisions specifying the service life, fatigue life, and days underway in general Atlantic and North Pacific Sea conditions, maximum range, and maximum speed the cutter will be built to achieve.

(b) PROHIBITED PROVISIONS.—

(1) IN GENERAL.—The Commandant shall ensure that any contract awarded or delivery order or task order issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act of 2010 does not include any provision allowing for equitable adjustment that is not consistent with the Federal Acquisition Regulations.

(2) EXTENSION OF PROGRAM.—A contract, contract modification, or award term extending a contract with a lead systems integrator—

(A) may not include any minimum requirements for the purchase of a given or determinable number of specific capabilities or assets; and

(B) shall be reviewed by an independent third party with expertise in acquisition management, and the results of that review shall be submitted to the appropriate congressional committees at least 60 days prior to the award of the contract, contract modification, or award term.

(c) **INTEGRATED PRODUCT TEAMS.**—Integrated product teams, and all teams that oversee integrated product teams, shall be chaired by officers, members, or employees of the Coast Guard.

(d) **TECHNICAL AUTHORITY.**—The Commandant shall maintain or designate the technical authority to establish, approve, and maintain technical requirements. Any such designation shall be made in writing and may not be delegated to the authority of the Chief Acquisition Officer established by section 56 of this title.

§ [579] 1107. Extension of major acquisition program contracts

(a) **IN GENERAL.**—Notwithstanding section 564(a)(2) of this title and section 2304 of title 10, and subject to subsections (b) and (c) of this section, the Secretary may acquire additional units procured under a Coast Guard major acquisition program contract, by extension of such contract without competition, if the Director of the Cost Analysis Division of the Department of Homeland Security determines that the costs that would be saved through award of a new contract in accordance with such sections would not exceed the costs of such an award.

(b) **LIMITATION ON NUMBER OF ADDITIONAL UNITS.**—The number of additional units acquired under a contract extension under this section may not exceed the number of additional units for which such determination is made.

(c) **DETERMINATION OF COSTS UPON REQUEST.**—The Director of the Cost Analysis Division of the Department of Homeland Security shall, at the request of the Secretary, determine for purposes of this section—

(1) the costs that would be saved through award of a new major acquisition program contract in accordance with section 564(a)(2) for the acquisition of a number of additional units specified by the Secretary; and

(2) the costs of such award, including the costs that would be incurred due to acquisition schedule delays and asset design changes associated with such award.

(d) **NUMBER OF EXTENSIONS.**—A contract may be extended under this section more than once.

§ [566] 1108. Department of Defense consultation

(a) **IN GENERAL.**—The Commandant shall make arrangements as appropriate with the Secretary of Defense for support in contracting and management of Coast Guard acquisition programs. The Commandant shall also seek opportunities to make use of Department of Defense contracts, and contracts of other appropriate agencies, to obtain the best possible price for assets acquired for the Coast Guard.

(b) **INTERSERVICE TECHNICAL ASSISTANCE.**—The Commandant shall seek to enter into a memorandum of understanding or a memorandum of agreement with the Secretary of the Navy to obtain the assistance of the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including the Navy Systems Command, with the oversight of Coast Guard major acquisition programs. The memorandum of understanding or memorandum of agreement shall, at a minimum, provide for—

(1) the exchange of technical assistance and support that the Assistant Commandants for Acquisition, Human Resources, Engineering, and Information technology may identify;

(2) the use, as appropriate, of Navy technical expertise; and

(3) the temporary assignment or exchange of personnel between the Coast Guard and the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including Naval Systems Command, to facilitate the development of organic capabilities in the Coast Guard.

(c) TECHNICAL REQUIREMENT APPROVAL PROCEDURES.—The Chief Acquisition Officer shall adopt, to the extent practicable, procedures modeled after those used by the Navy Senior Acquisition Official to approve all technical requirements.

(d) ASSESSMENT.—Within 180 days after the date of enactment of the Coast Guard Authorization Act of 2010, the Comptroller General of the United States shall transmit a report to the appropriate congressional committees that—

(1) contains an assessment of current Coast Guard acquisition and management capabilities to manage Level 1 and Level 2 acquisitions;

(2) includes recommendations as to how the Coast Guard can improve its acquisition management, either through internal reforms or by seeking acquisition expertise from the Department of Defense; and

(3) addresses specifically the question of whether the Coast Guard can better leverage Department of Defense or other agencies' contracts that would meet the needs of Level 1 or Level 2 acquisitions in order to obtain the best possible price.

§ [567] 1109. **Unfinitized contractual actions**

(a) IN GENERAL.—The Coast Guard may not enter into an unfinitized contractual action unless such action is directly approved by the Head of Contracting Activity of the Coast Guard.

(b) REQUESTS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—Any request to the Head of Contracting Activity for approval of an unfinitized contractual action shall include a description of the anticipated effect on requirements of the Coast Guard if a delay is incurred for the purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

(c) REQUIREMENTS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—

(1) DEADLINE FOR AGREEMENT ON TERMS, SPECIFICATIONS, AND PRICE.—A contracting officer of the Coast Guard may not enter into an unfinitized contractual action unless the contractual action provides for agreement upon contractual terms, specification, and price by the earlier of—

(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

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

(2) LIMITATION ON OBLIGATIONS

(A) IN GENERAL.—Except as provided in subparagraph (B), the contracting officer for an undefinitized contractual action may not obligate under such contractual action an amount that exceeds 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

(B) EXCEPTION.—Notwithstanding subparagraph (A), if a contractor submits a qualifying proposal to definitize an undefinitized contractual action before an amount that exceeds 50 percent of the negotiated overall ceiling price is obligated on such action, the contracting officer for such action may not obligate with respect to such contractual action an amount that exceeds 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

(3) WAIVER.—The Commandant may waive the application of this subsection with respect to a contract if the Commandant determines that the waiver is necessary to support—

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

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

(C) an operation in response to an emergency that poses an unacceptable threat to human health or safety or to the marine environment; or

(D) an operation in response to a natural disaster or major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(4) LIMITATION ON APPLICATION.—This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

(d) INCLUSION OF NONURGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action by the Coast Guard for spare parts and support equipment that are needed on an urgent basis unless the Commandant approves such inclusion as being—

(1) good business practice; and

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

(e) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the Commandant approves such modification as being—

(1) good business practice; and

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

(f) ALLOWABLE PROFIT.—The Commandant shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

(g) DEFINITIONS.—In this section:

(1) UNDEFINITIZED CONTRACTUAL ACTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “undefinitized contractual action” means a new procurement action entered into by the Coast Guard for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action.

(B) EXCLUSION.—The term “undefinitized contractual action” does not include contractual actions with respect to—

(i) foreign military sales;

(ii) purchases in an amount not in excess of the amount of the simplified acquisition threshold; or

(iii) special access programs.

(2) QUALIFYING PROPOSAL.—The term “qualifying proposal” means a proposal that contains sufficient information to enable complete and meaningful audits of the information contained in the proposal as determined by the contracting officer.

§ [568] 1110. Guidance on excessive pass-through charges

(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Coast Guard Authorization Act of 2010, the Commandant shall issue guidance to ensure that pass-through charges on contracts, subcontracts, delivery orders, and task orders that are entered into with a private entity acting as a lead systems integrator by or on behalf of the Coast Guard are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor. The guidance shall, at a minimum—

(1) set forth clear standards for determining when no, or negligible, value has been added to a contract by a contractor or subcontractor;

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

(3) identify any exceptions determined by the Commandant to be in the best interest of the Government.

(b) EXCESSIVE PASS-THROUGH CHARGE DEFINED.—In this section the term “excessive pass-through charge”, with respect to a contractor or subcontractor that adds no, or negligible, value to a contract or subcontract, means a charge to the Government by the contractor or subcontractor that is for overhead or profit on work performed by a lower tier contractor or subcontractor, other than reasonable charges for the direct costs of managing lower tier contractors and subcontracts and overhead and profit based on such direct costs.

(c) APPLICATION OF GUIDANCE.—The guidance under this subsection shall apply to contracts awarded to a private entity acting as a lead systems integrator by or on behalf of the Coast Guard on or after the date that is 360 days after the date of enactment of the Coast Guard Authorization Act of 2010.

§ [569] 1111. Mission need statement

(a) **IN GENERAL.**—On the date on which the President submits to Congress a budget for fiscal year 2016 under section 1105 of title 31, on the date on which the President submits to Congress a budget for fiscal year 2019 under such section, and every 4 years thereafter, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an integrated major acquisition mission need statement.

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

(1) **INTEGRATED MAJOR ACQUISITION MISSION NEED STATEMENT.**—The term “integrated major acquisition mission need statement” means a document that—

(A) identifies current and projected gaps in Coast Guard mission capabilities using mission hour targets;

(B) explains how each major acquisition program addresses gaps identified under subparagraph (A) if funded at the levels provided for such program in the most recently submitted capital investment plan; and

(C) describes the missions the Coast Guard will not be able to achieve, by fiscal year, for each gap identified under subparagraph (A).

(2) **MAJOR ACQUISITION PROGRAM.**—The term “major acquisition program” has the meaning given that term in section 2903.

(3) **CAPITAL INVESTMENT PLAN.**—The term “capital investment plan” means the plan required under section 2902(a)(1).

[B. SELECTION FOR PROMOTION]

[C. Promotions]

[D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS]

[E. SEPARATION FOR CAUSE]

[F. MISCELLANEOUS PROVISIONS]

[ENLISTED MEMBERS]

SUBCHAPTER II—IMPROVED ACQUISITION PROCESS AND PROCEDURES

§ [571] 1131. Identification of major system acquisitions

(a) **IN GENERAL.**—

(1) **SUPPORT MECHANISMS.**—The Commandant shall develop and implement mechanisms to support the establishment of mature and stable operational requirements for all acquisitions.

(2) **MISSION ANALYSIS; AFFORDABILITY ASSESSMENT.**—The Commandant may not initiate a Level 1 or Level 2 acquisition project or program until the Commandant—

(A) completes a mission analysis that—

(i) identifies the specific capability gaps to be addressed by the project or program; and

(ii) develops a clear mission need to be addressed by the project or program; and

(B) prepares a preliminary affordability assessment for the project or program.

(b) ELEMENTS.—

(1) REQUIREMENTS.—The mechanisms required by subsection (a) shall ensure the implementation of a formal process for the development of a mission-needs statement, concept-of-operations document, capability development plan, and resource proposal for the initial project or program funding, and shall ensure the project or program is included in the Coast Guard Capital Investment Plan.

(2) ASSESSMENT OF TRADE-OFFS.—In conducting an affordability assessment under subsection (a)(2)(B), the Commandant shall develop and implement mechanisms to ensure that trade-offs among cost, schedule, and performance are considered in the establishment of preliminary operational requirements for development and production of new assets and capabilities for Level 1 and Level 2 acquisitions projects and programs.

(c) HUMAN RESOURCE CAPITAL PLANNING.—The Commandant shall develop staffing predictions, define human capital performance initiatives, and identify preliminary training needs required to implement each Level 1 and Level 2 acquisition project and program.

§ [572] 1132. Acquisition

(a) IN GENERAL.—The Commandant may not establish a Level 1 or Level 2 acquisition project or program until the Commandant—

(1) clearly defines the operational requirements for the project or program;

(2) establishes the feasibility of alternatives;

(3) develops an acquisition project or program baseline;

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

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

(b) SUBMISSION REQUIRED BEFORE PROCEEDING.—Any Coast Guard Level 1 or Level 2 acquisition project or program may not begin to obtain any capability or asset or proceed beyond that phase of its development that entails approving the supporting acquisition until the Commandant submits to the appropriate congressional committees the following:

(1) The key performance parameters, the key system attributes, and the operational performance attributes of the capability or asset to be acquired under the proposed acquisition project or program.

(2) A detailed list of the systems or other capabilities with which the capability or asset to be acquired is intended to be interoperable, including an explanation of the attributes of interoperability.

(3) The anticipated acquisition project or program baseline and acquisition unit cost for the capability or asset to be acquired under the project or program.

(4) A detailed schedule for the acquisition process showing when all capability and asset acquisitions are to be completed

and when all acquired capabilities and assets are to be initially and fully deployed.

(c) ANALYSIS OF ALTERNATIVES.—

(1) IN GENERAL.—The Coast Guard may not acquire an experimental or technically immature capability or asset or implement a Level 1 or Level 2 acquisition project or program, unless it has prepared an analysis of alternatives for the capability or asset to be acquired in the concept and technology development phase of the acquisition process for the capability or asset.

(2) REQUIREMENTS.—The analysis of alternatives shall be prepared by a federally funded research and development center, a qualified entity of the Department of Defense, or a similar independent third-party entity that has appropriate acquisition expertise and has no financial interest in any part of the acquisition project or program that is the subject of the analysis. At a minimum, the analysis of alternatives shall include—

(A) an assessment of the technical maturity of the capability or asset, and technical and other risks;

(B) an examination of capability, interoperability, and other advantages and disadvantages;

(C) an evaluation of whether different combinations or quantities of specific assets or capabilities could meet the Coast Guard's overall performance needs;

(D) a discussion of key assumptions and variables, and sensitivity to change in such assumptions and variables;

(E) when an alternative is an existing capability, asset, or prototype, an evaluation of relevant safety and performance records and costs;

(F) a calculation of life-cycle costs including—

(i) an examination of likely research and development costs and the levels of uncertainty associated with such estimated costs;

(ii) an examination of likely production and deployment costs and the levels of uncertainty associated with such estimated costs;

(iii) an examination of likely operating and support costs and the levels of uncertainty associated with such estimated costs;

(iv) if they are likely to be significant, an examination of likely disposal costs and the levels of uncertainty associated with such estimated costs; and

(v) such additional measures as the Commandant or the Secretary of the department in which the Coast Guard is operating determines to be necessary for appropriate evaluation of the capability or asset; and

(G) the business case for each viable alternative.

(d) TEST AND EVALUATION MASTER PLAN.—

(1) IN GENERAL.—For any Level 1 or Level 2 acquisition project or program the Chief Acquisition Officer must approve a test and evaluation master plan specific to the acquisition project or program for the capability, asset, or subsystems of the capability or asset and intended to minimize technical,

cost, and schedule risk as early as practicable in the development of the project or program.

(2) TEST AND EVALUATION STRATEGY.—The master plan shall—

(A) set forth an integrated test and evaluation strategy that will verify that capability-level or asset-level and subsystem-level design and development, including performance and supportability, have been sufficiently proven before the capability, asset, or subsystem of the capability or asset is approved for production; and

(B) require that adequate developmental tests and evaluations and operational tests and evaluations established under subparagraph (A) are performed to inform production decisions.

(3) OTHER COMPONENTS OF THE MASTER PLAN.—At a minimum, the master plan shall identify—

(A) the key performance parameters to be resolved through the integrated test and evaluation strategy;

(B) the performance data to be used to determine whether the key performance parameters have been resolved;

(C) critical operational issues to be assessed in addition to the key performance parameters;

(D) the results during test and evaluation that will be required to demonstrate that a capability, asset, or subsystem meets performance requirements;

(E) specific development test and evaluation phases and the scope of each phase;

(F) modeling and simulation activities to be performed, if any, and the scope of such activities;

(G) early operational assessments to be performed, if any, and the scope of such assessments;

(H) operational test and evaluation phases;

(I) an estimate of the resources, including funds, that will be required for all test, evaluation, assessment, modeling, and simulation activities; and

(J) the Government entity or independent entity that will perform the test, evaluation, assessment, modeling, and simulation activities.

(4) UPDATE.—The Chief Acquisition Officer must approve an updated master plan whenever there is a revision to project or program test and evaluation strategy, scope, or phasing.

(5) LIMITATION.—The Coast Guard may not—

(A) proceed beyond that phase of the acquisition process that entails approving the supporting acquisition of a capability or asset before the master plan is approved by the Chief Acquisition Officer; or

(B) award any production contract for a capability, asset, or subsystem for which a master plan is required under this subsection before the master plan is approved by the Chief Acquisition Officer.

(e) LIFE-CYCLE COST ESTIMATES.—

(1) IN GENERAL.—The Commandant shall implement mechanisms to ensure the development and regular updating of life-cycle cost estimates for each acquisition with a total acquisition cost that equals or exceeds \$10,000,000 and an expected serv-

ice life of 10 or more years, and to ensure that these estimates are considered in decisions to develop or produce new or enhanced capabilities and assets.

(2) TYPES OF ESTIMATES.—In addition to life-cycle cost estimates that may be developed by acquisition program offices, the Commandant shall require that an independent life-cycle cost estimate be developed for each Level 1 or Level 2 acquisition project or program.

(3) REQUIRED UPDATES.—For each Level 1 or Level 2 acquisition project or program the Commandant shall require that life-cycle cost estimates shall be updated before each milestone decision is concluded and the project or program enters a new acquisition phase.

§ [573] 1133. Preliminary development and demonstration

(a) IN GENERAL.—The Commandant shall ensure that developmental test and evaluation, operational test and evaluation, life-cycle cost estimates, and the development and demonstration requirements applied by this chapter to acquisition projects and programs are met to confirm that the projects or programs meet the requirements identified in the mission-analysis and affordability assessment prepared under section 571(a)(2), the operational requirements developed under section 572(a)(1) and the following development and demonstration objectives:

(1) To demonstrate that the design, manufacturing, and production solution is based upon a stable, producible, and cost-effective product design.

(2) To ensure that the product capabilities meet contract specifications, acceptable operational performance requirements, and system security requirements.

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

(b) TESTS AND EVALUATIONS.—

(1) IN GENERAL.—The Commandant shall ensure that the Coast Guard conducts developmental tests and evaluations and operational tests and evaluations of a capability or asset and the subsystems of the capability or asset in accordance with the master plan prepared for the capability or asset under section 572(d)(1).

(2) USE OF THIRD PARTIES.—The Commandant shall ensure that the Coast Guard uses independent third parties with expertise in testing and evaluating the capabilities or assets and the subsystems of the capabilities or assets being acquired to conduct developmental tests and evaluations and operational tests and evaluations whenever the Coast Guard lacks the capability to conduct the tests and evaluations required by a master plan.

(3) COMMUNICATION OF SAFETY CONCERNS.—The Commandant shall require that safety concerns identified during developmental or operational tests and evaluations or through independent or Government-conducted design assessments of capabilities or assets and subsystems of capabilities or assets to be acquired by the Coast Guard shall be communicated as soon as practicable, but not later than 30 days after the completion of the test or assessment event or activity that identi-

fied the safety concern, to the program manager for the capability or asset and the subsystems concerned and to the Chief Acquisition Officer.

(4) REPORTING OF SAFETY CONCERNS.—Any safety concerns that have been reported to the Chief Acquisition Officer for an acquisition program or project shall be reported by the Commandant to the appropriate congressional committees at least 90 days before the award of any contract or issuance of any delivery order or task order for low, initial, or full-rate production of the capability or asset concerned if they will remain uncorrected or unmitigated at the time such a contract is awarded or delivery order or task order is issued. The report shall include a justification for the approval of that level of production of the capability or asset before the safety concerns are corrected or mitigated. The report shall also include an explanation of the actions that will be taken to correct or mitigate the safety concerns, the date by which those actions will be taken, and the adequacy of current funding to correct or mitigate the safety concerns.

(5) ASSET ALREADY IN LOW, INITIAL, OR FULL-RATE PRODUCTION.—If operational test and evaluation of a capability or asset already in low, initial, or full-rate production identifies a safety concern with the capability or asset or any subsystems of the capability or asset not previously identified during developmental or operational test and evaluation, the Commandant shall—

(A) notify the program manager and the Chief Acquisition Officer of the safety concern as soon as practicable, but not later than 30 days after the completion of the test and evaluation event or activity that identified the safety concern; and

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

(i) an explanation of the actions that will be taken to correct or mitigate the safety concern in all capabilities or assets and subsystems of the capabilities or assets yet to be produced, and the date by which those actions will be taken;

(ii) an explanation of the actions that will be taken to correct or mitigate the safety concern in previously produced capabilities or assets and subsystems of the capabilities or assets, and the date by which those actions will be taken; and

(iii) an assessment of the adequacy of current funding to correct or mitigate the safety concern in capabilities or assets and subsystems of the capabilities or assets and in previously produced capabilities or assets and subsystems.

(c) TECHNICAL CERTIFICATION.—

(1) IN GENERAL.—The Commandant shall ensure that any Level 1 or Level 2 acquisition project or program is certified by the technical authority of the Coast Guard after review by an independent third party with capabilities in the mission area, asset, or particular asset component.

(2) TEMPEST TESTING.—The Commandant shall—

(A) cause all electronics on all aircraft, surface, and shore capabilities and assets that require TEMPEST certification and that are delivered after the date of enactment of the Coast Guard Authorization Act of 2010 to be tested in accordance with TEMPEST standards and communications security (comsec) standards by an independent third party that is authorized by the Federal Government to perform such testing; and

(B) certify that the assets meet all applicable TEMPEST requirements.

(3) CUTTER CLASSIFICATION.—

(A) IN GENERAL.—The Commandant shall cause each cutter, other than a National Security Cutter, acquired by the Coast Guard and delivered after the date of enactment of the Coast Guard Authorization Act of 2010 to be classed by the American Bureau of Shipping before final acceptance.

(4) OTHER VESSELS.—The Commandant shall cause the design and construction of each National Security Cutter, other than National Security Cutters 1, 2, and 3, to be assessed by an independent third party with expertise in vessel design and construction certification.

(5) AIRCRAFT AIRWORTHINESS.—The Commandant shall cause all aircraft and aircraft engines acquired by the Coast Guard and delivered after the date of enactment of the Coast Guard Authorization Act of 2010 to be assessed for airworthiness by an independent third party with expertise in aircraft and aircraft engine certification before final acceptance.

§ [574] 1134. Acquisition, production, deployment, and support

(a) IN GENERAL.—The Commandant shall—

(1) ensure there is a stable and efficient production and support capability to develop an asset or capability for the Coast Guard;

(2) conduct follow-on testing to confirm and monitor performance and correct deficiencies; and

(3) conduct acceptance tests and trials prior to the delivery of each asset or system to ensure the delivered asset or system achieves full operational capability.

(b) ELEMENTS.—The Commandant shall—

(1) execute production contracts;

(2) ensure that delivered assets and capabilities meet operational cost and schedules requirements established in the acquisition program baseline;

(3) validate manpower and training requirements to meet system needs to operate, maintain, support, and instruct the assets or capabilities; and

(4) prepare an acquisition project or program transition plan to enter into programmatic sustainment, operations, and support.

§ [575] 1135. Acquisition program baseline breach

(a) IN GENERAL.—The Commandant shall submit a report to the appropriate congressional committees and the Committee on Home-

land Security of the House of Representatives as soon as possible, but not later than 30 days, after the Chief Acquisition Officer of the Coast Guard becomes aware of the breach of an acquisition program baseline for any Level 1 or Level 2 acquisition program, by—

(1) a likely cost overrun greater than 15 percent of the acquisition program baseline for that individual capability or asset or a class of capabilities or assets;

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

(3) an anticipated failure for any individual capability or asset or class of capabilities or assets to satisfy any key performance threshold or parameter under the acquisition program baseline.

(b) **CONTENT.**—The report submitted under subsection (a) shall include—

(1) a detailed description of the breach and an explanation of its cause;

(2) the projected impact to performance, cost, and schedule;

(3) an updated acquisition program baseline and the complete history of changes to the original acquisition program baseline;

(4) the updated acquisition schedule and the complete history of changes to the original schedule;

(5) a full life-cycle cost analysis for the capability or asset or class of capabilities or assets;

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

(7) a description of how progress in the remediation plan will be measured and monitored.

(c) **SUBSTANTIAL VARIANCES IN COSTS OR SCHEDULE.**—If a likely cost overrun is greater than 20 percent or a likely delay is greater than 12 months from the costs and schedule described in the acquisition program baseline for any Level 1 or Level 2 acquisition project or program of the Coast Guard, the Commandant shall include in the report a written certification, with a supporting explanation, that—

(1) the capability or asset or capability or asset class to be acquired under the project or program is essential to the accomplishment of Coast Guard missions;

(2) there are no alternatives to such capability or asset or capability or asset class that will provide equal or greater capability in both a more cost-effective and timely manner;

(3) the new acquisition schedule and estimates for total acquisition cost are reasonable; and

(4) the management structure for the acquisition program is adequate to manage and control performance, cost, and schedule.

§ [576] 1136. Acquisition approval authority

Nothing in this subchapter shall be construed as altering or diminishing in any way the statutory authority and responsibility of the Secretary of the department in which the Coast Guard is operating, or the Secretary's designee, to—

(1) manage and administer department procurements, including procurements by department components, as required by section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341); or

(2) manage department acquisition activities and act as the Acquisition Decision Authority with regard to the review or approval of a Coast Guard Level 1 or Level 2 acquisition project or program, as required by section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) and related implementing regulations and directives.

【GENERAL PROVISIONS】

SUBCHAPTER III—PROCUREMENT

§ [665] 1151. Restriction on construction of vessels in foreign shipyards

(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.

§ [577] 1152. Advance procurement funding

(a) **IN GENERAL.**—With respect to any Coast Guard vessel for which amounts are appropriated and any amounts otherwise made available for vessels for the Coast Guard in any fiscal year, the Commandant of the Coast Guard may enter into a contract or place an order, in advance of a contract or order for construction of a vessel, for—

- (1) materials, parts, components, and labor for the vessel;
- (2) the advance construction of parts or components for the vessel;
- (3) protection and storage of materials, parts, or components for the vessel; and
- (4) production planning, design, and other related support services that reduce the overall procurement lead time of the vessel.

(b) **USE OF MATERIALS, PARTS, AND COMPONENTS MANUFACTURED IN THE UNITED STATES.**—In entering into contracts and placing orders under subsection (a), the Commandant may give priority to persons that manufacture materials, parts, and components in the United States.

§ [96] 1153. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards

A Coast Guard vessel the home port of which is in the United States or Guam may not be overhauled, repaired, or maintained in a shipyard outside the United States or Guam, other than in the case of voyage repairs.

§ [97] 1154. Procurement of buoy chain

(a) Except as provided in subsection (b), the Coast Guard may not procure buoy chain—

- (1) that is not manufactured in the United States; or
- (2) substantially all of the components of which are not produced or manufactured in the United States.

(b) The Coast Guard may procure buoy chain that is not manufactured in the United States if the Secretary determines that—

- (1) the price of buoy chain manufactured in the United States is unreasonable; or
- (2) emergency circumstances exist.

[SPECIAL PROVISIONS]

SUBCHAPTER IV— DEFINITIONS

§ [581] 1171. Definitions

In this chapter:

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

(2) **CHIEF ACQUISITION OFFICER.**—The term “Chief Acquisition Officer” means the officer appointed under section 56 of this title.

(3) **CUSTOMER OF A MAJOR ACQUISITION PROGRAM.**—The term “customer of a major acquisition program” means the operating field unit of the Coast Guard that will field the system or systems acquired under a major acquisition program.

(4) **COMMANDANT.**—The term “Commandant” means the Commandant of the Coast Guard.

(5) **LEVEL 1 ACQUISITION.**—The term “Level 1 acquisition” means—

- (A) an acquisition by the Coast Guard—
 - (i) the estimated life-cycle costs of which exceed \$1,000,000,000; or
 - (ii) the estimated total acquisition costs of which exceed \$300,000,000; or
- (B) any acquisition that the Chief Acquisition Officer of the Coast Guard determines to have a special interest—

- (i) due to—
 - (I) the experimental or technically immature nature of the asset;
 - (II) the technological complexity of the asset;
 - (III) the commitment of resources; or
 - (IV) the nature of the capability or set of capabilities to be achieved; or
- (ii) because such acquisition is a joint acquisition.

(6) **LEVEL 2 ACQUISITION.**—The term “Level 2 acquisition” means an acquisition by the Coast Guard—

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

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

(7) LIFE-CYCLE COST.—The term “life-cycle cost” means all costs for development, procurement, construction, and operations and support for a particular capability or asset, without regard to funding source or management control.

(8) MAJOR ACQUISITION PROGRAM.—The term “major acquisition program” means an ongoing acquisition undertaken by the Coast Guard with a life-cycle cost estimate greater than or equal to \$300,000,000.

(9) PROJECT OR PROGRAM MANAGER DEFINED.—The term “project or program manager” means an individual designated—

(A) to develop, produce, and deploy a new asset to meet identified operational requirements; and

(B) to manage cost, schedule, and performance of the acquisition, project, or program.

(10) SAFETY CONCERN.—The term “safety concern” means any hazard associated with a capability or asset or a subsystem of a capability or asset that is likely to cause serious bodily injury or death to a typical Coast Guard user in testing, maintaining, repairing, or operating the capability, asset, or subsystem or any hazard associated with the capability, asset, or subsystem that is likely to cause major damage to the capability, asset, or subsystem during the course of its normal operation by a typical Coast Guard user.

(11) DEVELOPMENTAL TEST AND EVALUATION.—The term “developmental test and evaluation” means—

(A) the testing of a capability or asset and the subsystems of the capability or asset to determine whether they meet all contractual performance requirements, including technical performance requirements, supportability requirements, and interoperability requirements and related specifications; and

(B) the evaluation of the results of such testing.

(12) OPERATIONAL TEST AND EVALUATION.—The term “operational test and evaluation” means—

(A) the testing of a capability or asset and the subsystems of the capability or asset, under conditions similar to those in which the capability or asset and subsystems will actually be deployed, for the purpose of determining the effectiveness and suitability of the capability or asset and subsystems for use by typical Coast Guard users to conduct those missions for which the capability or asset and subsystems are intended to be used; and

(B) the evaluation of the results of such testing.

CHAPTER 13—NATIONAL MARITIME TRANSPORTATION ADVISORY COMMITTEES

Sec.

1301. *National Chemical Transportation Safety Advisory Committee.*

1302. *National Commercial Fishing Safety Advisory Committee.*

1303. *National Merchant Marine Personnel Advisory Committee.*

1304. *National Merchant Mariner Medical Advisory Committee.*

1305. *National Boating Safety Advisory Committee.*

1306. *National Offshore Safety Advisory Committee.*
 1307. *National Navigation Safety Advisory Committee.*
 1308. *National Towing Safety Advisory Committee.*
 1309. *Administration.*

§ 1301. National Chemical Transportation Safety Advisory Committee

(a) *ESTABLISHMENT.*—*There is established a National Chemical Transportation Safety Advisory Committee (in this section referred to as the “Committee”).*

(b) *FUNCTION.*—*The Committee shall advise the Secretary on matters relating to the safe and secure marine transportation of hazardous materials.*

(c) *MEMBERSHIP.*—

(1) *IN GENERAL.*—*The Committee shall consist of not more than 25 members appointed by the Secretary in accordance with this section and section 1309 of this chapter.*

(2) *EXPERTISE.*—*Each member of the Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.*

(3) *REPRESENTATION.*—*Each member of the Committee shall represent 1 of the following:*

(A) *Chemical manufacturing entities.*

(B) *Entities related to marine handling or transportation of chemicals.*

(C) *Vessel design and construction entities.*

(D) *Marine safety or security entities.*

(E) *Marine environmental protection entities.*

(4) *DISTRIBUTION.*—*The Secretary shall, based on the needs of the Coast Guard, determine the number of members of the Committee who represent each entity specified in paragraph (3). Neither this paragraph nor any other provision of law shall be construed to require an equal distribution of members representing each entity specified in paragraph (3).*

§ 1302. National Commercial Fishing Safety Advisory Committee

(a) *ESTABLISHMENT.*—*There is established a National Commercial Fishing Safety Advisory Committee (in this section referred to as the “Committee”).*

(b) *FUNCTION.*—*The Committee shall advise the Secretary on matters relating to the safe operation of vessels to which chapter 45 of title 46 applies, including the matters of—*

(1) *navigation safety;*

(2) *safety equipment and procedures;*

(3) *marine insurance;*

(4) *vessel design, construction, maintenance, and operation;*
and

(5) *personnel qualifications and training.*

(c) *MEMBERSHIP.*—

(1) *IN GENERAL.*—*The Committee shall consist of 18 members appointed by the Secretary in accordance with this section and section 1309 of this chapter.*

(2) *EXPERTISE.*—*Each member of the Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.*

(3) *REPRESENTATION.*—Members of the Committee shall be appointed as follows:

(A) 10 members shall represent the commercial fishing industry and—

(i) as a group, shall together reflect a regional and representational balance; and

(ii) as individuals, shall each have experience—

(I) in the operation of vessels to which chapter 45 of title 46 applies; or

(II) as a crew member or processing line worker on a fish processing vessel.

(B) 1 member shall represent naval architects and marine engineers.

(C) 1 member shall represent manufacturers of equipment for vessels to which chapter 45 of title 46 applies.

(D) 1 member shall represent education and training professionals related to fishing vessel, fish processing vessel, and fish tender vessel safety and personnel qualifications.

(E) 1 member shall represent underwriters that insure vessels to which chapter 45 of title 46 applies.

(F) 1 member shall represent owners of vessels to which chapter 45 of title 46 applies.

(G) 3 members shall represent the general public and, to the extent possible, shall include—

(i) an independent expert or consultant in maritime safety;

(ii) a marine surveyor who provides services to vessels to which chapter 45 of title 46 applies; and

(iii) a person familiar with issues affecting fishing communities and the families of fishermen.

§ 1303. National Merchant Marine Personnel Advisory Committee

(a) *ESTABLISHMENT.*—There is established a National Merchant Marine Personnel Advisory Committee (in this section referred to as the “Committee”).

(b) *FUNCTION.*—The Committee shall advise the Secretary on matters relating to personnel in the United States merchant marine, including the training, qualifications, certification, documentation, and fitness of mariners.

(c) *MEMBERSHIP.*—

(1) *IN GENERAL.*—The Committee shall consist of 19 members appointed by the Secretary in accordance with this section and section 1309 of this chapter.

(2) *EXPERTISE.*—Each member of the Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.

(3) *REPRESENTATION.*—Members of the Committee shall be appointed as follows:

(A) 9 members shall represent mariners and, of the 9—

(i) each shall—

(I) be a citizen of the United States; and

(II) hold an active license or certificate issued under chapter 71 of title 46 or a merchant mariner document issued under chapter 73 of title 46;

(ii) 3 shall be deck officers who represent merchant marine deck officers and, of the 3—

(I) 2 shall be licensed for oceans any gross tons;

(II) 1 shall be licensed for inland river route with a limited or unlimited tonnage;

(III) 2 shall have a master's license or a master of towing vessels license;

(IV) 1 shall have significant tanker experience; and

(V) to the extent practicable—

(aa) 1 shall represent labor; and

(bb) 1 shall represent management;

(iii) 3 shall be engineering officers who represent merchant marine engineering officers and, of the 3—

(I) 2 shall be licensed as chief engineer any horsepower;

(II) 1 shall be licensed as either a limited chief engineer or a designated duty engineer; and

(III) to the extent practicable—

(aa) 1 shall represent labor; and

(bb) 1 shall represent management;

(iv) 2 shall be unlicensed seamen who represent merchant marine unlicensed seaman and, of the 2—

(I) 1 shall represent able-bodied seamen; and

(II) 1 shall represent qualified members of the engine department; and

(v) 1 shall be a pilot who represents merchant marine pilots.

(B) 6 members shall represent marine educators and, of the 6—

(i) 3 shall be marine educators who represent maritime academies and, of the 3—

(I) 2 shall represent State maritime academies (and are jointly recommended by such academies); and

(II) 1 shall represent either State maritime academies or the United States Merchant Marine Academy; and

(ii) 3 shall be marine educators who represent other maritime training institutions and, of the 3, 1 shall represent the small vessel industry.

(C) 2 members shall represent shipping companies employed in ship operation management.

(D) 2 members shall represent the general public.

§ 1304. National Merchant Mariner Medical Advisory Committee

(a) *ESTABLISHMENT.*—There is established a National Merchant Mariner Medical Advisory Committee (in this section referred to as the "Committee").

(b) *FUNCTION.*—The Committee shall advise the Secretary on matters relating to—

(1) medical certification determinations for the issuance of licenses, certification of registry, and merchant mariners' documents with respect to merchant mariners;

- (2) *medical standards and guidelines for the physical qualifications of operators of commercial vessels;*
- (3) *medical examiner education; and*
- (4) *medical research.*

(c) **MEMBERSHIP.**—

(1) **IN GENERAL.**—*The Committee shall consist of 14 members appointed by the Secretary in accordance with this section and section 1309 of this chapter.*

(2) **EXPERTISE.**—*Each member of the Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.*

(3) **REPRESENTATION.**—*Members of the Committee shall be appointed as follows:*

(A) *9 shall represent health-care professionals and have particular expertise, knowledge, and experience regarding the medical examinations of merchant mariners or occupational medicine.*

(B) *5 shall represent professional mariners and have particular expertise, knowledge, and experience in occupational requirements for mariners.*

§ 1305. National Boating Safety Advisory Committee

(a) **ESTABLISHMENT.**—*There is established a National Boating Safety Advisory Committee (in this section referred to as the “Committee”).*

(b) **FUNCTION.**—*The Committee shall advise the Secretary on matters relating to national boating safety.*

(c) **MEMBERSHIP.**—

(1) **IN GENERAL.**—*The Committee shall consist of 21 members appointed by the Secretary in accordance with this section and section 1309 of this chapter.*

(2) **EXPERTISE.**—*Each member of the Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.*

(3) **REPRESENTATION.**—*Members of the Committee shall be appointed as follows:*

(A) *7 members shall represent State officials responsible for State boating safety programs.*

(B) *7 members shall represent recreational vessel and associated equipment manufacturers.*

(C) *7 members shall represent the general public or national recreational boating organizations and, of the 7, at least 5 shall represent national recreational boating organizations.*

§ 1306. National Offshore Safety Advisory Committee

(a) **ESTABLISHMENT.**—*There is established a National Offshore Safety Advisory Committee (in this section referred to as the “Committee”).*

(b) **FUNCTION.**—*The Committee shall advise the Secretary on matters relating to activities directly involved with, or in support of, the exploration of offshore mineral and energy resources, to the extent that such matters are within the jurisdiction of the Coast Guard.*

(c) **MEMBERSHIP.**—

(1) *IN GENERAL.*—The Committee shall consist of 15 members appointed by the Secretary in accordance with this section and section 1309 of this chapter.

(2) *EXPERTISE.*—Each member of the Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.

(3) *REPRESENTATION.*—Members of the Committee shall be appointed as follows:

(A) 2 members shall represent entities engaged in the production of petroleum.

(B) 2 members shall represent entities engaged in offshore drilling.

(C) 2 members shall represent entities engaged in the support, by offshore supply vessels or other vessels, of offshore mineral and oil operations, including geophysical services.

(D) 1 member shall represent entities engaged in the construction of offshore exploration and recovery facilities.

(E) 1 member shall represent entities engaged in diving services related to offshore construction, inspection, and maintenance.

(F) 1 member shall represent entities engaged in safety and training services related to offshore exploration and construction.

(G) 1 member shall represent entities engaged in pipe-laying services related to offshore construction.

(H) 2 members shall represent individuals employed in offshore operations and, of the 2, 1 shall have recent practical experience on a vessel or offshore unit involved in the offshore mineral and energy industry.

(I) 1 member shall represent national environmental entities.

(J) 1 member shall represent deepwater ports.

(K) 1 member shall represent the general public (but not a specific environmental group).

§ 1307. National Navigation Safety Advisory Committee

(a) *ESTABLISHMENT.*—There is established a National Navigation Safety Advisory Committee (in this section referred to as the “Committee”).

(b) *FUNCTION.*—The Committee shall advise the Secretary on matters relating to maritime collisions, rammings, and groundings, Inland Rules of the Road, International Rules of the Road, navigation regulations and equipment, routing measures, marine information, and aids to navigation systems.

(c) *MEMBERSHIP.*—

(1) *IN GENERAL.*—The Committee shall consist of not more than 21 members appointed by the Secretary in accordance with this section and section 1309 of this chapter.

(2) *EXPERTISE.*—Each member of the Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.

(3) *REPRESENTATION.*—Each member of the Committee shall represent 1 of the following:

(A) Commercial vessel owners or operators.

- (B) Professional mariners.
- (C) Recreational boaters.
- (D) The recreational boating industry.
- (E) State agencies responsible for vessel or port safety.
- (F) The Maritime Law Association.

(4) *DISTRIBUTION.*—The Secretary shall, based on the needs of the Coast Guard, determine the number of members of the Committee who represent each entity specified in paragraph (3). Neither this paragraph nor any other provision of law shall be construed to require an equal distribution of members representing each entity specified in paragraph (3).

§ 1308. National Towing Safety Advisory Committee

(a) *ESTABLISHMENT.*—There is established a National Towing Safety Advisory Committee (in this section referred to as the “Committee”).

(b) *FUNCTION.*—The Committee shall advise the Secretary on matters relating to shallow-draft inland navigation, coastal waterway navigation, and towing safety.

(c) *MEMBERSHIP.*—

(1) *IN GENERAL.*—The Committee shall consist of 18 members appointed by the Secretary in accordance with this section and section 1309 of this chapter.

(2) *EXPERTISE.*—Each member of the Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.

(3) *REPRESENTATION.*—Members of the Committee shall be appointed as follows:

(A) 7 members shall represent the barge and towing industry, reflecting a regional geographic balance.

(B) 1 member shall represent the offshore mineral and oil supply vessel industry.

(C) 1 member shall represent masters and pilots of towing vessels who hold active licenses and have experience on the Western Rivers and the Gulf Intracoastal Waterway.

(D) 1 member shall represent masters of towing vessels in offshore service who hold active licenses.

(E) 1 member shall represent masters of active ship-docking or harbor towing vessels.

(F) 1 member shall represent licensed and unlicensed towing vessel engineers with formal training and experience.

(G) 2 members shall represent port districts, authorities, or terminal operators.

(H) 2 members shall represent shippers and, of the 2, 1 shall be engaged in the shipment of oil or hazardous materials by barge.

(I) 2 members shall represent the general public.

§ 1309. Administration

(a) *MEETINGS.*—Each committee established under this chapter shall, at least once each year, meet at the call of the Secretary or a majority of the members of the committee.

(b) *EMPLOYEE STATUS.*—A member of a committee established under this chapter shall not be considered an employee of the Fed-

eral Government by reason of service on such committee, except for the purposes of the following:

(1) Chapter 81 of title 5.

(2) Chapter 171 of title 28 and any other Federal law relating to tort liability.

(c) *COMPENSATION.*—Notwithstanding subsection (b), a member of a committee established under this chapter, when actually engaged in the performance of the duties of such committee, may—

(1) receive compensation at a rate established by the Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5; or

(2) if not compensated in accordance with paragraph (1)—

(A) be reimbursed for actual and reasonable expenses incurred in the performance of such duties; or

(B) be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

(d) *ACCEPTANCE OF VOLUNTEER SERVICES.*—A member of a committee established under this chapter may serve on such committee on a voluntary basis without pay without regard to section 1342 of title 31 or any other law.

(e) *STATUS OF MEMBERS.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), with respect to a member of a committee established under this chapter whom the Secretary appoints to represent an entity or group—

(A) the member is authorized to represent the interests of the applicable entity or group; and

(B) requirements under Federal law that would interfere with such representation and that apply to a special Government employee (as defined in section 202(a) of title 18), including requirements relating to employee conduct, political activities, ethics, conflicts of interest, and corruption, do not apply to the member.

(2) *EXCEPTION.*—Notwithstanding subsection (b), a member of a committee established under this chapter shall be treated as a special Government employee for purposes of the committee service of the member if—

(A) the Secretary appointed the member to represent the general public; or

(B) the member, without regard to service on the committee, is a special Government employee.

(f) *SERVICE ON COMMITTEE.*—

(1) *SOLICITATION OF NOMINATIONS.*—Before appointing an individual as a member of a committee established under this chapter, the Secretary shall publish, in the Federal Register, a timely notice soliciting nominations for membership on such committee.

(2) *APPOINTMENTS.*—

(A) *IN GENERAL.*—After considering nominations received pursuant to a notice published under paragraph (1), the Secretary may, as necessary, appoint a member to the applicable committee established under this chapter.

(B) *PROHIBITION.*—The Secretary shall not seek, consider, or otherwise use information concerning the political affili-

ation of a nominee in making an appointment to any committee established under this chapter.

(3) *SERVICE AT PLEASURE OF THE SECRETARY.*—Each member of a committee established under this chapter shall serve at the pleasure of the Secretary.

(4) *SECURITY BACKGROUND EXAMINATIONS.*—The Secretary may require an individual to have passed an appropriate security background examination before appointment to a committee established under this chapter.

(5) *PROHIBITION.*—

(A) *IN GENERAL.*—Except as provided in subparagraph (B), a Federal employee may not be appointed as a member of a committee established under this chapter.

(B) *SPECIAL RULE FOR NATIONAL MERCHANT MARINE PERSONNEL ADVISORY COMMITTEE.*—The Secretary may appoint a Federal employee to serve as a member of the National Merchant Marine Personnel Advisory Committee to represent the interests of the United States Merchant Marine Academy and, notwithstanding paragraphs (1) and (2), may do so without soliciting, receiving, or considering nominations for such appointment.

(6) *TERMS.*—

(A) *IN GENERAL.*—The term of each member of a committee established under this chapter shall expire—

(i) December 31 of the third full year after the effective date of the appointment; or

(ii) in the case of a member filling a vacancy caused by another member not completing a full term, at the end of the unexpired term of the member succeeded.

(B) *TOTAL NUMBER.*—

(i) *IN GENERAL.*—Except as provided in clause (ii), members first appointed to a committee established under this chapter after January 1, 2018, may not serve more than 2 terms.

(ii) *EXCEPTIONS.*—

(I) *VACANCIES.*—A member appointed to a committee established under this chapter to fill a vacancy caused by another member not completing a full term may be appointed to 2 terms in addition to the unexpired term of the member succeeded.

(II) *CHAIRMEN.*—A member elected Chairman of a committee established under this chapter may serve up to 3 terms.

(C) *CONTINUED SERVICE AFTER TERM.*—When the term of a member of a committee established under this chapter ends, the member, for a period not to exceed 1 year, may continue to serve as a member until a successor is appointed.

(7) *VACANCIES.*—A vacancy on a committee established under this chapter shall be filled in the same manner as the original appointment.

(8) *SPECIAL RULE FOR REAPPOINTMENTS.*—Notwithstanding paragraphs (1) and (2), the Secretary may reappoint a member of a committee established under this chapter for any term,

other than the first term of the member, without soliciting, receiving, or considering nominations for such appointment.

(g) *STAFF SERVICES.*—The Secretary shall furnish to each committee established under this chapter any staff and services considered by the Secretary to be necessary for the conduct of the committee's functions.

(h) *CHAIRMAN; VICE CHAIRMAN.*—

(1) *IN GENERAL.*—Each committee established under this chapter shall elect a Chairman and Vice Chairman from among the committee's members.

(2) *VICE CHAIRMAN ACTING AS CHAIRMAN.*—The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(i) *SUBCOMMITTEES AND WORKING GROUPS.*—

(1) *IN GENERAL.*—The Chairman of a committee established under this chapter may establish and disestablish subcommittees and working groups for any purpose consistent with the function of the committee.

(2) *PARTICIPANTS.*—Subject to conditions imposed by the Chairman, members of a committee established under this chapter and additional persons drawn from entities or groups designated by this chapter to be represented on the committee or the general public may be assigned to subcommittees and working groups established under paragraph (1).

(3) *CHAIR.*—Only committee members may chair subcommittees and working groups established under paragraph (1).

(j) *CONSULTATION.*—Before taking any significant action, the Secretary shall consult with, and consider the information, advice, and recommendations of, a committee established under this chapter if the function of the committee is to advise the Secretary on matters related to the significant action.

(k) *TERMINATION.*—Each committee established under this chapter shall terminate on September 30, 2027.

(l) *ADVICE, REPORTS, AND RECOMMENDATIONS.*—

(1) *IN GENERAL.*—Each committee established under this chapter shall submit its advice, reports, and recommendations to the Secretary.

(2) *SUBMISSION TO CONGRESS.*—The Secretary shall submit such advice, reports, and recommendations to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(m) *OBSERVERS.*—Any Federal agency with matters under such agency's administrative jurisdiction related to the function of a committee established under this chapter may designate a representative to—

(1) attend any meeting of such committee; and

(2) participate as an observer at meetings of such committee that relate to such a matter.

[CHAPTER 13—PAY, ALLOWANCES, AWARDS, AND OTHER RIGHTS AND BENEFITS]

[Sec.

[461. Remission of indebtedness.

[467. Computation of length of service.

- [468. Procurement of personnel.
- [469. Training.
- [470. Special instruction at universities.
- [471. Attendance at professional meetings.
- [472. Education loan repayment program.
- [475. Leasing and hiring of quarters; rental of inadequate housing.
- [476. Contingent expenses.
- [477. Equipment to prevent accidents.
- [478. Rations or commutation therefor in money.
- [479. Sales of ration supplies to messes.
- [480. Flight rations.
- [481. Payments at time of discharge for good of service.
- [482. Clothing at time of discharge for good of service.
- [483. Right to wear uniform.
- [484. Protection of uniform.
- [485. Clothing for officers and enlisted personnel.
- [486. Clothing for destitute shipwrecked persons.
- [487. Procurement and sale of stores to members and civilian employees.
- [488. Advancement of public funds to personnel.
- [491. Medal of honor.
- [491a. Coast Guard cross.
- [492. Distinguished service medal.
- [492a. Silver star medal.
- [492b. Distinguished flying cross.
- [493. Coast Guard medal.
- [494. Insignia for additional awards.
- [496. Time limit on award; report concerning deed.
- [497. Honorable subsequent service as condition to award.
- [498. Posthumous awards.
- [499. Delegation of powers to make awards; rules and regulations.
- [500. Life-saving medals.
- [501. Replacement of medals.
- [502. Award of other medals.
- [503. Awards and insignia for excellence in service or conduct.
- [504. Medal of honor: duplicate medal.
- [505. Medal of honor: presentation of Medal of Honor Flag.
- [507. Disposition of effects of decedents.
- [508. Deserters; payment of expenses incident to apprehension and delivery; penalties.
- [509. Persons discharged as result of court-martial; allowances to.
- [510. Shore patrol duty; payment of expenses.
- [511. Compensatory absence from duty for military personnel at isolated duty stations.
- [512. Monetary allowance for transportation of household effects.
- [513. Retroactive payment of pay and allowances delayed by administrative error or oversight.
- [516. Presentation of United States flag upon retirement.
- [517. Travel card management.
- [518. Reimbursement for medical-related travel expenses for certain persons residing on islands in the continental United States.
- [519. Annual audit of pay and allowances of members undergoing permanent change of station.
- [520. Prospective payment of funds necessary to provide medical care.]

[CHAPTER 14—COAST GUARD FAMILY SUPPORT AND CHILD CARE]

[SUBCHAPTER I—GENERAL PROVISIONS]

- [Sec.
- [531. Work-life policies and programs.
- [532. Surveys of Coast Guard families.

[SUBCHAPTER II—COAST GUARD FAMILY SUPPORT]

- [541. Reimbursement for adoption expenses.
- [542. Education and training opportunities for Coast Guard spouses.
- [543. Youth sponsorship initiatives.
- [544. Dependent school children.

【SUBCHAPTER III—COAST GUARD CHILD CARE

- 【551. Definitions.**
- 【552. Child development services.**
- 【553. Child development center standards and inspections.**
- 【554. Child development center employees.**
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【SUBCHAPTER I—GENERAL PROVISIONS】

【SUBCHAPTER II—COAST GUARD FAMILY SUPPORT】

【SUBCHAPTER III—COAST GUARD CHILD CARE】

【CHAPTER 15—ACQUISITIONS】

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- 【563. Recognition of Coast Guard personnel for excellence in acquisition.**
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- 【572. Acquisition.**
- 【573. Preliminary development and demonstration.**
- 【574. Acquisition, production, deployment, and support.**
- 【575. Acquisition program baseline breach.**
- 【576. Acquisition approval authority.**
- 【577. Advance procurement funding.**
- 【578. Role of Vice Commandant in major acquisition programs.**
- 【579. Extension of major acquisition program contracts.**

【SUBCHAPTER III—DEFINITIONS

- 【581. Definitions.】**

【SUBCHAPTER I—GENERAL PROVISIONS】

【SUBCHAPTER II—IMPROVED ACQUISITION PROCESS AND PROCEDURES】

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【CHAPTER 17—ADMINISTRATION】

- 【Sec.**
- 【631. Delegation of powers by the Secretary.**
- 【632. Functions and powers vested in the Commandant.**
- 【633. Regulations.**
- 【634. Officers holding certain offices.**
- 【635. Oaths required for boards.**
- 【636. Administration of oaths.**
- 【637. Stopping vessels; indemnity for firing at or into vessel.**
- 【638. Coast Guard ensigns and pennants.**
- 【639. Penalty for unauthorized use of words “Coast Guard”.**
- 【640. Coast Guard band recordings for commercial sale.**
- 【641. Disposal of certain material.**
- 【642. Deposit of damage payments.**
- 【643. Rewards for apprehension of persons interfering with aids to navigation.**

- [644. Payment for the apprehension of stragglers.
- [645. Confidentiality of medical quality assurance records; qualified immunity for participants.
- [646. Admiralty claims against the United States.
- [647. Claims for damage to property of the United States.
- [648. Accounting for industrial work.
- [649. Supplies and equipment from stock.
- [650. Coast Guard Supply Fund.
- [652. Removing restrictions.
- [653. Employment of draftsmen and engineers.
- [654. Public and commercial vessels and other watercraft; sale of fuel, supplies, and services.
- [655. Arms and ammunition; immunity from taxation.
- [656. Use of certain appropriated funds.
- [658. Confidential investigative expenses.
- [659. Assistance to film producers.
- [660. Transportation to and from certain places of employment.
- [664. User fees.
- [665. Restriction on construction of vessels in foreign shipyards.
- [666. Local hire.
- [667. Vessel construction bonding requirements.
- [668. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care.
- [669. Telephone installation and charges.
- [670. Procurement authority for family housing.
- [671. Air Station Cape Cod Improvements.
- [672. Long-term lease of special purpose facilities.
- [672a. Long-term lease authority for lighthouse property.
- [673. Designation, powers, and accountability of deputy disbursing officials.
- [674. Small boat station rescue capability.
- [675. Small boat station closures.
- [676. Search and rescue center standards.
- [676a. Air facility closures.
- [677. Turnkey selection procedures.
- [678. Aircraft accident investigations.
- [679. Inventory of real property.
- [680. Retired service members and dependents serving on advisory committees.
- [681. Disposition of infrastructure related to E-LORAN.]

[§ 634. Officers holding certain offices

[(a) Any officer, including any petty officer, may be designated by the Commandant as captain of the port or ports or adjacent high seas or waters over which the United States has jurisdiction, as the Commandant deems necessary to facilitate execution of Coast Guard duties.

[(b) Commissioned officers may be appointed as United States Deputy Marshals in Alaska.]

[CHAPTER 18—COAST GUARD HOUSING AUTHORITIES]

- [Sec.
- [680. Definitions.
- [681. General authority.
- [685. Conveyance of real property.
- [687. Coast Guard Housing Fund.
- [688. Reports.]

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19. Coast Guard Academy	1901
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CHAPTER 19—[ENVIRONMENTAL COMPLIANCE AND RESTORATION PROGRAM] COAST GUARD ACADEMY

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- 【690. Definitions.
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SUBCHAPTER I—ADMINISTRATION

- 1901. *Administration of Academy.*
- 1902. *Policy on sexual harassment and sexual violence.*
- 1903. *Annual Board of Visitors.*
- 1904. *Participation in Federal, State, or other educational research grants.*

SUBCHAPTER II—CADETS

- 1921. *Corps of Cadets authorized strength.*
- 1922. *Appointments.*
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- 1924. *Conduct.*
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- 1926. *Cadet applicants; preappointment travel to Academy.*
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- 1941. *Civilian teaching staff.*
- 1942. *Permanent commissioned teaching staff; composition.*
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- 1945. *Retirement of permanent commissioned teaching staff.*
- 1946. *Credit for service as member of civilian teaching staff.*
- 1947. *Assignment of personnel as instructors.*
- 1948. *Marine safety curriculum.*

SUBCHAPTER I—ADMINISTRATION

§ [181] 1901. Administration of Academy

The immediate government and military command of the Coast Guard Academy shall be in the Superintendent of the Academy, subject to the direction of the Commandant under the general supervision of the Secretary. The Commandant may select a superintendent from the active list of the Coast Guard who shall serve in the pleasure of the Commandant.

§ [200] 1902. Policy on sexual harassment and sexual violence

(a) REQUIRED POLICY.—The Commandant of the Coast Guard shall direct the Superintendent of the Coast Guard Academy to prescribe a policy on sexual harassment and sexual violence applicable to the cadets and other personnel of the Academy.

(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence under this section shall include specification of the following:

- (1) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel.

(2) Information about how the Coast Guard and the Academy will protect the confidentiality of victims of sexual harassment or sexual violence, including how any records, statistics, or reports intended for public release will be formatted such that the confidentiality of victims is not jeopardized.

(3) Procedures that cadets and other Academy personnel should follow in the case of an occurrence of sexual harassment or sexual violence, including—

(A) if the victim chooses to report an occurrence of sexual harassment or sexual violence, a specification of the person or persons to whom the alleged offense should be reported and options for confidential reporting, including written information to be given to victims that explains how the Coast Guard and the Academy will protect the confidentiality of victims;

(B) a specification of any other person whom the victim should contact; and

(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

(4) Procedures for disciplinary action in cases of criminal sexual assault involving a cadet or other Academy personnel.

(5) Sanctions authorized to be imposed in a substantiated case of sexual harassment or sexual violence involving a cadet or other Academy personnel, including with respect to rape, acquaintance rape, or other criminal sexual offense, whether forcible or nonforcible.

(6) Required training on the policy for all cadets and other Academy personnel who process allegations of sexual harassment or sexual violence involving a cadet or other Academy personnel.

(c) ASSESSMENT.—

(1) IN GENERAL.—The Commandant shall direct the Superintendent to conduct at the Academy during each Academy program year an assessment to determine the effectiveness of the policies of the Academy with respect to sexual harassment and sexual violence involving cadets or other Academy personnel.

(2) BIENNIAL SURVEY.—For the assessment at the Academy under paragraph (1) with respect to an Academy program year that begins in an odd-numbered calendar year, the Superintendent shall conduct a survey of cadets and other Academy personnel—

(A) to measure—

(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to an official of the Academy; and

(ii) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have not been reported to an official of the Academy; and

(B) to assess the perceptions of the cadets and other Academy personnel with respect to—

- (i) the Academy's policies, training, and procedures on sexual harassment and sexual violence involving cadets or other Academy personnel;
- (ii) the enforcement of such policies;
- (iii) the incidence of sexual harassment and sexual violence involving cadets or other Academy personnel; and
- (iv) any other issues relating to sexual harassment and sexual violence involving cadets or other Academy personnel.

(d) REPORT.—

(1) IN GENERAL.—The Commandant shall direct the Superintendent to submit to the Commandant a report on sexual harassment and sexual violence involving cadets or other Academy personnel for each Academy program year.

(2) REPORT SPECIFICATIONS.—Each report under paragraph (1) shall include, for the Academy program year covered by the report, the following:

(A) The number of sexual assaults, rapes, and other sexual offenses involving cadets or other Academy personnel that have been reported to Academy officials during the Academy program year and, of those reported cases, the number that have been substantiated.

(B) A plan for the actions that are to be taken in the following Academy program year regarding prevention of and response to sexual harassment and sexual violence involving cadets or other Academy personnel.

(3) BIENNIAL SURVEY.—Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that Academy program year under subsection (c)(2).

(4) TRANSMISSION OF REPORT.—The Commandant shall transmit each report received by the Commandant under this subsection, together with the Commandant's comments on the report, to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Transportation and Infrastructure of the House of Representatives.

(5) FOCUS GROUPS.—

(A) IN GENERAL.—For each Academy program year with respect to which the Superintendent is not required to conduct a survey at the Academy under subsection (c)(2), the Commandant shall require focus groups to be conducted at the Academy for the purposes of ascertaining information relating to sexual assault and sexual harassment issues at the Academy.

(B) INCLUSION IN REPORTS.—Information derived from a focus group under subparagraph (A) shall be included in the next transmitted Commandant's report under this subsection.

(e) VICTIM CONFIDENTIALITY.—To the extent that information collected under the authority of this section is reported or otherwise made available to the public, such information shall be provided in

a form that is consistent with applicable privacy protections under Federal law and does not jeopardize the confidentiality of victims.

§ [194] 1903. Annual Board of Visitors

(a) **IN GENERAL.**—A Board of Visitors to the Coast Guard Academy is established to review and make recommendations on the operation of the Academy.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The membership of the Board shall consist of the following:

(A) The chairman of the Committee on Commerce, Science, and Transportation of the Senate, or the chairman's designee.

(B) The chairman of the Committee on Transportation and Infrastructure of the House of Representatives, or the chairman's designee.

(C) 3 Members of the Senate designated by the Vice President.

(D) 4 Members of the House of Representatives designated by the Speaker of the House of Representatives.

(E) 6 individuals designated by the President.

(2) **LENGTH OF SERVICE.**—

(A) **MEMBERS OF CONGRESS.**—A Member of Congress designated under subparagraph (C) or (D) of paragraph (1) as a member of the Board shall be designated as a member in the First Session of a Congress and serve for the duration of that Congress.

(B) **INDIVIDUALS DESIGNATED BY THE PRESIDENT.**—Each individual designated by the President under subparagraph (E) of paragraph (1) shall serve as a member of the Board for 3 years, except that any such member whose term of office has expired shall continue to serve until a successor is appointed.

(3) **DEATH OR RESIGNATION OF A MEMBER.**—If a member of the Board dies or resigns, a successor shall be designated for any unexpired portion of the term of the member by the official who designated the member.

(c) **ACADEMY VISITS.**—

(1) **ANNUAL VISIT.**—The Board shall visit the Academy annually to review the operation of the Academy.

(2) **ADDITIONAL VISITS.**—With the approval of the Secretary, the Board or individual members of the Board may make other visits to the Academy in connection with the duties of the Board or to consult with the Superintendent of the Academy.

(d) **SCOPE OF REVIEW.**—The Board shall review, with respect to the Academy—

(1) the state of morale and discipline;

(2) the curriculum;

(3) instruction;

(4) physical equipment;

(5) fiscal affairs; and

(6) other matters relating to the Academy that the Board determines appropriate.

(e) **REPORT.**—Not later than 60 days after the date of an annual visit of the Board under subsection (c)(1), the Board shall submit

to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report on the actions of the Board during such visit and the recommendations of the Board pertaining to the Academy.

(f) ADVISORS.—If approved by the Secretary, the Board may consult with advisors in carrying out this section.

(g) REIMBURSEMENT.—Each member of the Board and each adviser consulted by the Board under subsection (f) shall be reimbursed, to the extent permitted by law, by the Coast Guard for actual expenses incurred while engaged in duties as a member or adviser.

§ [196] 1904. Participation in Federal, State, or other educational research grants

(a) IN GENERAL.—Notwithstanding any other provision of law, the United States Coast Guard Academy may compete for and accept Federal, State, or other educational research grants, subject to the following limitations:

(1) No award may be accepted for the acquisition or construction of facilities.

(2) No award may be accepted for the routine functions of the Academy.

(b) QUALIFIED ORGANIZATIONS.—

(1) IN GENERAL.—The Commandant of the Coast Guard may—

(A) enter into a contract, cooperative agreement, lease, or licensing agreement with a qualified organization;

(B) allow a qualified organization to use, at no cost, personal property of the Coast Guard; and

(C) notwithstanding section 93, accept funds, supplies, and services from a qualified organization.

(2) SOLE-SOURCE BASIS.—Notwithstanding chapter 65 of title 31 and chapter 137 of title 10, the Commandant may enter into a contract or cooperative agreement under paragraph (1)(A) on a sole-source basis.

(3) MAINTAINING FAIRNESS, OBJECTIVITY, AND INTEGRITY.—The Commandant shall ensure that contributions under this subsection do not—

(A) reflect unfavorably on the ability of the Coast Guard, any of its employees, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner; or

(B) compromise the integrity or appearance of integrity of any program of the Coast Guard, or any individual involved in such a program.

(4) LIMITATION.—For purposes of this subsection, employees or personnel of a qualified organization shall not be employees of the United States.

(5) QUALIFIED ORGANIZATION DEFINED.—In this subsection the term “qualified organization” means an organization—

(A) described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code; and

(B) established by the Coast Guard Academy Alumni Association solely for the purpose of supporting academic research and applying for and administering Federal, State, or other educational research grants on behalf of the Coast Guard Academy.

SUBCHAPTER II—CADETS

§ 1921. Corps of Cadets authorized strength

The number of cadets appointed annually to the Academy shall be as determined by the Secretary but the number appointed in any one year shall not exceed six hundred.

§ 1922. Appointments

Appointments to cadetships shall be made under regulations prescribed by the Secretary, who shall determine age limits, methods of selection of applicants, term of service as a cadet before graduation, and all other matters affecting such appointments. In the administration of this section, the Secretary shall take such action as may be necessary and appropriate to insure that female individuals shall be eligible for appointment and admission to the Coast Guard Academy, and that the relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals.

§ [195] 1923. Admission of foreign nationals for instruction; restrictions; conditions

(a) A foreign national may not receive instruction at the Academy except as authorized by this section.

(b) The President may designate not more than 36 foreign nationals whom the Secretary may permit to receive instruction at the Academy.

(c) A foreign national receiving instruction under this section is entitled to the same pay, allowances, and emoluments, to be paid from the same appropriations, as a cadet appointed pursuant to section [182] 1922 of this title. A foreign national may receive instruction under this section only if his country agrees in advance to reimburse the United States, at a rate determined by the Secretary, for the cost of providing such instruction, including pay, allowances, and emoluments, unless a waiver therefrom has been granted to that country by the Secretary. Funds received by the Secretary for this purpose shall be credited to the appropriations bearing the cost thereof, and may be apportioned between fiscal years.

(d) A foreign national receiving instruction under this section is—

(1) not entitled to any appointment in the Coast Guard by reason of his graduation from the Academy; and

(2) subject to those regulations applicable to the Academy governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, except as may otherwise be prescribed by the Secretary.

§ 1924. Conduct

The Secretary may summarily dismiss from the Coast Guard any cadet who, during his cadetship, is found unsatisfactory in either studies or conduct, or may be deemed not adapted for a career in the Coast Guard. Cadets shall be subject to rules governing discipline prescribed by the Commandant.

§ 1925. Agreement

(a) Each cadet shall sign an agreement with respect to the cadet's length of service in the Coast Guard. The agreement shall provide that the cadet agrees to the following:

(1) That the cadet will complete the course of instruction at the Coast Guard Academy.

(2) That upon graduation from the Coast Guard Academy the cadet—

(A) will accept an appointment, if tendered, as a commissioned officer of the Coast Guard; and

(B) will serve on active duty for at least five years immediately after such appointment.

(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer before the completion of the commissioned service obligation of the cadet, the cadet—

(A) will accept an appointment as a commissioned officer in the Coast Guard Reserve; and

(B) will remain in that reserve component until completion of the commissioned service obligation of the cadet.

(b)(1) The Secretary may transfer to the Coast Guard Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a cadet who breaches an agreement under subsection (a). The period of time for which a cadet is ordered to active duty under this paragraph may be determined without regard to section 651(a) of title 10.

(2) A cadet who is transferred to the Coast Guard Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

(3) For the purposes of paragraph (1), a cadet shall be considered to have breached an agreement under subsection (a) if the cadet is separated from the Coast Guard Academy under circumstances which the Secretary determines constitute a breach by the cadet of the cadet's agreement to complete the course of instruction at the Coast Guard Academy and accept an appointment as a commissioned officer upon graduation from the Coast Guard Academy.

(c) The Secretary shall prescribe regulations to carry out this section. Those regulations shall include—

(1) standards for determining what constitutes, for the purpose of subsection (b), a breach of an agreement under subsection (a);

(2) procedures for determining whether such a breach has occurred; and

(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (b).

(d) In this section, "commissioned service obligation", with respect to an officer who is a graduate of the Academy, means the period

beginning on the date of the officer's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary, any later date up to the eighth anniversary of such appointment.

(e)(1) This section does not apply to a cadet who is not a citizen or national of the United States.

(2) In the case of a cadet who is a minor and who has parents or a guardian, the cadet may sign the agreement required by subsection (a) only with the consent of the parent or guardian.

(f) A cadet or former cadet who does not fulfill the terms of the obligation to serve as specified under section (a), or the alternative obligation imposed under subsection (b), shall be subject to the repayment provisions of section 303a(e) of title 37.

§ [181a] 1926. Cadet applicants; preappointment travel to Academy

The Secretary is authorized to expend appropriated funds for selective preappointment travel to the Academy for orientation visits of cadet applicants.

§ [183] 1927. Cadets; initial clothing allowance

The Secretary may prescribe a sum which shall be credited to each new cadet upon first admission to the Academy, to cover the cost of his initial clothing and equipment issue, which sum shall be deducted subsequently from his pay. Each cadet discharged prior to graduation who is indebted to the United States on account of advances of pay to purchase required clothing and equipment shall be required to turn in to the Academy all clothing and equipment of a distinctively military nature to the extent required to discharge such indebtedness; and, if the value of such clothing and equipment so turned in does not cover the indebtedness incurred, then such indebtedness shall be canceled.

§ [184] 1928. Cadets; degree of bachelor of science

The Superintendent of the Academy may, under such rules and regulations as the Secretary shall prescribe, confer the degree of bachelor of science upon all graduates of the Academy and may, in addition, confer the degree of bachelor of science upon such other living graduates of the Academy as shall have met the requirements of the Academy for such degree.

§ [185] 1929. Cadets; appointment as ensign

The President may, by and with the advice and consent of the Senate, appoint as ensigns in the Coast Guard all cadets who shall graduate from the Academy. Ensigns so commissioned on the same date shall take rank according to their proficiency as shown by the order of their merit at date of graduation.

§ [197] 1930. Cadets: charges and fees for attendance; limitation

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.

SUBCHAPTER III—FACULTY

§ [186] 1941. Civilian teaching staff

(a) The Secretary may appoint in the Coast Guard such number of civilian faculty members at the Academy as the needs of the Service may require. They shall have such titles and perform duties as prescribed by the Secretary. Leaves of absence and hours of work for civilian faculty members shall be governed by regulations promulgated by the Secretary, without regard to the provisions of title 5.

(b) The compensation of persons employed under this section is as prescribed by the Secretary.

§ [187] 1942. Permanent commissioned teaching staff; composition

The permanent commissioned teaching staff at the Academy shall consist of professors, associate professors, assistant professors and instructors, in such numbers as the needs of the Service require. They shall perform duties as prescribed by the Commandant, and exercise command only in the academic department of the Academy.

§ [188] 1943. Appointment of permanent commissioned teaching staff

The President may appoint in the Coast Guard, by and with the advice and consent of the Senate, the professors, associate professors, assistant professors, and instructors who are to serve on the permanent commissioned teaching staff of the Academy. An original appointment to the permanent commissioned teaching staff, unless the appointee has served as a civilian member of the teaching staff, regular commissioned officer, temporary commissioned officer, or reserve commissioned officer in the Coast Guard, shall be a temporary appointment until the appointee has satisfactorily completed a probationary term of four years of service; thereafter he may be regularly appointed and his rank shall date from the date of his temporary appointment in the grade in which permanently appointed.

§ [189] 1944. Grade of permanent commissioned teaching staff

Professors shall be commissioned officers with grade not above captain, associate and assistant professors with grade not above commander, and instructors with grade not above lieutenant commander. All officers of the permanent commissioned teaching staff shall receive the pay and allowances of other commissioned officers of the same grade and length of service. When any such professor, associate professor, assistant professor, or instructor is appointed or commissioned with grade less than the highest grade permitted,

he shall be promoted under regulations prescribed by the Secretary.

§ [190] 1945. Retirement of permanent commissioned teaching staff

Professors, associate professors, assistant professors, and instructors in the Coast Guard shall be subject to retirement or discharge from active service for any cause on the same basis as other commissioned officers of the Coast Guard, except that they shall not be required to retire from active service under the provisions of section 288 of this title, nor shall they be subject to the provisions of section 289 of this title, nor shall they be required to retire at age sixty-two but may be permitted to serve until age sixty-four at which time unless earlier retired or separated they shall be retired. The Secretary may retire any member of the permanent commissioned teaching staff who has completed thirty years' active service. Service as a civilian member of the teaching staff at the Academy in addition to creditable service authorized by any other law in any of the military services rendered prior to an appointment as a professor, associate professor, assistant professor, or instructor shall be credited in computing length of service for retirement purposes. The provisions of law relating to retirement for disability in line of duty shall not apply in the case of a professor, associate professor, assistant professor, or instructor serving under a temporary appointment.

§ [191] 1946. Credit for service as member of civilian teaching staff

Service as a member of the civilian teaching staff at the Academy in addition to creditable services authorized by any other law in any of the military services rendered prior to an appointment as professor, associate professor, assistant professor, or instructor shall be credited in computing length of service as a professor, associate professor, assistant professor, or instructor for purposes of pay and allowances.

§ [192] 1947. Assignment of personnel as instructors

The Commandant may assign any member to appropriate instruction duty at the Academy.

§ [199] 1948. Marine safety curriculum

The Commandant of the Coast Guard shall ensure that professional courses of study in marine safety are provided at the Coast Guard Academy, and during other officer accession programs, to give Coast Guard cadets and other officer candidates a background and understanding of the marine safety program. These courses may include such topics as program history, vessel design and construction, vessel inspection, casualty investigation, and administrative law and regulations.

[§ 690. Definitions

[For the purposes of this chapter—

[(1) “environment”, “facility”, “person”, “release”, “removal”, “remedial”, and “response” have the same meaning they have

in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601);

[(2) “hazardous substance” has the same meaning it has in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), except that it also includes the meaning given “oil” in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); and

[(3) “pollutant” has the same meaning it has in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362).

[(§ 691. Environmental Compliance and Restoration Program

[(a) The Secretary shall carry out a program of environmental compliance and restoration at current and former Coast Guard facilities.

[(b) Program goals include:

[(1) Identifying, investigating, and cleaning up contamination from hazardous substances and pollutants.

[(2) Correcting other environmental damage that poses an imminent and substantial danger to the public health or welfare or to the environment.

[(3) Demolishing and removing unsafe buildings and structures, including buildings and structures at former Coast Guard facilities.

[(4) Preventing contamination from hazardous substances and pollutants at current Coast Guard facilities.

[(c)(1) The Secretary shall respond to releases of hazardous substances and pollutants—

[(A) at each Coast Guard facility the United States owns, leases, or otherwise possesses;

[(B) at each Coast Guard facility the United States owned, leased, or otherwise possessed when the actions leading to contamination from hazardous substances or pollutants occurred; and

[(C) on each vessel the Coast Guard owns or operates.

[(2) Paragraph (1) of this subsection does not apply to a removal or remedial action when a potentially responsible person responds under section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9622).

[(3) The Secretary shall pay a fee or charge imposed by a State authority for permit services for disposing of hazardous substances or pollutants from Coast Guard facilities to the same extent that nongovernmental entities are required to pay for permit services. This paragraph does not apply to a payment that is the responsibility of a lessee, contractor, or other private person.

[(d) The Secretary may agree with another Federal agency for that agency to assist in carrying out the Secretary’s responsibilities under this chapter. The Secretary may enter into contracts, cooperative agreements, and grant agreements with State and local governments to assist in carrying out the Secretary’s responsibilities under this chapter. Services that may be obtained under this subsection include identifying, investigating, and cleaning up off-site contamination that may have resulted from the release of a hazardous substance or pollutant at a Coast Guard facility.

[(e) Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9619) applies to response action contractors that carry out response actions under this chapter. The Coast Guard shall indemnify response action contractors to the extent that adequate insurance is not generally available at a fair price at the time the contractor enters into the contract to cover the contractor’s reasonable, potential, long-term liability.]

§ 692. Environmental Compliance and Restoration Account

[(a) There is established for the Coast Guard an account known as the Coast Guard Environmental Compliance and Restoration Account. All sums appropriated to carry out the Coast Guard’s environmental compliance and restoration functions under this chapter or another law shall be credited or transferred to the account and remain available until expended.]

[(b) Funds may be obligated or expended from the account to carry out the Coast Guard’s environmental compliance and restoration functions under this chapter or another law.]

[(c) In proposing the budget for any fiscal year under section 1105 of title 31, United States Code, the President shall set forth separately the amount requested for the Coast Guard’s environmental compliance and restoration activities under this chapter or another law.]

[(d) Amounts recovered under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9607) for the Secretary’s response actions at current and former Coast Guard facilities shall be credited to the account.]

§ 693. Annual list of projects to Congress

[The Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a prioritized list of projects eligible for environmental compliance and restoration funding for each fiscal year concurrent with the President’s budget submission for that fiscal year.]

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**SUBCHAPTER—[A] I APPOINTMENT AND PROMOTION
[general]**

§ [211.] 2101. Original appointment of permanent commissioned officers

(a)(1) The President may appoint permanent commissioned officers in the Regular Coast Guard in grades appropriate to their qualification, experience, and length of service, as the needs of the Coast Guard may require, from among the following categories:

- (A) Graduates of the Coast Guard Academy.
- (B) Commissioned warrant officers, warrant officers, and enlisted members of the Regular Coast Guard.
- (C) Members of the Coast Guard Reserve who have served at least 2 years as such.
- (D) Licensed officers of the United States merchant marine who have served 2 or more years aboard a vessel of the United States in the capacity of a licensed officer.

(2) Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate.

(3) Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone.

(b) No person shall be appointed a commissioned officer under this section until his mental, moral, physical, and professional fitness to perform the duties of a commissioned officer has been established under such regulations as the Secretary shall prescribe.

(c) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in such grade. Appointees whose dates of commission are the same shall take precedence with each other as the Secretary shall determine.

(d) For the purposes of this section, the term "original", with respect to the appointment of a member of the Coast Guard, refers to that member's most recent appointment in the Coast Guard that is neither a promotion nor a demotion.

§ [41a.] 2102. Active duty promotion list

(a) The Secretary shall maintain a single active duty promotion list of officers of the Coast Guard on active duty in the grades of ensign and above. Reserve officers on active duty, other than pursuant to an active duty agreement executed under section 12311 of title 10, retired officers, and officers of the permanent commissioned teaching staff of the Coast Guard Academy shall not be included on the active duty promotion list.

(b) Officers shall be carried on the active duty promotion list in the order of seniority of the grades in which they are serving. Officers serving in the same grade shall be carried in the order of their seniority in that grade. The Secretary may correct any erroneous position on the active duty promotion list that was caused by administrative error.

(c) A person appointed in the grade of ensign or above in the Regular Coast Guard shall be placed on the active duty promotion list in the order of his date of rank and seniority.

(d) A Reserve officer, other than one excluded by subsection (a), shall, when he enters on active duty, be placed on the active duty promotion list in accordance with his grade and seniority. The position of such a Reserve officer among other officers of the Coast Guard on active duty who have the same date of rank shall be determined by the Secretary.

§ [42.] 2103. Number and distribution of commissioned officers on active duty promotion list

(a) **MAXIMUM TOTAL NUMBER.**—The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed 6,900; except that the Commandant may temporarily increase that number by up to 2 percent for no more than 60 days following the date of the commissioning of a Coast Guard Academy class.

(b) **DISTRIBUTION PERCENTAGES BY GRADE.**—

(1) **REQUIRED.**—The total number of commissioned officers authorized by this section shall be distributed in grade in the

following percentages: 0.375 percent for rear admiral; 0.375 percent for rear admiral (lower half); 6.0 percent for captain; 15.0 percent for commander; and 22.0 percent for lieutenant commander.

(2) DISCRETIONARY.—The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign.

(3) AUTHORITY OF SECRETARY TO REDUCE PERCENTAGE.—The Secretary—

(A) may reduce, as the needs of the Coast Guard require, any of the percentages set forth in paragraph (1); and

(B) shall apply that total percentage reduction to any other lower grade or combination of lower grades.

(c) COMPUTATIONS.—

(1) IN GENERAL.—The Secretary shall compute, at least once each year, the total number of commissioned officers authorized to serve in each grade by applying the grade distribution percentages established by or under this section to the total number of commissioned officers listed on the current active duty promotion list.

(2) ROUNDING FRACTIONS.—Subject to subsection (a), in making the computations under paragraph (1), any fraction shall be rounded to the nearest whole number.

(3) TREATMENT OF OFFICERS SERVING OUTSIDE COAST GUARD.—The number of commissioned officers on the active duty promotion list below the rank of rear admiral (lower half) serving with other Federal departments or agencies on a reimbursable basis or excluded under section 324(d) of title 49 shall not be counted against the total number of commissioned officers authorized to serve in each grade.

(d) USE OF NUMBERS; TEMPORARY INCREASES.—The numbers resulting from computations under subsection (c) shall be, for all purposes, the authorized number in each grade; except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

(e) OFFICERS SERVING COAST GUARD ACADEMY AND RESERVE.—The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy and of the Reserve serving in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be prescribed by the Secretary.

§ [214.] 2104. Appointment of temporary officers

(a) The president may appoint temporary commissioned officers—

(1) in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from holders of licenses issued under chapter 71 of title 46; and

(2) in the Coast Guard Reserve in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers of the Coast Guard Reserve.

(b) Temporary appointments under this section do not change the permanent, probationary, or acting status of persons so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person who is appointed under this section may not suffer any reduction in the rate of pay and allowances to which he would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade.

(c) An appointment under this section, or a subsequent promotion appointment of a temporary officer, may be vacated by the appointing officer at any time. Each officer whose appointment is so vacated shall revert to his permanent status.

(d) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their appointments as officers in such grade. Appointees whose dates of appointment are the same shall take precedence with each other as the Secretary shall determine.

§ [215.] 2105. Rank of warrant officers

(a) Among warrant officer grades, warrant officers of a higher numerical designation are senior to warrant officer grades of a lower numerical designation.

(b) Warrant officers shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in the Coast Guard in such grade. Precedence among warrant officers of the same grade who have the same date of commission shall be determined by regulations prescribed by the Secretary.

§ [251.] 2106. Selection boards; convening of boards

At least once a year and at such other times as the needs of the service require, the Secretary shall convene selection boards to recommend for promotion to the next higher grade officers on the active duty promotion list in each grade from lieutenant (junior grade) through captain, with separate boards for each grade. However, the Secretary is not required to convene a board to recommend officers for promotion to a grade when no vacancies exist in the grade concerned, and he estimates that none will occur in the next twelve months.

§ [252.] 2107. Selection boards; composition of boards

A board convened under section 251 of this title shall consist of five or more officers on the active duty promotion list who are serving in or above the grade to which the board may recommend officers for promotion. No officer may be a member of two successive boards convened to consider officers of the same grade for promotion.

§ [253.] 2108. Selection boards; notice of convening; communication with board

(a) Before a board is convened under section 251 of this title, notice of the convening date, the promotion zone to be considered, and the officers eligible for consideration shall be given to the service at large.

(b) Each officer eligible for consideration by a selection board convened under section 251 of this title may send a communication through official channels to the board, to arrive not later than the date the board convenes, inviting attention to any matter of record in the armed forces concerning himself. A communication sent under this section may not criticize any officer or reflect upon the character, conduct, or motive of any officer.

§ [254.] 2109. Selection boards; oath of members

Each member of a selection board shall swear—

- (1) that the member will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of the Coast Guard, perform the duties imposed upon the member; and
- (2) an oath in accordance with section 635.

§ [255.] 2110. Number of officers to be selected for promotion

Before convening a board under section 251 of this title to recommend officers for promotion to any grade, the Secretary shall determine the total number of officers to be selected for promotion to that grade. This number shall be equal to the number of vacancies existing in the grade, plus the number of additional vacancies estimated for the next twelve months, less the number of officers on the selection list for the grade.

§ [256.] 2111. Promotion zones

(a) Before convening a selection board to recommend officers for promotion to any grade above lieutenant (junior grade) and below rear admiral (lower half), the Secretary shall establish a promotion zone for the grade to be considered. The promotion zone for each grade shall consist of the most senior officers of that grade on the active duty promotion list who are eligible for consideration for promotion to the next higher grade and who have not previously been placed in a promotion zone for selection for promotion to the next higher grade. The number of officers in each zone shall be determined after considering—

- (1) the needs of the service;
- (2) the estimated numbers of vacancies available in future years to provide comparable opportunity for promotion of officers in successive year groups; and
- (3) the extent to which current terms of service in that grade conform to a desirable career promotion pattern.

However, such number of officers shall not exceed the number to be selected for promotion divided by six-tenths.

(b) Promotion zones from which officers will be selected for promotion to the grade of rear admiral (lower half) shall be established by the Secretary as the needs of the service require.

§ [256a.] 2112. Promotion year; defined

For the purposes of this chapter, “promotion year” means the period which commences on July 1 of each year and ends on June 30 of the following year.

§ [257.] 2113. Eligibility of officers for consideration for promotion

(a) An officer on the active duty promotion list becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he completes the following amount of service computed from his date of rank in the grade in which he is serving:

- (1) two years in the grade of lieutenant (junior grade);
- (2) three years in the grade of lieutenant;
- (3) four years in the grade of lieutenant commander;
- (4) four years in the grade of commander; and
- (5) three years in the grade of captain.

(b) For the purpose of this section, service in a grade includes all qualifying service in that grade or a higher grade, under either a temporary or permanent appointment. However, service in a grade under a temporary service appointment under section 275 of this title is considered as service only in the grade that the officer concerned would have held had he not been so appointed.

(c) No officer may become eligible for consideration for promotion until all officers of his grade senior to him are so eligible.

(d) Except when his name is on a list of selectees, each officer who becomes eligible for consideration for promotion to the next higher grade remains eligible so long as he—

- (1) continues on active duty; and
- (2) is not promoted to that grade.

(e) An officer whose involuntary retirement or separation is deferred under section 295 of this title is not eligible for consideration for promotion to the next higher grade during the period of that deferment.

(f) The Secretary may waive subsection (a) to the extent necessary to allow officers described therein to have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

§ 2114. United States Deputy Marshals in Alaska

Commissioned officers may be appointed as United States Deputy Marshals in Alaska.

§ [258.] 2115. Selection boards; information to be furnished boards

(a) IN GENERAL.—The Secretary shall furnish the appropriate selection board convened under section 251 of this title with—

- (1) the number of officers that the board may recommend for promotion to the next higher grade; and
- (2) the names and records of all officers who are eligible for consideration for promotion to the grade to which the board will recommend officers for promotion.

(b) PROVISION OF DIRECTION AND GUIDANCE.—

- (1) In addition to the information provided pursuant to subsection (a), the Secretary may furnish the selection board—

(A) specific direction relating to the needs of the Coast Guard for officers having particular skills, including direction relating to the need for a minimum number of officers with particular skills within a specialty; and

(B) any other guidance that the Secretary believes may be necessary to enable the board to properly perform its functions.

(2) Selections made based on the direction and guidance provided under this subsection shall not exceed the maximum percentage of officers who may be selected from below the announced promotion zone at any given selection board convened under section 251 of this title.

§ [259.] 2116. Officers to be recommended for promotion

(a) A selection board convened to recommend officers for promotion shall recommend those eligible officers whom the board, giving due consideration to the needs of the Coast Guard for officers with particular skills so noted in specific direction furnished to the board by the Secretary under section 258 of this title, considers best qualified of the officers under consideration for promotion. No officer may be recommended for promotion unless he receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

(b) The number of officers that a board convened under section 251 of this title may recommend for promotion to a grade below rear admiral (lower half) from among eligible officers junior in rank to the junior officer in the appropriate promotion zone may not exceed—

(1) 5 percent of the total number of officers that the board is authorized to recommend for promotion to the grade of lieutenant or lieutenant commander;

(2) 7 1/2 percent of the total number of officers that the board is authorized to recommend for promotion to the grade of commander; and

(3) 10 percent of the total number of officers that the board is authorized to recommend for promotion to the grade of captain;

unless such percentage is a number less than one, in which case the board may recommend one such officer for promotion.

(c)(1) In selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in subsection (b) unless such a percentage is a number less than one, in which case the board may recommend one officer for such placement. No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

(2) The Secretary shall conduct a survey of the Coast Guard officer corps to determine if implementation of this subsection will improve Coast Guard officer retention. A selection board may not make any recommendation under this subsection before the date on which the Secretary publishes a finding, based upon the results of the survey, that implementation of this subsection will improve Coast Guard officer retention.

(3) The Secretary shall submit any finding made by the Secretary pursuant to paragraph (2) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

§ [260.] 2117. Selection boards; reports

(a) Each board convened under section 251 of this title shall submit a report in writing, signed by all the members thereof, containing the names of the officers recommended for promotion and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title.

(b) A board convened under section 251 of this title shall certify that, in the opinion of at least a majority of the members if the board has five members, or in the opinion of at least two-thirds of the members if the board has more than five members, the officers recommended for promotion are the best qualified for promotion to meet the needs of the service (as noted in specific direction furnished the board by the Secretary under section 258 of this title) of those officers whose names have been furnished to the board.

§ [261.] 2118. Selection boards; submission of reports

(a) A board convened under section 251 of this title shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After his final review, the Secretary shall submit the report of the board to the President for his approval, modification, or disapproval.

(b) If any officer recommended for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.

(c) Upon approval by the President the names of officers selected for promotion by a board convened under section 251 of this title shall be promptly disseminated to the service at large.

(d) Except as required by this section, the proceedings of a selection board, including a special selection board convened under section 263, shall not be disclosed to any person not a member of the board.

§ [262.] 2119. Failure of selection for promotion

An officer, other than an officer serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for his grade under section 256 of this title, fails of selection if he is not selected for promotion by the selection board which considered him, or if having been recommended for promotion by the board, his name is thereafter removed from the report of the board by the President.

§ [263.] 2120. Special selection boards; correction of errors

(a) OFFICERS NOT CONSIDERED DUE TO ADMINISTRATIVE ERROR.—

(1) IN GENERAL.—If the Secretary determines that as the result of an administrative error—

(A) an officer or former officer was not considered for selection for promotion by a selection board convened under section 251; or

(B) the name of an officer or former officer was not placed on an all-fully-qualified-officers list; the Secretary shall convene a special selection board to determine whether such officer or former officer should be recommended for promotion and such officer or former officer shall not be considered to have failed of selection for promotion prior to the consideration of the special selection board.

(2) EFFECT OF FAILURE TO RECOMMEND FOR PROMOTION.—If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer, whose grade is below the grade of captain and whose name was referred to that board for consideration, the officer or former officer shall be considered to have failed of selection for promotion.

(b) OFFICERS CONSIDERED BUT NOT SELECTED; MATERIAL ERROR.—

(1) IN GENERAL.—In the case of an officer or former officer who was eligible for promotion, was considered for selection for promotion by a selection board convened under section 251, and was not selected for promotion by that board, the Secretary may convene a special selection board to determine whether the officer or former officer should be recommended for promotion, if the Secretary determines that—

(A) an action of the selection board that considered the officer or former officer—

(i) was contrary to law in a matter material to the decision of the board; or

(ii) involved material error of fact or material administrative error; or

(B) the selection board that considered the officer or former officer did not have before it for consideration material information.

(2) EFFECT OF FAILURE TO RECOMMEND FOR PROMOTION.—If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer, whose grade is that of commander or below and whose name was referred to that board for consideration, the officer or former officer shall be considered—

(A) to have failed of selection for promotion with respect to the board that considered the officer or former officer prior to the consideration of the special selection board; and

(B) to incur no additional failure of selection for promotion as a result of the action of the special selection board.

(c) REQUIREMENTS FOR SPECIAL SELECTION BOARDS.—Each special selection board convened under this section shall—

(1) be composed in accordance with section 252 and the members of the board shall be required to swear the oaths described in section 254;

(2) consider the record of an applicable officer or former officer as that record, if corrected, would have appeared to the selection board that should have considered or did consider the officer or former officer prior to the consideration of the special selection board and that record shall be compared with a sampling of the records of—

(A) those officers of the same grade who were recommended for promotion by such prior selection board; and

(B) those officers of the same grade who were not recommended for promotion by such prior selection board; and

(3) submit to the Secretary a written report in a manner consistent with sections 260 and 261.

(d) APPOINTMENT OF OFFICERS RECOMMENDED FOR PROMOTION.—

(1) IN GENERAL.—An officer or former officer whose name is placed on a promotion list as a result of the recommendation of a special selection board convened under this section shall be appointed, as soon as practicable, to the next higher grade in accordance with the law and policies that would have been applicable to the officer or former officer had the officer or former officer been recommended for promotion by the selection board that should have considered or did consider the officer or former officer prior to the consideration of the special selection board.

(2) EFFECT.—An officer or former officer who is promoted to the next higher grade as a result of the recommendation of a special selection board convened under this section shall have, upon such promotion, the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the active duty promotion list as the officer or former officer would have had if the officer or former officer had been recommended for promotion to that grade by the selection board that should have considered or did consider the officer or former officer prior to the consideration of the special selection board.

(3) RECORD CORRECTION.—If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade an officer not eligible for promotion or a former officer whose name was referred to the board for consideration, the Secretary may act under section 1552 of title 10 to correct the military record of the officer or former officer to correct an error or remove an injustice resulting from the officer or former officer not being selected for promotion by the selection board that should have considered or did consider the officer or former officer prior to the consideration of the special selection board.

(e) APPLICATION PROCESS AND TIME LIMITS.—The Secretary shall issue regulations regarding the process by which an officer or former officer may apply to have a matter considered by a special selection board convened under this section, including time limits related to such applications.

(f) **LIMITATION OF OTHER JURISDICTION.**—No official or court of the United States shall have authority or jurisdiction over any claim based in any way on the failure of an officer or former officer to be selected for promotion by a selection board convened under section 251, until—

(1) the claim has been referred to a special selection board convened under this section and acted upon by that board; or

(2) the claim has been rejected by the Secretary without consideration by a special selection board convened under this section.

(g) **JUDICIAL REVIEW.**—

(1) **IN GENERAL.**—A court of the United States may review—

(A) a decision of the Secretary not to convene a special selection board under this section to determine if the court finds that the decision of the Secretary was arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law; and

(B) an action of a special selection board under this section to determine if the court finds that the action of the special selection board was contrary to law or involved material error of fact or material administrative error.

(2) **REMAND AND RECONSIDERATION.**—If, with respect to a review under paragraph (1), a court makes a finding described in subparagraph (A) or (B) of that paragraph, the court shall remand the case to the Secretary and the Secretary shall provide the applicable officer or former officer consideration by a new special selection board convened under this section.

(h) **DESIGNATION OF BOARDS.**—The Secretary may designate a selection board convened under section 251 as a special selection board convened under this section. A selection board so designated may function in the capacity of a selection board convened under section 251 and a special selection board convened under this section.

§ [271.] 2121. Promotions; appointments

(a) When the report of a board convened to recommend officers for promotion has been approved by the President, the Secretary shall place the names of all officers selected and approved on a list of selectees in the order of their seniority on the active duty promotion list. The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.

(b) Officers on the list of selectees may be promoted by appointment in the next higher grade to fill vacancies in the authorized active duty strength of the grade as determined under section 42 of this title after officers on any previous list of selectees for that grade have been promoted. Officers shall be promoted in the order that their names appear on the list of selectees. The date of rank of an officer promoted under this subsection shall be the date of his appointment in that grade.

(c) An officer serving on active duty in the grade of ensign may, if found fully qualified for promotion in accordance with regulations prescribed by the Secretary, be promoted to the grade of lieutenant (junior grade) by appointment after he has completed twelve

months' active service in grade. The date of rank of an officer promoted under this subsection shall be the date of his appointment in the grade of lieutenant (junior grade) as specified by the Secretary.

(d) When a vacancy in the grade of rear admiral occurs, the senior rear admiral (lower half) serving on the active duty promotion list shall be appointed by the President, by and with the advice and consent of the Senate, to fill the vacancy. The appointment shall be effective on the date the vacancy occurred.

(e) Appointments of regular officers under this section shall be made by the President, by and with the advice and consent of the Senate except that advice and consent is not required for appointments under this section in the grade of lieutenant (junior grade) or lieutenant. Appointments of Reserve officers shall be made as prescribed in section 12203 of title 10.

(f) The promotion of an officer who is under investigation or against whom proceedings of a court-martial or a board of officers are pending may be delayed without prejudice by the Secretary until completion of the investigation or proceedings. However, unless the Secretary determines that a further delay is necessary in the public interest, a promotion may not be delayed under this subsection for more than one year after the date the officer would otherwise have been promoted. An officer whose promotion is delayed under this subsection and who is subsequently promoted shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held had his promotion not been so delayed.

§ [272.] 2122. Removal of officer from list of selectees for promotion

(a) The President may remove the name of any officer from a list of selectees established under section 271 of this title.

(b) If the Senate does not consent to the appointment of an officer whose name is on a list of selectees established under section 271 of this title, that officer's name shall be removed from this list.

(c) An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If he is selected for promotion by the next selection board and promoted, he shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held if his name had not been removed. However, if the officer is not selected by the next selection board or if his name is again removed from the list of selectees, he shall be considered for all purposes as having twice failed of selection for promotion.

§ [273.] 2123. Promotions; acceptance; oath of office

(a) An officer who receives an appointment under section 271 of this title is considered to have accepted his appointment on its effective date, unless he expressly declines the appointment.

(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon his appointment in a higher grade.

§ [274.] 2124. Promotions; pay and allowances

An officer who is promoted under section 271 of this title shall be entitled to the pay and allowances of the grade to which promoted from his date of rank in such grade.

§ [275.] 2125. Wartime temporary service promotions

(a) In time of war, or of national emergency declared by the President or Congress, the President may suspend any section of this chapter relating to the selection, promotion, or involuntary separation of officers. Such a suspension may not continue beyond six months after the termination of the war or national emergency.

(b) When the preceding sections of this chapter relating to selection and promotion of officers are suspended in accordance with subsection (a), and the needs of the service require, the President may, under regulations prescribed by him, promote to a higher grade any officer serving on active duty in the grade of ensign or above in the Coast Guard.

(c) In time of war, or of national emergency declared by the President or Congress, the President may, under regulations to be prescribed by him, promote to the next higher warrant officer grade any warrant officer serving on active duty in a grade below chief warrant officer, W-4.

(e) A promotion under this section to a grade above lieutenant may be made only upon the recommendation of a board of officers convened for that purpose.

(f) A promotion under this section shall be made by an appointment for temporary service. Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate. Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone. Any other appointments under this section shall be made by the President alone.

(g) An appointment under this section, unless expressly declined, is regarded as accepted on the date specified by the Secretary as the date of the appointment, and the officer so promoted is entitled to pay and allowances of the grade to which appointed from that date.

(h) An appointment under this section does not terminate any appointments held by an officer concerned under any other provisions of this title. The President may terminate temporary appointments made under this section at any time. An appointment under this section is effective for such period as the President determines. However, an appointment may not be effective later than six months after the end of the war or national emergency. When his temporary appointment under this section is terminated or expires, the officer shall revert to his former grade.

(i) Not later than six months after the end of the war or national emergency the President shall, under such regulations as he may prescribe, reestablish the active duty promotion list with adjustments and additions appropriate to the conditions of original appointment and wartime service of all officers to be included thereon. The President may, by and with the advice and consent of the Senate, appoint officers on the reestablished active duty promotion list to fill vacancies in the authorized active duty strength of each

grade. Such appointments shall be considered to have been made under section 271 of this title.

§ [276.] 2126. Promotion of officers not included on active duty promotion list

Officers who are not included on the active duty promotion list may be promoted under regulations to be prescribed by the Secretary. These regulations shall, as to officers serving in connection with organizing, administering, recruiting, instructing, or training the reserve components, provide as nearly as practicable, that such officers will be selected and promoted in the same manner and will be afforded equal opportunity for promotion as officers of the corresponding grade on the active duty promotion list.

§ [331.] 2127. Recall to active duty during war or national emergency

In time of war or national emergency, the Secretary may order any regular officer on the retired list to active duty.

§ [332.] 2128. Recall to active duty with consent of officer

(a) Any regular officer on the retired list may, with that officer's consent, be assigned to such duties as that officer may be able to perform.

(b) The number of retired officers on active duty in the grade of lieutenant commander, commander, or captain shall not exceed 2 percent of the authorized number of officers on active duty in each such grade. However, this limitation does not apply to retired officers of these grades recalled to serve as members of courts, boards, panels, surveys, or special projects for periods not to exceed one year.

§ [373.] 2129. Aviation cadets; appointment as Reserve officers

(a) An aviation cadet who fulfills the eligibility requirements of section 2003 of title 10 for designation as a naval aviator may be appointed an ensign in the Coast Guard Reserve and designated a Coast Guard aviator.

(b) Aviation cadets who complete their training at approximately the same time are considered for all purposes to have begun their commissioned service on the same date, and the decision of the Secretary in this regard is conclusive.

*SUBCHAPTER II—DISCHARGES; RETIREMENTS;
REVOCATION OF COMMISSIONS; SEPARATION FOR CAUSE*

§ [281.] 2141. Revocation of commissions during first five years of commissioned service

The Secretary, under such regulations as he may prescribe, may revoke the commission of any regular officer on active duty who, at the date of such revocation, has had less than five years of continuous service as a commissioned officer in the Regular Coast Guard.

§ [282.] 2142. Regular lieutenants (junior grade); separation for failure of selection for promotion

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

- (1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or
- (2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or
- (3) if, on the date specified for his discharge in this section, he is eligible for retirement under any law, be retired on that date.

§ [283.] 2143. Regular lieutenants; separation for failure of selection for promotion; continuation

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

- (1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or
- (2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or
- (3) if, on the date specified for his discharge in this section, he has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date; or
- (4) if, on the date specified for his discharge in clause (1), he has completed at least eighteen years of active service, be retained on active duty and retired on the last day of the month in which he completes twenty years of active service, unless earlier removed under another provision of law.

(b)(1) When the needs of the service require, the Secretary may direct a selection board, which has been convened under section 251 of this title, to recommend for continuation on active duty for terms of not less than two nor more than four years a designated number of officers of the grade of lieutenant who would otherwise be discharged or retired under this section. When so directed, the board shall recommend for continuation on active duty those officers under consideration who are, in the opinion of the board, best qualified for continuation. Each officer so recommended may, with the approval of the Secretary, and notwithstanding subsection (a), be continued on active duty for the term recommended.

- (2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—
 - (A) except as provided in subparagraph (B), be honorably discharged with separation pay computed under section 286 of this title;
 - (B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes

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

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

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

§ [284.] 2144. Regular Coast Guard; officers serving under temporary appointments

(a) Each officer of the Regular Coast Guard appointed under section 214 of this title who is serving in the grade of lieutenant (junior grade) or lieutenant and who has failed of selection for promotion to the grade of lieutenant or lieutenant commander, respectively, for the second time shall:

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

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

(3) if on the date specified for his discharge in this section he is eligible for retirement under any law, be retired under that law on that date.

(b) Each officer subject to discharge or retirement under subsection (a) may elect to revert to his permanent grade.

§ [285.] 2145. Regular lieutenant commanders and commanders; retirement for failure of selection for promotion

(a) Each officer of the Regular Coast Guard serving in the grade of lieutenant commander or commander, who has failed of selection for promotion to the grade of commander or captain, respectively, for the second time shall:

(1) if he has completed at least 20 years of active service or is eligible for retirement under any law on June 30 of the promotion year in which his second failure of selection occurs, be retired on that date; or

(2) if ineligible for retirement on the date specified in clause (1) be retained on active duty and retired on the last day of the month in which he completes twenty years of active service, unless earlier removed under another provision of law.

(b) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have

been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.

(c)(1) An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.

(2) Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b) but is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.

§ [286.] 2146. Discharge in lieu of retirement; separation pay

(a) Each officer who is retained on active duty under section 283(a)(4), 283(b), or 285 of this title may, if he so requests, with the approval of the Secretary, be honorably discharged at any time prior to the date otherwise specified for his retirement or discharge.

(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10 as determined under regulations promulgated by the Secretary.

(d) Notwithstanding subsections (a) and (b), an officer discharged under [chapter 11 of this title] *this chapter* for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.

§ [286a.] 2147. Regular warrant officers: separation pay

(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay com-

puted under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

(c) In determining a member's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

(d) The acceptance of separation pay under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received separation pay under this section, until the total deductions equal the amount of such separation pay.

§ [287.] 2148. Separation for failure of selection for promotion or continuation; time of

If, under section 282, 283, 284, 285, 289, or 290 of this title, the discharge or retirement of any officer would be required less than six months following approval of the report of the board which considered but did not select him for promotion or continuation, the discharge or retirement of such officer shall be deferred until the last day of the sixth calendar month after such approval.

§ [288.] 2149. Regular captains; retirement

(a) Each officer of the Regular Coast Guard serving in the grade of captain whose name is not carried on an approved list of officers selected for promotion to the grade of rear admiral (lower half) shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which he, or any captain junior to him on the active duty promotion list who has not lost numbers or precedence, completes thirty years of active commissioned service in the Coast Guard. An officer advanced in precedence on the active duty promotion list because of his promotion resulting from selection for promotion from below the zone is not subject to involuntary retirement under this section earlier than if he had not been selected from below the zone.

(b) Retired pay computed under section 423(a) of this title of an officer retired under this section shall not be less than 50 percent of the basic pay upon which the computation of his retired pay is based.

§ [289.] 2150. Captains; continuation on active duty; involuntary retirement

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

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

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

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

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

(f) A board convened under this section shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After his final review the Secretary shall submit the report of the board to the President for his approval. Except as required by the procedures of this section, the proceedings of the board shall not be disclosed to any person not a member of the board.

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

(h) Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain the officer under this subsection.

§ [290.] 2151. Rear admirals and rear admirals (lower half); continuation on active duty; involuntary retirement

(a) The Secretary shall from time to time convene boards to recommend for continuation on active duty the most senior officers on the active duty promotion list serving in the grade of rear admiral (lower half) or rear admiral who have not previously been considered for continuation in that grade. Officers, other than the Commandant, serving for the time being or who have served in or above the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of

this section shall be considered as having been continued at the grade of rear admiral. A board shall consist of at least 5 officers (other than the Commandant) serving in the grade of admiral or vice admiral or as rear admirals previously continued. Boards shall be convened frequently enough to assure that each officer serving in the grade of rear admiral (lower half) or rear admiral is subject to consideration for continuation during a promotion year in which that officer completes not less than four or more than five years combined service in the grades of rear admiral (lower half) and rear admiral.

(b) The Secretary shall, based upon the needs of the service, furnish each board convened under this section with the number of officers to be considered for continuation on active duty. The number that may be recommended for continuation shall be not less than 50 per centum or more than 75 per centum of the number of officers being considered for continuation.

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

(d) A board convened under this section shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After final review the Secretary shall submit the report of the board to the President for approval.

(e) Each officer who is considered but not continued on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on July 1 of the promotion year immediately following the promotion year in which the report of the continuation board convened under this section is approved.

(f)(1) Unless retired under another provision of law, each officer who is continued on active duty under this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades of rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Superintendent of the Coast Guard Academy.

(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Superintendent of the Coast Guard Academy, or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

(g)(1) Unless retired under another provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

§ [291.] 2152. Voluntary retirement after twenty years' service

Any regular commissioned officer who has completed twenty years' active service in the Coast Guard, Navy, Army, Air Force, or Marine Corps, or the Reserve components thereof, including active duty for training, at least ten years of which shall have been active commissioned service, may, upon his own application, in the discretion of the President, be retired from active service.

§ [292.] 2153. Voluntary retirement after thirty years' service

Any regular commissioned officer who has completed thirty years' service may, upon his own application, in the discretion of the Secretary, be retired from active service.

§ [293.] 2154. Compulsory retirement

(a) REGULAR COMMISSIONED OFFICERS.—Any regular commissioned officer, except a commissioned warrant officer, serving in a grade below rear admiral (lower half) shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.

(b) FLAG-OFFICER GRADES.—(1) Except as provided in paragraph (2), any regular commissioned officer serving in a grade of rear admiral (lower half) or above shall be retired on the first day of the month following the month in which the officer becomes 64 years of age.

(2) The retirement of an officer under paragraph (1) may be deferred—

(A) by the President, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 68 years of age; or

(B) by the Secretary of the department in which the Coast Guard is operating, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 66 years of age.

§ [294.] 2155. Retirement for physical disability after selection for promotion; grade in which retired

An officer whose name appears on an approved list of officers selected for promotion to the next higher grade and who is retired for physical disability under the provisions of chapter 61 of title 10 prior to being promoted shall be retired in the grade to which he was selected for promotion.

§ [295.] 2156. Deferment of retirement or separation for medical reasons

(a) Subject to subsection (b), the Secretary may defer the retirement or separation of a commissioned officer, other than a commissioned warrant officer, if the evaluation of the physical condition of the officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization, medical observation, or other physical disability processing that cannot be completed before the date on which the officer would otherwise be retired or separated.

(b) A deferment under subsection (a)—

(1) may only be made with the consent of the officer involved; and

(2) if the Secretary receives written notice from the officer withdrawing that consent, shall end not later than the end of the sixty-day period beginning on the date the Secretary receives that notice.

§ [296.] 2157. Flag officers

During any period in which the Coast Guard is not operating as a service in the Navy, section 1216(d) of title 10 does not apply with respect to flag officers of the Coast Guard.

§ [321.] 2158. Review of records of officers

The Secretary may at any time convene a board of officers to review the record of any officer of the Regular Coast Guard to determine whether he shall be required to show cause for his retention on active duty—

(1) because his performance of duty has fallen below the standards prescribed by the Secretary, or

(2) because of moral dereliction, professional dereliction, or because his retention is not clearly consistent with the interests of national security.

§ [322.] 2159. Boards of inquiry

(a) Boards of inquiry shall be convened at such places as the Secretary may prescribe to receive evidence and make findings and recommendations whether an officer who is required to show cause for retention under section 321 of this title should be retained on active duty.

(b) A fair and impartial hearing before a board of inquiry shall be given to each officer so required to show cause for retention.

(c) If a board of inquiry determines that the officer has failed to establish that he should be retained, it shall send the record of its proceedings to a board of review.

(d) If a board of inquiry determines that the officer has established that he should be retained, his case is closed. However, at any time after one year from the date of the determination in a case arising under clause (1) of section 321 of this title, and at any time after the date of the determination in a case arising under clause (2) of that section, an officer may again be required to show cause for retention.

§ [323.] 2160. Boards of review

(a) Boards of review shall be convened at such times as the Secretary may prescribe, to review the records of cases of officers recommended by boards of inquiry for removal.

(b) If, after reviewing the record of the case, a board of review determines that the officer has failed to establish that he should be retained, it shall send its recommendation to the Secretary for his action.

(c) If, after reviewing the record of the case, a board of review determines that the officer has established that he should be retained on active duty, his case is closed. However, at any time after one year from the date of the determination in a case arising under clause (1) of section 321 of this title and at any time after the date of the determination in a case arising under clause (2) of that section, an officer may again be required to show cause for retention.

§ [324.] 2161. Composition of boards

(a) A board convened under section 321, 322, or 323 of this title shall consist of at least three officers of the grade of commander or above, all of whom are serving in a grade senior to the grade of any officer considered by the board.

(b) No person may be a member of more than one board convened under section 321, 322, or 323 of this title to consider the same officer.

§ [325.] 2162. Rights and procedures

Each officer under consideration for removal under section 322 of this title shall be—

(1) notified in writing at least thirty days before the hearing of the case by a board of inquiry of the reasons for which the officer is being required to show cause for retention;

(2) allowed reasonable time, as determined by the board of inquiry under regulations of the Secretary, to prepare his defense;

(3) allowed to appear in person and by counsel at proceedings before a board of inquiry; and

(4) allowed full access to, and furnished copies of, records relevant to the case at all stages of the proceeding, except that a board shall withhold any records that the Secretary determines should be withheld in the interests of national security. In any case where any records are withheld under this clause, the officer whose case is under consideration shall, to the extent that the national security permits, be furnished a summary of the records so withheld.

§ [326.] 2163. Removal of officer from active duty; action by Secretary

The Secretary may remove an officer from active duty if his removal is recommended by a board of review under section 323 of this title. The Secretary's action in such a case is final and conclusive.

§ [327.] 2164. Officers considered for removal; retirement or discharge; separation benefits

(a) At any time during proceedings under section 322 or 323 of this title, and before the removal of an officer, the Secretary may grant a request—

(1) for voluntary retirement, if the officer is otherwise qualified therefor; or

(2) for discharge with separation benefits under section 286(c) of this title.

(b) Each officer removed from active duty under section 326 of this title shall—

(1) if on the date of removal the officer is eligible for voluntary retirement under any law, be retired in the grade for which he would be eligible if retired at his request; or

(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge.

§ [333.] 2165. Relief of retired officer promoted while on active duty

Any regular officer on the retired list recalled to active duty who during such active duty is advanced to a higher grade under an appointment shall, upon relief from active duty, if his performance of duty under such appointment has been satisfactory, be advanced on the retired list to the highest grade held while on such active duty.

SUBCHAPTER III—GENERAL PROVISIONS

§ [335.] 2181. Physical fitness of officers

The Secretary shall prescribe regulations under which the physical fitness of officers to perform their duties shall be periodically determined.

§ [429.] 2182. Multirater assessment of certain personnel

(a) MULTIRATER ASSESSMENT OF CERTAIN PERSONNEL.—

(1) IN GENERAL.—Commencing not later than one year after the date of the enactment of the Coast Guard Authorization Act of 2016, the Commandant of the Coast Guard shall develop and implement a plan to conduct every two years a multirater assessment for each of the following:

(A) Each flag officer of the Coast Guard.

(B) Each member of the Senior Executive Service of the Coast Guard.

(C) Each officer of the Coast Guard nominated for promotion to the grade of flag officer.

(2) POST-ASSESSMENT ELEMENTS.—Following an assessment of an individual pursuant to paragraph (1), the individual shall be provided appropriate post-assessment counseling and leadership coaching.

(b) MULTIRATER ASSESSMENT DEFINED.—In this section, the term “multirater assessment” means a review that seeks opinion from

members senior to the reviewee and the peers and subordinates of the reviewee.

[SUBCHAPTER B—COMMISSIONED OFFICERS]

**CHAPTER 23—[COAST GUARD AUXILIARY] PERSONNEL;
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2316. Discharge within three months before expiration of enlistment.

2317. Aviation cadets; procurement; transfer.

2318. Aviation cadets; benefits.

2319. Critical skill training bonus.

§ [350.] 2301. Recruiting campaigns

The Secretary shall initiate and carry forward an intensified voluntary enlistment campaign to obtain the required personnel strengths.

§ [351.] 2302. Enlistments; term, grade

(a) Under regulations prescribed by the Secretary, the Commandant may enlist persons for minority or a period of at least two years but not more than six years.

(b) The Secretary shall prescribe the grades or ratings for persons enlisting in the Regular Coast Guard.

§ [352.] 2303. Promotion

Enlisted members shall be advanced in rating by the Commandant under regulations prescribed by the Secretary.

§ [353.] 2304. Compulsory retirement at age of sixty-two

Any enlisted member who has reached the age of sixty-two shall be retired from active service.

§ [354.] 2305. Voluntary retirement after thirty years' service

Any enlisted member who has completed thirty years' service may, upon his own application, in the discretion of the Commandant, be retired from active service.

§ [355.] 2306. Voluntary retirement after twenty years' service

Any enlisted member who has completed twenty years' service may, upon his own application, in the discretion of the Commandant, be retired from active service.

§ [357.] 2307. Retirement of enlisted members: increase in retired pay

An enlisted member voluntarily or involuntarily retired after twenty years of service who was cited for extraordinary heroism in the line of duty shall be entitled to an increase in retired pay. The retired pay shall be increased by 10 percent of—

(1) the active-duty pay and permanent additions thereto of the grade or rating with which retired when the member's retired pay is computed under section 423(a) of this title; or

(2) the member's retired pay base under section 1407 of title 10, when a member's retired pay is computed under section 423(b) of this title.

§ [359.] 2308. Recall to active duty during war or national emergency

In times of war or national emergency, the Commandant may order any enlisted member on the retired list to active duty.

§ [360.] 2309. Recall to active duty with consent of member

Any enlisted member on the retired list may, with his consent, be assigned to such duties as he may be able to perform, except that no enlisted member on the retired list who has reached the age of sixty-two years shall be recalled in time of peace.

§ [361.] 2310. Relief of retired enlisted member promoted while on active duty

Any enlisted member on the retired list recalled to active duty who during such active duty is advanced to a higher grade or rating under a permanent or temporary appointment or promotion shall, upon relief from active duty be advanced on the retired list to the highest grade or rating held while on active duty. In case the appointment or promotion was temporary the advancement on the retired list shall be made only to such grade or rating in which the member served satisfactorily on active duty.

§ [362.] 2311. Retirement in cases where higher grade or rating has been held

Any enlisted member who is retired under any provision of section 353, 354, 355, or 357 of this title shall be retired from active service with the highest grade or rating held by him while on active duty in which, as determined by the Secretary, his performance of duty was satisfactory, but not lower than his permanent grade or rating.

§ [365.] 2312. Extension of enlistments

Under regulations prescribed by the Secretary, the term of enlistment of any enlisted member may, by voluntary written agreement, be extended and re-extended for a period not exceeding six full years from the date of expiration of the then-existing term of enlistment, and subsequent to such date an enlisted member who so extends his term of enlistment shall receive the same pay and allowances in all respects as though regularly discharged and reenlisted immediately upon expiration of his term of enlistment. However, the total of all such extensions of an enlistment may not exceed six years. No such extension shall operate to deprive the enlisted member concerned, upon discharge at the termination thereof, of any right, privilege, or benefit to which he would have been entitled if his term of enlistment had not been so extended.

§ [366.] 2313. Retention beyond term of enlistment in case of disability

Any enlisted member of the Coast Guard in the active service whose term of enlistment expires while he is suffering disease or injury incident to service and not due to misconduct, and who is in need of medical care or hospitalization, may, with his consent, be retained in such service beyond the expiration of his term of enlistment. Any such enlisted member shall be entitled to receive at Government expense medical care or hospitalization and his pay and allowances, including credit for longevity, until he shall have recovered to such extent as would enable him to meet the physical requirements for reenlistment, or until it shall have been ascertained by competent authority of the Coast Guard that the disease or injury is of a character that recovery to such an extent would be impossible. Any enlisted member whose enlistment is so extended shall be subject to forfeitures in the same manner and to the same extent as if his term of enlistment had not expired. Nothing contained in this section shall prevent any enlisted member from being held in the service without his consent under section 367 of this title.

§ [367.] 2314. Detention beyond term of enlistment

Under regulations prescribed by the Secretary, an enlisted member may be detained in the Coast Guard beyond the term of his enlistment:

- (1) until the first arrival of the vessel on which he is serving at its permanent station, or at a port in a State of the United States or in the District of Columbia; or
- (2) if attached to a shore station beyond the continental limits of the United States or in Alaska, until his first arrival at a port in any State of the United States or in the District of Columbia where his reenlistment or discharge may be effected, or until he can be discharged or reenlisted at his station beyond the continental limits of the United States or in Alaska, whichever is earlier, but in no event to exceed three months; or
- (3) during a period of war or national emergency as proclaimed by the President, and, in the interest of national defense, for a period not to exceed six months after the end of the war or the termination of the emergency; or

(4) for a period of not exceeding thirty days in other cases whether or not specifically covered by this section, when essential to the public interests, and the determination that such detention is essential to the public interests, made in accordance with regulations prescribed by the Secretary, shall be final and conclusive.

Any member detained in the Coast Guard as provided in this section shall be entitled to receive pay and allowances and benefits under the same conditions as though his enlistment period had not expired, and shall be subject in all respects to the laws and regulations for the government of the Coast Guard until his discharge therefrom. Enlisted members detained under the provisions of clause (1) shall be entitled to the pay and allowances provided for enlisted personnel of the Navy detained under similar circumstances.

§ [369.] 2315. Inclusion of certain conditions in enlistment contract

The enlistment contract shall contain the substance of sections 365 to 368, inclusive, of this title.

§ [370.] 2316. Discharge within three months before expiration of enlistment

Under regulations prescribed by the Secretary, any enlisted member may be discharged at any time within three months before the expiration of his term of enlistment or extended enlistment without prejudice to any right, privilege, or benefit that he would have received, except pay and allowances for the unexpired period not served, or to which he would thereafter become entitled, had he served his full term of enlistment or extended enlistment.

§ [371.] 2317. Aviation cadets; procurement; transfer

(a) The grade of aviation cadet is established as a special enlisted grade in the Coast Guard. Under such regulations as the Secretary prescribes, citizens in civil life may be enlisted as, and enlisted members of the Coast Guard with their consent may be designated as, aviation cadets.

(b) Except in time of war or national emergency declared by Congress, not less than 20 percent of the aviation cadets procured in each fiscal year shall be procured from qualified enlisted members of the Coast Guard.

(c) No persons may be enlisted or designated as an aviation cadet unless—

(1) the person agrees in writing that, upon successful completion of the course of training as an aviation cadet, the person will accept a commission as an ensign in the Coast Guard Reserve and will serve on active duty as such for at least three years, unless sooner released; and

(2) if under twenty-one years of age, the person has the consent of the person's parent or guardian to the agreement.

(d) Under such regulations as the Secretary prescribes, an aviation cadet may be transferred to another enlisted grade or rating in the Coast Guard, released from active duty, or discharged.

§ [372.] 2318. Aviation cadets; benefits

Except as provided in section 402(c) of title 37, aviation cadets or their beneficiaries are entitled to the same allowances, pensions, gratuities, and other benefits as are provided for enlisted members in pay grade E-4. While on active duty, an aviation cadet is entitled to uniforms, clothing, and equipment at the expense of the United States.

§ [374.] 2319. Critical skill training bonus

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

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

CHAPTER 25—[GENERAL PROVISIONS FOR COAST GUARD RESERVE AND AUXILIARY] PERSONNEL; GENERAL PROVISIONS

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[891. Flags; pennants; uniforms and insignia.

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SUBCHAPTER I—GENERAL PROVISIONS

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*SUBCHAPTER I—GENERAL PROVISIONS***§ [334.] 2501. Grade on retirement**

(a) Any commissioned officer, other than a commissioned warrant officer, who is retired under any provision of this title, shall be retired from active service with the highest grade held by him for not less than six months while on active duty in which, as determined by the Secretary, his performance of duty was satisfactory.

(b) Any warrant officer who is retired under any provision of section 580, 1263, 1293, or 1305 of title 10, shall be retired from active service with the highest commissioned grade above chief warrant officer, W-4, held by him for not less than six months on active duty in which, as determined by the Secretary, his performance of duty was satisfactory.

§ [421.] 2502. Retirement

(a) Every commissioned officer, warrant officer, or enlisted member who is retired under any provisions of this title shall be retired with the permanent grade or rate held at the time of retirement, unless entitled to retire with a higher grade or rate under any provision of this title or any other law.

(b) Where an officer is entitled, under any provision of law, to retire with one grade higher than the grade in which serving at the time of retirement, the next higher grade in the case of captain shall be rear admiral (lower half), and the next higher grade in the case of commissioned warrant officer shall be lieutenant (junior grade).

§ [422.] 2503. Status of recalled personnel

All retired personnel when recalled to active duty shall serve in the grade or rate in which they were serving at the time of retirement.

§ [423.] 2504. Computation of retired pay

(a)(1) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) before September 8, 1980, is determined by multiplying—

(A) the sum of—

(i) the basic pay of the member's retired grade or rate, and

(ii) all permanent additions thereto including longevity credit to which the member was entitled at the time of retirement; by

(B) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

(2) In the case of an officer who served as Commandant of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay applicable to the officer while so serving.

(3) In the case of an enlisted member who served as the master chief petty officer of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay to which the member was entitled while so serving, if that basic pay is greater than the basic pay of the grade or rate to

which the member is otherwise entitled at the time of retirement.

(4) In the case of an officer whose retired pay is computed on the pay of a grade for which basic pay is not based upon years of service, retired pay under paragraph (1) shall be computed on the basis of the number of years of service for which the officer would be entitled to credit in the computation of pay on the active list had the officer been serving in the grade of captain at the time of retirement.

(b) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) on or after September 8, 1980, is determined by multiplying—

(1) the retired pay base determined under section 1407 of title 10; by

(2) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

(c)(1) In computing for the purpose of subsection (a) or (b) the number of years of service that may be credited to a member under section 1405 of title 10—

(A) each full month of service that is in addition to the number of full years of service creditable to the member shall be counted as $\frac{1}{12}$ of a year; and

(B) any remaining fractional part of a month shall be disregarded.

(2) Retired pay computed under this section, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

§ [424.] 2505. Limitations on retirement and retired pay

(a) The provisions of any section of this title shall not be construed so as to prevent any member from being placed on the retired list with the highest grade or rate and the highest retired pay to which the member may be entitled under the provisions of any other section of this title or under any other law.

(b) In no case may the retired pay of a member exceed 75 percent of (1) the sum of the active-duty pay and all permanent additions thereto (including longevity credit to which the member is entitled) of the grade or rate on which the member's pay is computed, or (2) the retired pay base determined under section 1407 of title 10, as appropriate.

§ [424a.] 2506. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution

Under procedures prescribed by the Secretary, the Secretary may suspend the payment of the retired pay of a member or former member during periods in which the member willfully remains outside the United States to avoid criminal prosecution or civil liability. The procedures shall address the types of criminal offenses and civil proceedings for which the procedures may be used, including the offenses specified in section 8312 of title 5, and the manner by which a member, upon the return of the member to the United States, may obtain retired pay withheld during the member's absence.

§ [425.] 2507. Board for Correction of Military Records deadline

(a) **DEADLINE FOR COMPLETION OF ACTION.**—The Secretary shall complete processing of an application for correction of military records under section 1552 of title 10 by not later than 10 months after the date the Secretary receives the completed application.

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

(1) if the Board has rendered a recommended decision, its recommendation shall be final agency action and not subject to further review or approval within the department in which the Coast Guard is operating; or

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

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

(B) from amounts appropriated to the department in which the Coast Guard is operating, the costs of obtaining the order, including a reasonable attorney's fee.

§ [426.] 2508. Emergency leave retention authority

(a) **IN GENERAL.**—A duty assignment for an active duty member of the Coast Guard in support of a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or in response to a spill of national significance shall be treated, for the purpose of section 701(f)(2) of title 10, as a duty assignment in support of a contingency operation.

(b) **DEFINITIONS.**—In this section:

(1) **SPILL OF NATIONAL SIGNIFICANCE.**—The term “spill of national significance” means a discharge of oil or a hazardous substance that is declared by the Commandant to be a spill of national significance.

(2) **DISCHARGE.**—The term “discharge” has the meaning given that term in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701).

§ [427.] 2509. Prohibition of certain involuntary administrative separations

(a) **IN GENERAL.**—Except as provided in subsection (b), the Secretary may not authorize the involuntary administrative separation of a covered individual based on a determination that the covered individual is unsuitable for deployment or other assignment due to a medical condition of the covered individual considered by a Physical Evaluation Board during an evaluation of the covered individual that resulted in the covered individual being determined to be fit for duty.

(b) **REEVALUATION.**—

(1) **IN GENERAL.**—The Secretary may require a Physical Evaluation Board to reevaluate any covered individual if the Secretary determines there is reason to believe that a medical

condition of the covered individual considered by a Physical Evaluation Board during an evaluation of the covered individual renders the covered individual unsuitable for continued duty.

(2) RETIREMENTS AND SEPARATIONS.—A covered individual who is determined, based on a reevaluation under paragraph (1), to be unfit to perform the duties of the covered individual's office, grade, rank, or rating may be retired or separated for physical disability under chapter 61 of title 10.

(c) COVERED INDIVIDUAL DEFINED.—In this section, the term "covered individual" means any member of the Coast Guard who has been determined by a Physical Evaluation Board, pursuant to a physical evaluation by that board, to be fit for duty.

§ [428.] 2510. Sea service letters

(a) IN GENERAL.—The Secretary shall provide a sea service letter to a member or former member of the Coast Guard who—

- (1) accumulated sea service on a vessel of the armed forces (as such term is defined in section 101(a) of title 10); and
- (2) requests such letter.

(b) DEADLINE.—Not later than 30 days after receiving a request for a sea service letter from a member or former member of the Coast Guard under subsection (a), the Secretary shall provide such letter to such member or former member if such member or former member satisfies the requirement under subsection (a)(1).

§ [430.] 2511. Investigations of flag officers and Senior Executive Service employees

In conducting an investigation into an allegation of misconduct by a flag officer or member of the Senior Executive Service serving in the Coast Guard, the Inspector General of the Department of Homeland Security shall—

- (1) conduct the investigation in a manner consistent with Department of Defense policies for such an investigation; and
- (2) consult with the Inspector General of the Department of Defense.

§ [431.] 2512. Leave policies for the Coast Guard

Not later than 1 year after the date on which the Secretary of the Navy promulgates a new rule, policy, or memorandum pursuant to section 704 of title 10, United States Code, with respect to leave associated with the birth or adoption of a child, the Secretary of the department in which the Coast Guard is operating shall promulgate a similar rule, policy, or memorandum that provides leave to officers and enlisted members of the Coast Guard that is equal in duration and compensation to that provided by the Secretary of the Navy.

§ [467.] 2513. Computation of length of service

In computing length of service of officers and enlisted personnel for any purpose all creditable service in the Army, Navy, Marine Corps, Air Force, Coast Guard, Revenue Cutter Service, and Life Saving Service shall be included in addition to any other creditable service authorized by any other law.

*SUBCHAPTER II—LIGHTHOUSE SERVICE***§ [432.] 2531. Personnel of former Lighthouse Service**

(a) Any person of the former Lighthouse Service commissioned as an officer in the Coast Guard shall be an extra number in his grade and in the grades to which he may be promoted. He shall take precedence (1) with other officers commissioned in his grade from the former Lighthouse Service as the Secretary of the Treasury may determine, and (2) with other line officers in his grade in accordance with the respective dates of their commissions in such grade. He shall be eligible for promotion, if otherwise qualified, at such time as the officer in a regular number in line of promotion next above him on the seniority list becomes eligible for promotion; or if there be no such officer in his grade, he shall be eligible for promotion, if otherwise qualified, when a vacancy occurs in the next higher grade. An officer so commissioned shall be assigned to duty for which he is specially qualified, and professional examinations for promotion given to such officer shall embrace only subjects which pertain to the duty to which he is assigned.

(b) Each vacancy (1) hereafter occurring in the extra numbers of such officers; (2) existing on August 5, 1939, in positions in the Lighthouse Service formerly held by personnel eligible for such commissions; and (3) created by the retirement, resignation, death, or separation from the service for any other cause, of such personnel who do not possess the qualifications prescribed by the Secretary of the Treasury or who, being qualified, do not accept a commission thereunder, shall operate to increase by one the total authorized number of line officers of the Coast Guard.

(c) All persons of the former Lighthouse Service commissioned, appointed, or enlisted in the Coast Guard shall be subject to all laws and regulations for the government of the Coast Guard, and nothing contained in this title shall be construed to prevent the application to any of such persons of laws and regulations concerning the military discipline of commissioned and warrant officers and enlisted members of the Coast Guard.

(d) In computing length of service, for the purpose of retirement in the Coast Guard, of any person of the former Lighthouse Service commissioned, appointed, or enlisted in the Coast Guard, there shall be included all service computable for retirement under the provisions of section 763 of title 33; and after July 1, 1948, in computing longevity for the purpose of pay of such person there shall be included all service of such person in the Lighthouse Service.

(e) No person so commissioned, appointed, or enlisted in the Coast Guard shall suffer any reduction in the total of the annual compensation and allowances which he was receiving on the date of his commission, appointment, or enlistment. Upon his retirement from active duty in the Coast Guard, the retired pay of any person so commissioned, appointed, or enlisted, shall not be less than an annuity computed in accordance with the provisions of section 763 of title 33, substituting, however, for purposes of such computation, the annual compensation which he was receiving on the date of his commission, appointment, or enlistment in the Coast Guard for the average annual pay received by him for the last five years of service.

(f) Notwithstanding any other provision of law, chapter 51, subchapter III of chapter 53, and sections 5542–5546 of title 5 shall not apply to civilian keepers of lighthouses and to civilians employed on lightships and other vessels of the Coast Guard.

(g)(1) The head of the department in which the Coast Guard is operating under regulations prescribed by him, may regulate the hours of duty and the pay of civilian keepers of lighthouses and civilians employed on lightships and other vessels of the Coast Guard, but such personnel may be called upon for duty in emergency circumstances or otherwise at any time or all times. The existing system governing the pay of such employees may be continued or changed except that overtime compensation, night differential, and extra pay for duty on holidays shall not be paid to such employees. In lieu thereof additional annual compensation may be authorized, which may be prescribed either as a fixed differential or as a percentage of the basic compensation otherwise applicable to such employees. In no case shall basic compensation exceed \$15,000 per annum, except that nothing contained in this subsection shall operate to decrease the basic compensation of any person employed by the Coast Guard on the date of enactment of this subsection, and in no case shall additions thereto exceed 25 percent of such basic compensation. Provision may be made for compensatory absence from duty when conditions of employment result in confinement because of isolation or in long periods of continuous duty; and provisions may likewise be made for extra allowance for service outside of the continental limits of the United States.

(2) The additional compensation authorized by this subsection shall be included in any computation of compensation under section 6 of the Act of June 20, 1918 (33 U.S.C. 763).

[PART III—COAST GUARD AUTHORIZATIONS AND REPORTS TO CONGRESS]

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SUBCHAPTER I—PERSONNEL RIGHTS AND BENEFITS

§ [468.] 2701. Procurement of personnel

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

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

§ [469.] 2702. Training

The Coast Guard may make expenditures for the training of personnel, including books, school supplies, correspondence courses, motion picture equipment, and other equipment for instructional purposes.

§ [476.] 2703. Contingent expenses

The Commandant may expend for contingencies of the Coast Guard a sum not to exceed \$50,000 in any one fiscal year.

§ [477.] 2704. Equipment to prevent accidents

The Coast Guard may make such expenditures as are deemed appropriate for promotion and maintenance of the safety and occupational health of, and the prevention of accidents affecting, personnel of the Coast Guard, including the purchase of clothing, equipment, and other materials necessary thereto.

§ [482. Clothing at time of discharge for good of service

[Enlisted members discharged for bad conduct, undesirability, unsuitability, or inaptitude may be furnished civilian clothing, including an overcoat when necessary, the cost of such furnished clothing not to exceed \$30, per person.]

§ [483.] 2706. Right to wear uniform

When authorized by and in accordance with applicable regulations:

(a) any member who has served honorably in the Coast Guard during war shall when not in active service, whether or not on the retired list, be entitled to bear the official title and upon occasions of ceremony to wear the uniform of the highest rank or rating held by him during his war service, and

(b) any member on the retired list shall be entitled to wear the uniform of his rank or rating.

§ [484.] 2707. Protection of uniform

The provisions of law relating to the protection of the uniform of the United States Army, Navy, or Marine Corps shall apply to the protection of the uniform of the Coast Guard, in the same manner, to the same extent, and under the same conditions.

§ [485.] 2708. Clothing for officers and enlisted personnel

(a) The Coast Guard may purchase uniforms, accouterments, and related equipment for sale to officer personnel and cadets of the Coast Guard.

(b) The Coast Guard may purchase uniform clothing for sale to enlisted personnel of the Coast Guard. The actual cost of the clothing thus sold to enlisted personnel may be withheld from their pay.

§ [487.] 2709. Procurement and sale of stores to members and civilian employees

Such stores as the Secretary may designate may be procured and sold to members of the Coast Guard, and to the surviving spouses of such members. Such designated stores may also be procured and sold to civilian officers and employees of the United States, and to such other persons as may be specifically authorized by the Secretary, at Coast Guard stations and other units beyond the continental limits of the United States or in Alaska.

§ [507.] 2710. Disposition of effects of decedents

All moneys, articles of value, papers, keepsakes, and other similar effects belonging to the deceased persons in the Coast Guard,

not claimed by their legal heirs or next of kin, shall be deposited in safe custody, and if any such moneys, articles of value, papers, keepsakes, or other similar effects so deposited have been, or shall hereafter be, unclaimed for a period of two years from the date of the death of such person, such articles and effects shall be sold and the proceeds thereof, together with the moneys above mentioned, shall be deposited in the Treasury as miscellaneous receipts. The Secretary shall make diligent inquiry in every instance after the death of such person to ascertain the whereabouts of his heirs or next of kin, and prescribe necessary regulations to carry out the foregoing provisions. Claims may be presented hereunder at any time within five years after such moneys or proceeds have been so deposited in the Treasury, and, when supported by competent proof in any case after such deposit in the Treasury, shall be certified to Congress for consideration.

§ [508.] 2711. Deserters; payment of expenses incident to apprehension and delivery; penalties

(a) The Coast Guard may, pursuant to regulations prescribed by the Secretary, make such expenditures as are deemed necessary for the apprehension and delivery of deserters, stragglers, and prisoners.

§ [644.] 2712. Payment for the apprehension of stragglers

The Coast Guard may offer and pay rewards for the apprehension and delivery of deserters, stragglers, and prisoners.

(b) No person who is convicted by court martial for desertion from the Coast Guard in time of war, and as the result of such conviction is dismissed or dishonorably discharged from the Coast Guard shall afterwards be enlisted, appointed, or commissioned in any military or naval service under the United States, unless the disability resulting from desertion, as established by this section is removed by a board of commissioned officers of the Coast Guard convened for consideration of the case, and the action of the Board is approved by the Secretary; or unless he is restored to duty in time of war.

SUBCHAPTER II—AWARDS

§ [499.] 2731. Delegation of powers to make awards; rules and regulations

The President may delegate to the Secretary, under such conditions, regulations, and limitations as he prescribes, the powers conferred upon him to make the awards designated in this chapter, and the President may make any and all rules, regulations, and orders which he deems necessary in the conferring of such awards.

§ [491.] 2732. Medal of honor

The President may award, and present in the name of Congress, a medal of honor of appropriate design, with ribbons and appurtenances, to a person who, while a member of the Coast Guard, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force;

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

§ [504.] 2733. Medal of honor: duplicate medal

A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary may determine, as a duplicate or for display purposes only.

§ [505.] 2734. Medal of honor: presentation of Medal of Honor Flag

The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 491 of this title. Presentation of the flag shall be made at the same time as the presentation of the medal under section 491 or 498 of this title. In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented.

§ [491a.] 2735. Coast Guard cross

The President may award a Coast Guard cross of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Coast Guard, when the Coast Guard is not operating under the Department of the Navy, distinguishes himself or herself by extraordinary heroism not justifying the award of a medal of honor—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force or international terrorist organization; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

§ [492.] 2736. Distinguished service medal

The President may present, but not in the name of Congress, a distinguished service medal of appropriate design, with accompanying ribbon, together with a rosette or other device, to be worn in lieu thereof, to any person who, while serving in any capacity with the Coast Guard, distinguishes himself by exceptionally meritorious service to the Government in a duty of great responsibility.

§ [492a.] 2737. Silver star medal

The President may award a silver star medal of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Coast Guard, when the Coast Guard is not operating under the Department of the Navy, is cited for gallantry in action that does not warrant a medal of honor or Coast Guard cross—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force or international terrorist organization; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

§ [492b.] 2738. Distinguished flying cross

The President may present, but not in the name of Congress, a distinguished flying cross of appropriate design, with accompanying ribbon, to any person who, while serving in any capacity with the Coast Guard, distinguishes himself by heroism or extraordinary achievement while participating in an aerial flight.

§ [493.] 2739. Coast Guard medal

The President may present, but not in the name of Congress, a medal to be known as the Coast Guard medal, of appropriate design, with accompanying ribbon, together with a rosette or other device to be worn in lieu thereof, to any person who, while serving in any capacity with the Coast Guard, distinguishes himself by heroism not involving actual conflict with an enemy.

§ [494.] 2740. Insignia for additional awards

No more than one Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross, or one Coast Guard medal shall be issued to any one person; but for each succeeding deed or service sufficient to justify the awarding of a Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross, or Coast Guard medal, the President may award a suitable emblem or insignia to be worn with the decoration and a corresponding rosette or other device.

§ [496.] 2741. Time limit on award; report concerning deed

(a) No medal of honor, Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross, Coast Guard medal, or bar, emblem, or insignia in lieu thereof may be awarded to a person unless—

(1) the award is made within five years after the date of the deed or service justifying the award;

(2) a statement setting forth the deed or distinguished service and recommending official recognition of it was made by his superior through official channels within three years from the date of that deed or termination of the service.

(b) If the Secretary determines that—

(1) a statement setting forth the deed or distinguished service and recommending official recognition of it was made by the person's superior through official channels within three years from the date of that deed or termination of the service and was supported by sufficient evidence within that time; and

(2) no award was made, because the statement was lost or through inadvertence the recommendation was not acted upon; a medal of honor, Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross, Coast

Guard medal, or bar, emblem, or insignia in lieu thereof, as the case may be, may be awarded to the person within two years after the date of that determination.

§ [497.] 2742. Honorable subsequent service as condition to award

No medal of honor, Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross, Coast Guard medal, or emblem, or insignia in lieu thereof shall be awarded or presented to any individual, or to the representative of any individual, whose entire service subsequent to the time he distinguished himself shall not in the opinion of the Commandant have been honorable.

§ [498.] 2743. Posthumous awards

In case an individual who distinguishes himself dies before the making of any award to which he may be entitled, as authorized in this chapter, the award may be made and presented within five years from the date of the act or service justifying the award to such next of kin as may have been designated by the individual, or in the absence of such designation, or if the designated person is not alive at the time of the award, or the relationship between such person and the serviceman shall have been terminated before his death, then to such representative as the President designates. In the event of a posthumous award when the award will be made to the parents of the deceased and the parents have been divorced or separated, a duplicate award may be made to each parent.

§ [500.] 2744. Life-saving medals

(a) The Secretary may, under regulations prescribed by him, award a Life-saving medal of gold or silver to any person, including personnel of the Coast Guard, who rescues or endeavors to rescue any other person from drowning, shipwreck, or other peril of the water in accordance with the following provisions:

(1) if such rescue or attempted rescue is made at the risk of one's own life and evidences extreme and heroic daring, the medal shall be of gold;

(2) if such rescue or attempted rescue is not sufficiently distinguished to deserve the medal of gold, but evidences the exercise of such signal exertion as to merit recognition, the medal shall be of silver.

(b) In order for a person to be eligible for the Life-saving Medals the rescue or attempted rescue must take place in waters within the United States or subject to the jurisdiction thereof, or if the rescue or attempted rescue takes place outside such waters, one or the other of the parties must be a citizen of the United States or from a vessel or aircraft owned or operated by citizens of the United States.

(c) No person shall receive more than one gold medal and one silver medal; but any person who has received or may hereafter receive a gold or silver medal and who again performs an act which would entitle him to receive another medal of the same class may be awarded, in lieu of a second medal of the same class, a gold or silver bar, as the case may be, to be worn with the medal already bestowed, and for every such additional act, an additional bar may

be awarded. Medals and bars in lieu thereof, authorized by this subsection, may be awarded posthumously.

§ [501.] 2745. Replacement of medals

In those cases where a medal, or a bar, emblem, or insignia in lieu thereof, awarded pursuant to this chapter has been stolen, lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was awarded, such medal, or bar, emblem, or insignia in lieu thereof, shall be replaced without charge, or, in the discretion of the Secretary, upon condition that the Government is reimbursed for the cost thereof.

§ [502.] 2746. Award of other medals

Coast Guard personnel, notwithstanding the provisions of this chapter, may be awarded medals, bars, emblems, or insignia to which such personnel may be entitled under other provisions of law.

§ [503.] 2747. Awards and insignia for excellence in service or conduct

The Coast Guard may award trophies, badges, and cash prizes to Coast Guard personnel or groups thereof, including personnel of the reserve components thereof whether or not on active duty, for excellence in accomplishments related to Coast Guard service, to incur such expenses as may be necessary to enter such personnel in competitions, and to provide badges or buttons in recognition of special service, good conduct, and discharge under conditions other than dishonorable.

§ [516.] 2748. Presentation of United States flag upon retirement

(a) PRESENTATION OF FLAG.—Upon the release of a member of the Coast Guard from active duty for retirement, the Secretary shall present a United States flag to the member.

(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.

SUBCHAPTER III—PAYMENTS

§ [509.] 2761. Persons discharged as result of court-martial; allowances to

The Secretary may furnish persons discharged pursuant to the sentence of a Coast Guard court-martial suitable civilian clothing and a monetary allowance not to exceed \$25 if the person discharged would not otherwise have suitable clothing or funds to meet immediate needs.

§ [510.] 2762. Shore patrol duty; payment of expenses

An officer or cadet of the Coast Guard who is assigned shore patrol duty away from his vessel or other duty station may be paid his actual expenses.

§ [511.] 2763. Compensatory absence from duty for military personnel at isolated duty stations

The Secretary may grant compensatory absence from duty to military personnel of the Coast Guard serving at isolated duty stations of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.

§ [512.] 2764. Monetary allowance for transportation of household effects

The transportation and reimbursement authorized by subsection (b) of section 476 of title 37 shall be available hereafter to pay a monetary allowance in place of such transportation to a member who, under regulations prescribed by the Secretary, participates in a program designated by the Secretary in which his baggage and household effects are moved by a privately owned or rental vehicle. This allowance shall not be limited to reimbursement for actual expenses and may be paid in advance of the transportation of the baggage and household effects. The allowance shall, however, be in an amount that will result in savings to the Government when the total cost of the movement of baggage and household effects is compared with the cost that otherwise would have been incurred under subsection (b) of section 476 of title 37.

§ [513.] 2765. Retroactive payment of pay and allowances delayed by administrative error or oversight

Under regulations prescribed by the Secretary, the Coast Guard may authorize retroactive payment of pay and allowances, including selective reenlistment bonuses, to enlisted members if entitlement to the pay and allowances was delayed in vesting solely because of an administrative error or oversight.

§ [517.] 2766. Travel card management

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

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

§ [518.] 2767. Reimbursement for medical-related travel expenses for certain persons residing on islands in the continental United States

In any case in which a covered beneficiary (as defined in section 1072(5) of title 10) resides on an island that is located in the 48 contiguous States and the District of Columbia and that lacks public access roads to the mainland and is referred by a primary care physician to a specialty care provider (as defined in section 1074i(b) of title 10) on the mainland who provides services less than 100 miles from the location where the beneficiary resides, the Secretary shall reimburse the reasonable travel expenses of the covered beneficiary and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary's family who is at least 21 years of age.

§ [519.] 2768. Annual audit of pay and allowances of members undergoing permanent change of station

The Commandant shall conduct each calendar year an audit of member pay and allowances for the members who transferred to new units during such calendar year. The audit for a calendar year shall be completed by the end of the calendar year.

§ [461.] 2769. Remission of indebtedness

The Secretary may have remitted or cancelled any part of a person's indebtedness to the United States or any instrumentality of the United States if—

- (1) the indebtedness was incurred while the person served as a member of the Coast Guard, whether as a regular or a reserve in active status; and
- (2) the Secretary determines that remitting or cancelling the indebtedness is in the best interest of the United States.

§ [470.] 2770. Special instruction at universities

Coast Guard personnel may be assigned for special instruction at private or state colleges or universities, and their expenses, including tuition, books, laboratory equipment and fees, and school supplies, may be defrayed by the Coast Guard.

§ [471.] 2771. Attendance at professional meetings

Coast Guard personnel may be directed to attend meetings of technical, professional, scientific, and other similar organizations and may be reimbursed for expenses thereby incurred at the rates authorized by law.

§ [472.] 2772. Education loan repayment program

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

- (A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);
- (B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or
- (C) any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

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

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

(b) The portion or amount of a loan that may be repaid under subsection (a) is 33 1/3 percent or \$1,500, whichever is greater, for each year of service.

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

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

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

§ [478.] 2773. Rations or commutation therefor in money

(a) Enlisted members of the Coast Guard, civilian officers and civilian crews of vessels, and working parties in the field shall be allowed a ration or commutation thereof in money, in such amount and under limitations and regulations prescribed by the Secretary.

(b) Money for commuted rations shall be paid, under such regulations as the Secretary shall prescribe, on proper vouchers, or pay rolls, to persons entitled to receive it, or to the officers designated by the Commandant to administer the financial affairs of the messes in which such persons may be subsisted.

(c) Money paid for commuted rations to the designated officer may be deposited in general or limited depositories of public money or in any bank in which deposits are insured. Such funds shall be expended and accounted for under such regulations as the Secretary shall prescribe.

(d) Nothing contained in this section shall be construed as modifying or changing in any manner the provisions of law pertaining to subsistence allowances for enlisted members, but no ration or commutation thereof shall be allowed a person receiving a subsistence allowance.

§ [479.] 2774. Sales of ration supplies to messes

Ration supplies may be purchased by the cabin, wardroom, warrant officers', and other authorized messes and payment therefor made in cash to the commissary officer. The prices to be charged for such supplies shall not be less than the invoice prices, and the cash received from such sales shall be accounted for on the ration return and may be expended for the general mess.

§ [480.] 2775. Flight rations

There may be furnished to officers, enlisted members, and civilian employees, while actually engaged in flight operations, an aircraft flight ration in kind, chargeable to the proper Coast Guard appropriation, which flight ration shall be supplementary to any ration or subsistence allowance now granted to such personnel. No part of an aircraft flight ration shall be furnished without cost to

any person in a travel status or to any person to whom a per diem allowance is granted in lieu of actual subsistence.

§ [481.] 2776. Payments at time of discharge for good of service

Enlisted members discharged by dishonorable discharge, bad-conduct discharge, or any other discharge for the good of the service, may, upon discharge, be paid a sum not to exceed \$25. The sum paid shall be fixed by and in the discretion of the Commandant, and shall be paid only in cases where the person so discharged would otherwise be without funds to meet his immediate needs.

§ [486.] 2777. Clothing for destitute shipwrecked persons

The Coast Guard may furnish clothing and subsistence to destitute shipwrecked persons, and the Coast Guard may reimburse, in cash or in kind, Coast Guard personnel who furnish clothing and subsistence to destitute shipwrecked persons.

§ [488.] 2778. Advancement of public funds to personnel

The Commandant, under regulations prescribed by the Secretary, may advance public funds to personnel when required to meet expenses of members detailed on emergency shore duty. Funds so advanced shall not exceed a reasonable estimate of the actual expenditures to be made and for which reimbursement is authorized by law.

§ [660.] 2779. Transportation to and from certain places of employment

(a) Whenever the Secretary determines that it is necessary for the effective conduct of the affairs of the Coast Guard, he may, at reasonable rates of fare fixed under regulations to be prescribed by him, provide assured and adequate transportation by motor vehicle or water carrier to and from their places of employment for persons attached to, or employed by, the Coast Guard; and during a war or during a national emergency declared by Congress or the President, for persons attached to, or employed in, a private plant that is manufacturing material for the Coast Guard.

(b) Transportation may not be provided under subsection (a) unless the Secretary or an officer designated by the Secretary, determines that—

(1) other transportation facilities are inadequate and cannot be made adequate;

(2) a reasonable effort has been made to induce operators of private facilities to provide the necessary transportation; and

(3) the service to be furnished will make proper use of transportation facilities and will supply the most efficient transportation to the persons concerned.

(c) To provide transportation under subsection (a), the Secretary may—

(1) buy, lease, or charter motor vehicles or water carriers having a seating capacity of 12 or more passengers;

(2) maintain and operate that equipment by enlisted members or employees of the Coast Guard, or by private persons under contract; and

(3) lease or charter the equipment to private or public carriers for operation under terms that are considered necessary by the Secretary or by an officer designated by the Secretary, and that may provide for the pooling of government-owned and privately owned equipment and facilities and for the reciprocal use of that equipment.

(d) Fares received under subsection (a), and proceeds of the leasing or chartering of equipment under subsection (c)(3), shall be covered into the Treasury as miscellaneous receipts.

CHAPTER 29 —[REPORTS] COAST GUARD FAMILY SUPPORT, CHILD CARE, AND HOUSING

- [**Sec.
2901. Transmission of annual Coast Guard authorization request.
2902. Capital investment plan.
2903. Major acquisitions.
2904. Manpower requirements plan.**]**

SUBCHAPTER I—COAST GUARD FAMILIES

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2921. *Definitions.*
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SUBCHAPTER I—COAST GUARD FAMILIES

§ [531.] 2901. Work-life policies and programs

The Commandant is authorized—

- (1) to establish an office for the purpose of developing, promulgating, and coordinating policies, programs, and activities related to the families of Coast Guard members;
- (2) to implement and oversee policies, programs, and activities described in paragraph (1) as the Commandant considers necessary; and
- (3) to perform such other duties as the Commandant considers necessary.

§ [532.] 2902. Surveys of Coast Guard families

(a) **AUTHORITY.**—The Commandant, in order to determine the effectiveness of Federal policies, programs, and activities related to the families of Coast Guard members, may survey—

- (1) any Coast Guard member;
- (2) any retired Coast Guard member;
- (3) the immediate family of any Coast Guard member or retired Coast Guard member; and
- (4) any survivor of a deceased Coast Guard member.

(b) VOLUNTARY PARTICIPATION.—Participation in any survey conducted under subsection (a) shall be voluntary.

(c) FEDERAL RECORDKEEPING.—Each person surveyed under subsection (a) shall be considered an employee of the United States for purposes of section 3502(3)(A)(i) of title 44.

§ [541.] 2903. Reimbursement for adoption expenses

(a) AUTHORIZATION TO REIMBURSE.—The Secretary shall carry out a program under which a member of the Coast Guard may be reimbursed, as provided in this section, for qualifying adoption expenses incurred by the member in the adoption of a child under 18 years of age.

(b) ADOPTIONS COVERED.—An adoption for which expenses may be reimbursed under this section includes an adoption by a single person, an infant adoption, an intercountry adoption, and an adoption of a child with special needs (as defined in section 473(c) of the Social Security Act (42 U.S.C. 673(c))).

(c) BENEFITS PAID AFTER ADOPTION IS FINAL.—Benefits paid under this section in the case of an adoption may be paid only after the adoption is final.

(d) TREATMENT OF OTHER BENEFITS.—A benefit may not be paid under this section for any expense paid to or for a member of the Coast Guard under any other adoption benefits program administered by the Federal Government or under any such program administered by a State or local government.

(e) LIMITATIONS.—(1) Not more than \$2,000 may be paid under this section to a member of the Coast Guard, or to two such members who are spouses of each other, for expenses incurred in the adoption of a child.

(2) Not more than \$5,000 may be paid under this section to a member of the Coast Guard, or to two such members who are spouses of each other, for adoptions by such member (or members) in any calendar year.

(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

(g) DEFINITIONS.—In this section:

(1) The term “qualifying adoption expenses” means reasonable and necessary expenses that are directly related to the legal adoption of a child under 18 years of age, but only if such adoption is arranged by a qualified adoption agency. Such term does not include any expense incurred—

(A) by an adopting parent for travel; or

(B) in connection with an adoption arranged in violation of Federal, State, or local law.

(2) The term “reasonable and necessary expenses” includes—

(A) public and private agency fees, including adoption fees charged by an agency in a foreign country;

(B) placement fees, including fees charged adoptive parents for counseling;

(C) legal fees (including court costs) in connection with services that are unavailable to a member of the Coast Guard under section 1044 or 1044a of title 10; and

(D) medical expenses, including hospital expenses of the biological mother of the child to be adopted and of a newborn infant to be adopted.

(3) The term “qualified adoption agency” means any of the following:

(A) A State or local government agency which has responsibility under State or local law for child placement through adoption.

(B) A nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption.

(C) Any other source authorized by a State to provide adoption placement if the adoption is supervised by a court under State or local law.

§ [542.] 2904. Education and training opportunities for Coast Guard spouses

(a) TUITION ASSISTANCE.—The Commandant may provide, subject to the availability of appropriations, tuition assistance to an eligible spouse to facilitate the acquisition of—

(1) education and training required for a degree or credential at an accredited college, university, or technical school in the United States that expands employment and portable career opportunities for the spouse; or

(2) education prerequisites and a professional license or credential required, by a government or government-sanctioned licensing body, for an occupation that expands employment and portable career opportunities for the spouse.

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

(1) ELIGIBLE SPOUSE.—

(A) IN GENERAL.—The term “eligible spouse” means the spouse of a member of the Coast Guard who is serving on active duty and includes a spouse who receives transitional compensation under section 1059 of title 10.

(B) EXCLUSION.—The term “eligible spouse” does not include a person who—

(i) is married to, but legally separated from, a member of the Coast Guard under a court order or statute of any State or territorial possession of the United States; or

(ii) is eligible for tuition assistance as a member of the Armed Forces.

(2) PORTABLE CAREER.—The term “portable career” includes an occupation that requires education, training, or both that results in a credential that is recognized by an industry, profession, or specific type of business.

§ [543.] 2905. Youth sponsorship initiatives

(a) IN GENERAL.—The Commandant is authorized to establish, within any Coast Guard unit, an initiative to help integrate into new surroundings the dependent children of members of the Coast Guard who received permanent change of station orders.

(b) DESCRIPTION OF INITIATIVE.—An initiative established under subsection (a) shall—

(1) provide for the involvement of a dependent child of a member of the Coast Guard in the dependent child's new Coast Guard community; and

(2) primarily focus on preteen and teenaged children.

(c) AUTHORITY.—In carrying out an initiative under subsection (a), the Commandant may—

(1) provide to a dependent child of a member of the Coast Guard information on youth programs and activities available in the dependent child's new Coast Guard community; and

(2) enter into agreements with nonprofit entities to provide youth programs and activities to such child.

§ [544.] 2906. Dependent school children

(a) The Secretary may provide, out of funds appropriated to or for the use of the Coast Guard, for the primary and secondary schooling of dependents of Coast Guard personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of those dependents.

(b) Whenever the Secretary, under such regulations as he may prescribe, determines that schools located in the same area in which a Coast Guard facility is located are not accessible by public means of transportation on a regular basis, he may provide, out of funds appropriated to or for the use of the Coast Guard, for the transportation of dependents of Coast Guard personnel between the schools serving the area and the Coast Guard facility.

SUBCHAPTER II—COAST GUARD CHILD CARE

§ [551.] 2921. Definitions

In this subchapter, the following definitions apply:

(1) CHILD ABUSE AND NEGLECT.—The term “child abuse and neglect” has the meaning given that term in section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note).

(2) CHILD DEVELOPMENT CENTER EMPLOYEE.—The term “child development center employee” means a civilian employee of the Coast Guard who is employed to work in a Coast Guard child development center without regard to whether the employee is paid from appropriated or nonappropriated funds.

(3) COAST GUARD CHILD DEVELOPMENT CENTER.—The term “Coast Guard child development center” means a facility on Coast Guard property or on property under the jurisdiction of the commander of a Coast Guard unit at which child care services are provided for members of the Coast Guard.

(4) COMPETITIVE SERVICE POSITION.—The term “competitive service position” means a position in the competitive service (as defined in section 2102 of title 5).

(5) FAMILY HOME DAYCARE.—The term “family home daycare” means home-based child care services provided for a member of the Coast Guard by an individual who—

(A) is certified by the Commandant as qualified to provide home-based child care services; and

(B) provides home-based child care services on a regular basis in exchange for monetary compensation.

§ [552.] 2922. Child development services

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

(b)(1) The Commandant is authorized to use appropriated funds available to the Coast Guard to provide child development services.

(2)(A) The Commandant is authorized to establish, by regulations, fees to be charged parents for the attendance of children at Coast Guard child development centers.

(B) Fees to be charged, pursuant to subparagraph (A), shall be based on family income and whether a family is participating in an initiative established under section 555(b), except that the Commandant may, on a case-by-case basis, establish fees at lower rates if such rates would not be competitive with rates at local child development centers.

(C) The Commandant is authorized to collect and expend fees, established pursuant to this subparagraph, and such fees shall, without further appropriation, remain available until expended for the purpose of providing services, including the compensation of employees and the purchase of consumable and disposable items, at Coast Guard child development centers.

(3) The Commandant is authorized to use appropriated funds available to the Coast Guard to provide assistance to family home daycare providers so that family home daycare services can be provided to uniformed service members and civilian employees of the Coast Guard at a cost comparable to the cost of services provided by Coast Guard child development centers.

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

§ [553.] 2923. Child development center standards and inspections

(a) STANDARDS.—The Commandant shall require each Coast Guard child development center to meet standards that the Commandant considers appropriate to ensure the health, safety, and welfare of the children and employees at the center.

(b) INSPECTIONS.—The Commandant shall provide for regular and unannounced inspections of each Coast Guard child development center to ensure compliance with this section.

(c) NATIONAL REPORTING.—

(1) IN GENERAL.—The Commandant shall maintain and publicize a means by which an individual can report, with respect

to a Coast Guard child development center or a family home daycare—

- (A) any suspected violation of—
 - (i) standards established under subsection (a); or
 - (ii) any other applicable law or standard;
 - (B) suspected child abuse or neglect; or
 - (C) any other deficiency.
- (2) ANONYMOUS REPORTING.—The Commandant shall ensure that an individual making a report pursuant to paragraph (1) may do so anonymously if so desired by the individual.
- (3) PROCEDURES.—The Commandant shall establish procedures for investigating reports made pursuant to paragraph (1).

§ [554.] 2924. Child development center employees

(a) TRAINING.—

(1) IN GENERAL.—The Commandant shall establish a training program for Coast Guard child development center employees and satisfactory completion of the training program shall be a condition of employment for each employee of a Coast Guard child development center.

(2) TIMING FOR NEW HIRES.—The Commandant shall require each employee of a Coast Guard child development center to complete the training program established under paragraph (1) not later than 6 months after the date on which the employee is hired.

(3) MINIMUM REQUIREMENTS.—The training program established under paragraph (1) shall include, at a minimum, instruction with respect to—

- (A) early childhood development;
- (B) activities and disciplinary techniques appropriate to children of different ages;
- (C) child abuse and neglect prevention and detection; and
- (D) cardiopulmonary resuscitation and other emergency medical procedures.

(4) USE OF DEPARTMENT OF DEFENSE PROGRAMS.—The Commandant may use Department of Defense training programs, on a reimbursable or nonreimbursable basis, for purposes of this subsection.

(b) TRAINING AND CURRICULUM SPECIALISTS.—

(1) SPECIALIST REQUIRED.—The Commandant shall require that at least 1 employee at each Coast Guard child development center be a specialist in training and curriculum development with appropriate credentials and experience.

(2) DUTIES.—The duties of the specialist described in paragraph (1) shall include—

- (A) special teaching activities;
- (B) daily oversight and instruction of other child care employees;
- (C) daily assistance in the preparation of lesson plans;
- (D) assisting with child abuse and neglect prevention and detection; and
- (E) advising the director of the center on the performance of the other child care employees.

(3) **COMPETITIVE SERVICE.**—Each specialist described in paragraph (1) shall be an employee in a competitive service position.

§ [555.] 2925. Parent partnerships with child development centers

(a) **PARENT BOARDS.**—

(1) **FORMATION.**—The Commandant shall require that there be formed at each Coast Guard child development center a board of parents, to be composed of parents of children attending the center.

(2) **FUNCTIONS.**—Each board of parents formed under paragraph (1) shall—

(A) meet periodically with the staff of the center at which the board is formed and the commander of the unit served by the center, for the purpose of discussing problems and concerns; and

(B) be responsible, together with the staff of the center, for coordinating any parent participation initiative established under subsection (b).

(3) **FACA.**—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to a board of parents formed under paragraph (1).

(b) **PARENT PARTICIPATION INITIATIVE.**—The Commandant is authorized to establish a parent participation initiative at each Coast Guard child development center to encourage and facilitate parent participation in educational and related activities at the center.

SUBCHAPTER III—HOUSING

§ [680.] 2941. Definitions

In this chapter:

(1) The term “construct” means to build, renovate, or improve military family housing and military unaccompanied housing.

(2) The term “construction” means building, renovating, or improving military family housing and military unaccompanied housing.

(3) The term “military unaccompanied housing” means military housing intended to be occupied by members of the armed forces serving a tour of duty unaccompanied by dependents.

(4) The term “United States” includes the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, and the District of Columbia.

§ [681.] 2942. General authority

(a) **AUTHORITY.**—In addition to any other authority providing for the acquisition or construction of military family housing or military unaccompanied housing, the Secretary may acquire or construct the following:

(1) Military family housing on or near Coast Guard installations within the United States and its territories and possessions.

(2) Military unaccompanied housing on or near such Coast Guard installations.

(b) **LIMITATION ON APPROPRIATIONS.**—No appropriation shall be made to acquire or construct military family housing or military unaccompanied housing under this chapter if that acquisition or construction has not been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

§ [475.] 2943. Leasing and hiring of quarters; rental of inadequate housing

(a) The Secretary is authorized to lease housing facilities at or near Coast Guard installations, wherever located, for assignment as public quarters to military personnel and their dependents, if any, without rental charge upon a determination by the Secretary, or his designee, that there is a lack of adequate housing facilities at or near such Coast Guard installations. The Secretary is also authorized to lease housing facilities for assignment as public quarters, without rental charge, to military personnel who are on sea duty or duty at remote offshore Coast Guard stations and who do not have dependents. Such authority shall be effective in any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. When any such lease involves housing facilities in a foreign country, the lease may be made on a multiyear basis for a period not to exceed five years, and, in accordance with local custom and practice, advance payment may be made for the lease. Such public housing facilities may be leased on an individual or multiple-unit basis. Expenditures for the rental of such housing facilities may not exceed the average authorized for the Department of Defense in any year except where the Secretary finds that the average is so low as to prevent rental of necessary housing facilities in some areas, in which event he is authorized to reallocate existing funds to high-cost areas so that rental expenditures in such areas exceed the average authorized for the Department of Defense.

(b) The Secretary is authorized, subject to regulations approved by the President—

(1) to designate as rental housing such housing as he may determine to be inadequate as public quarters; and

(2) to lease inadequate housing to members of the Coast Guard for occupancy by them and their dependents.

(c) Where sufficient quarters are not possessed by the United States, the Commandant may hire quarters for personnel, including personnel on sea duty at such times as they may be deprived of their quarters on board ship due to repairs or other conditions which may render them uninhabitable. Such accommodations shall not be available for occupancy by the dependents of such personnel.

§ [680.] 2944. Retired service members and dependents serving on advisory committees

A committee that—

(1) advises or assists the Coast Guard with respect to a function that affects a member of the Coast Guard or a dependent of such a member; and

(2) includes in its membership a retired Coast Guard member or a dependent of such a retired member;

shall not be considered an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.) solely because of such membership.

§ [685.] 2945. Conveyance of real property

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law, the Secretary may convey, at fair market value, real property, owned or under the administrative control of the Coast Guard, for the purpose of expending the proceeds from such conveyance to acquire and construct military family housing and military unaccompanied housing.

(b) TERMS AND CONDITIONS.—

(1) The conveyance of real property under this section shall be by sale, for cash. The Secretary shall deposit the proceeds from the sale in the Coast Guard Housing Fund established under section 687 of this title, for the purpose of expending such proceeds to acquire and construct military family housing and military unaccompanied housing.

(2) The conveyance of real property under this section shall not diminish the mission capacity of the Coast Guard, but further the mission support capability of the Coast Guard with regard to military family housing or military unaccompanied housing.

(c) RELATIONSHIP TO ENVIRONMENTAL LAW.—This section does not affect or limit the application of or obligation to comply with any environmental law, including section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

§ [687.] 2946. Coast Guard Housing Fund

(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the Coast Guard Housing Fund (in this section referred to as the “Fund”).

(b) CREDITS TO FUND.—There shall be credited to the Fund the following:

(1) Amounts authorized for and appropriated to that Fund.

(2) Subject to subsection (e), any amounts that the Secretary transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Homeland Security or Coast Guard for the acquisition or construction of military family housing or military unaccompanied housing.

(3) Proceeds from the conveyance of property under section 685 of this title for the purpose of carrying out activities under this chapter with respect to military family housing and military unaccompanied housing.

(4) Monies received under section 93(a)(13).

(5) Amounts received under section 672a(b).

(c) USE OF AMOUNTS IN FUND.—(1) In such amounts as provided in appropriations Acts, and except as provided in subsection (d), the Secretary may use amounts in the Coast Guard Housing Fund to carry out activities under this chapter with respect to military family housing and military unaccompanied housing, including—

(A) the planning, execution, and administration of the conveyance of real property;

- (B) all necessary expenses, including expenses for environmental compliance and restoration, to prepare real property for conveyance; and
- (C) the conveyance of real property.
- (2) Amounts made available under this subsection shall remain available until expended.
- (d) **LIMITATION ON OBLIGATIONS.**—The Secretary may not incur an obligation under a contract or other agreements entered into under this chapter in excess of the unobligated balance, at the time the contract is entered into, of the Fund required to be used to satisfy the obligation.
- (e) **NOTIFICATION REQUIRED FOR TRANSFERS.**—A transfer of appropriated amounts to the Fund under subsection (b)(2) of this section may be made only after the end of a 30-day period beginning on the date the Secretary submits written notice of, and justification for, the transfer to the appropriate committees of Congress.

§ [688.] 2947. Reports

The Secretary shall prepare and submit to Congress, concurrent with the budget submitted pursuant to section 1105 of title 31, a report identifying the contracts or agreements for the conveyance of properties pursuant to this chapter executed during the prior calendar year.

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CHAPTER 37—COAST GUARD RESERVE

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- 3705. *Benefits.*
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SUBCHAPTER I—ADMINISTRATION

§ [701.] 3701. Organization

The Coast Guard Reserve is a component of the Coast Guard. It shall be organized, administered, trained, and supplied under the direction of the Commandant.

§ [702.] 3702. Authorized strength

(a) The President shall prescribe the authorized strength of the Coast Guard Reserve if not otherwise prescribed by law.

(b) Subject to the authorized strength of the Coast Guard Reserve, the Secretary shall determine, at least annually, the authorized strength in numbers in each grade necessary to provide for mobilization requirements. Without the consent of the member concerned, a member of the Reserve may not be reduced in grade because of the Secretary's determination.

§ [703.] 3703. Coast Guard Reserve Boards

(a) The Secretary shall convene a Coast Guard Reserve Policy Board at least annually to consider, recommend, and report to the Secretary on Reserve policy matters. At least one-half of the members of the Board shall be Reserve officers.

(b) The Secretary may convene any other Reserve Board the Secretary considers necessary.

§ [704.] 3704. Grades and ratings; military authority

The grades and ratings in the Reserve, including cadets but not grades above rear admiral, are those prescribed by law or regulation for the Coast Guard. A member of the Reserve on active duty or inactive-duty training has the same authority, rights, and privileges in the performance of that duty as a member of the Regular Coast Guard of corresponding grade or rating.

§ [705.] 3705. Benefits

(a) A member of the Reserve on active duty, on inactive-duty training, or engaged in authorized travel to or from that duty, is

entitled to the same benefits as a member of the Navy Reserve of corresponding grade, rating, and length of service. In determining length of service for the purpose of this section, there shall be included all service for which credit is given by law to members of the Regular Coast Guard.

(b) Chapter **[13]** 27 of this title applies to a member of the Reserve under the same conditions and limitations as it applies to a member of the Regular Coast Guard.

(c) A member of the Reserve who suffers sickness, disease, disability, or death is entitled to the same benefits as prescribed by law for a member of the Navy Reserve who suffers sickness, disease, disability, or death under similar conditions.

(d) A member of the Reserve on active duty or when retired for disability is entitled to the benefits of section 253(a) of title 42. A member of the Reserve when on active duty (other than for training) or when retired for disability is entitled to the benefits of chapter 55 of title 10.

(e) A member of the Reserve, except an enlisted member retiring on the basis of years of active service, is entitled to the same retirement rights, benefits, and privileges as prescribed by law for a member of the Navy Reserve, and wherever a law confers authority upon the Secretary of the Navy, similar authority is given to the Secretary to be exercised with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy. An enlisted member of the Reserve who retires on the basis of years of active service is entitled to the same retirement rights, benefits, and privileges as prescribed by law for an enlisted member of the Regular Coast Guard.

(f) A member of the Coast Guard Reserve not on active duty who is enrolled in an officer candidate program authorized by section 12209 of title 10 leading to a commission in the Coast Guard Reserve, and is a full-time student in an accredited college curriculum leading to a bachelor's degree may be paid a subsistence allowance for each month of the member's academic year at the same rate as that prescribed by section 209(a) of title 37.

§ [706.] 3706. Temporary members of the Reserve; eligibility and compensation

A citizen of the United States, its territories, or possessions who is a member of the Auxiliary, an officer or member of the crew of a motorboat or yacht placed at the disposal of the Coast Guard, or a person (including a Government employee without pay other than the compensation of that person's civilian position) who by reason of special training and experience is considered by the Commandant to be qualified for duty, may be enrolled by the Commandant as a temporary member of the Reserve, for duty under conditions the Commandant may prescribe, including part-time and intermittent active duty with or without pay, without regard to age. The Commandant is authorized to define the powers and duties of temporary members of the Reserve, and to confer upon them, appropriate to their qualifications and experience, the same grades and ratings as provided for members of the Reserve. When performing active duty with pay as authorized by this section, temporary members of the Reserve are entitled to receive the pay and allowances of their rank, grade, or rating.

§ [707.] 3707. Temporary members of the Reserve; disability or death benefits

(a) If a temporary member of the Reserve is physically injured, or dies as a result of physical injury, and the injury is incurred incident to service while performing active duty, or engaged in authorized travel to or from that duty, the law authorizing compensation for employees of the United States suffering injuries while in the performance of their duties, applies, subject to this section. That law shall be administered by the Secretary of Labor to the same extent as if the member was a civil employee of the United States and was injured in the performance of that duty. For benefit computation, regardless of pay or pay status, the member is considered to have had monthly pay of the monthly equivalent of the minimum rate of basic pay in effect for grade GS-9 of the General Schedule on the date the injury is incurred.

(b) This section does not apply if the workmen's compensation law of a State, a territory, or another jurisdiction provides coverage because of a concurrent employment status of the temporary member. When the temporary member or a dependent is entitled to a benefit under this section and also to a concurrent benefit from the United States on account of the same disability or death, the temporary member or dependent, as appropriate, shall elect which benefit to receive.

(c) If a claim is filed under this section with the Secretary of Labor for benefits because of an alleged injury or death, the Secretary of Labor shall notify the Commandant who shall direct an investigation into the facts surrounding the alleged injury or death. The Commandant shall then certify to the Secretary of Labor whether or not the injured or deceased person was a temporary member of the Reserve, the person's military status, and whether or not the injury or death was incurred incident to military service.

(d) A temporary member of the Reserve, who incurs a physical disability or contracts sickness or disease while performing a duty to which the member has been assigned by competent authority, is entitled to the same hospital treatment afforded a member of the Regular Coast Guard.

(e) In administering section 8133 of title 5, for a person covered by this section—

(1) the percentages applicable to payments under that section are—

(A) 45 percent under subsection (a)(2) of that section, where the member died fully or currently insured under title II of the Social Security Act (42 U.S.C. 401 et seq.), with no additional payments for a child or children so long as the widow or widower remains eligible for payments under that subsection;

(B) 20 percent under subsection (a)(3) of that section, for one child, and 10 percent additional for each additional child, not to exceed a total of 75 percent, where the member died fully or currently insured under title II of the Social Security Act; and

(C) 25 percent under subsection (a)(4) of that section, if one parent was wholly dependent for support upon the deceased member at the time of the member's death and the other was not dependent to any extent; 16 percent to each

if both were wholly dependent; and if one was, or both were, partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

(2) payments may not be made under subsection (a)(5) of that section; and

(3) the Secretary of Labor shall inform the Commissioner of Social Security whenever a claim is filed and eligibility for compensation is established under subsection (a)(2) or (a)(3) of section 8133 of title 5. The Commissioner of Social Security shall then certify to the Secretary of Labor whether or not the member concerned was fully or currently insured under title II of the Social Security Act at the time of the member's death.

§ [708.] 3708. Temporary members of the Reserve; certificate of honorable service

In recognition of the service of temporary members of the Reserve, the Secretary may upon request issue an appropriate certificate of honorable service in lieu of a certificate of disenrollment issued to any person following disenrollment under honorable conditions from service as a temporary member. Issuance of a certificate of honorable service to any person under this section does not entitle that person to any rights, privileges, or benefits under any law of the United States.

§ [709.] 3709. Reserve student aviation pilots; Reserve aviation pilots; appointments in commissioned grade

(a) Under regulations prescribed by the Secretary an enlisted member of the Reserve may be designated as a student aviation pilot.

(b) A member who is not a qualified aviator may not be designated as a student aviation pilot unless the member agrees in writing to serve on active duty for a period of two years after successful completion of flight training, unless sooner released. A student aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

(c) A student aviation pilot who is a qualified civilian aviator may be given a brief refresher course in flight training.

(d) A student aviation pilot undergoing flight training is entitled to have uniforms and equipment provided at Government expense.

(e) Under regulations prescribed by the Secretary, a student aviation pilot may be designated an aviation pilot upon the successful completion of flight training.

(f) In time of peace, an aviation pilot obligated under subsection (b) to serve on active duty for two years may serve for an additional period of not more than two years.

(g) An aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

(h) If qualified under regulations prescribed by the Secretary, an aviation pilot may be appointed as an ensign in the Reserve.

§ [709a.] 3710. Reserve student pre-commissioning assistance program

(a) The Secretary may provide financial assistance to an eligible enlisted member of the Coast Guard Reserve, not on active duty, for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

- (1) a baccalaureate degree in not more than 5 academic years; or
- (2) a post-baccalaureate degree.

(b)(1) To be eligible for financial assistance under this section, an enlisted member of the Coast Guard Reserve shall—

(A) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

(B) enter into a written agreement with the Coast Guard described in paragraph (2).

(2) A written agreement referred to in paragraph (1)(B) is an agreement between the member and the Secretary in which the member agrees—

(A) to accept an appointment as a commissioned officer in the Coast Guard Reserve, if tendered;

(B) to serve on active duty for up to five years; and

(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Coast Guard Reserve until the eighth anniversary of the date of the appointment.

(c) Expenses for which financial assistance may be provided under this section are the following:

(1) Tuition and fees charged by the institution of higher education involved.

(2) The cost of books.

(3) In the case of a program of education leading to a baccalaureate degree, laboratory expenses.

(4) Such other expenses as are deemed appropriate by the Secretary.

(d) The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed \$25,000 for any academic year.

(e) Financial assistance may be provided to a member under this section for up to 5 consecutive academic years.

(f) A member who receives financial assistance under this section may be ordered to active duty in the Coast Guard Reserve by the Secretary to serve in a designated enlisted grade for such period as the Secretary prescribes, but not more than 4 years, if the member—

(1) completes the academic requirements of the program and refuses to accept an appointment as a commissioned officer in the Coast Guard Reserve when offered;

(2) fails to complete the academic requirements of the institution of higher education involved; or

(3) fails to maintain eligibility for an original appointment as a commissioned officer.

(g)(1) If a member requests to be released from the program and the request is accepted by the Secretary, or if the member fails be-

cause of misconduct to complete the period of active duty specified, or if the member fails to fulfill any term or condition of the written agreement required to be eligible for financial assistance under this section, the financial assistance shall be terminated. The Secretary may request the member to reimburse the United States in an amount that bears the same ratio to the total costs of the education provided to that member as the unserved portion of active duty bears to the total period of active duty the member agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty. An obligation to reimburse the United States imposed under this paragraph is a debt owed to the United States.

(2) The Secretary may waive the service obligated under subsection (f) of a member who becomes unqualified to serve on active duty due to a circumstance not within the control of that member or who is not physically qualified for appointment and who is determined to be unqualified for service as an enlisted member of the Coast Guard Reserve due to a physical or medical condition that was not the result of the member's own misconduct or grossly negligent conduct.

(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (b) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

(h) As used in this section, the term "institution of higher education" has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

§ [710.] 3711. Appointment or wartime promotion; retention of grade upon release from active duty

(a) A member of the Reserve on active duty, who is appointed or promoted under section 214 or 275 of this title, is entitled upon release from that duty to the highest grade satisfactorily held by reason of that appointment or promotion. The Secretary shall determine the highest grade satisfactorily held.

(b) Unless otherwise entitled to a higher grade, a member recalled to active duty shall be recalled in the grade in which released under subsection (a).

§ [711.] 3712. Exclusiveness of service

No member of the Reserve, other than a temporary member, may be a member of another military organization. A temporary member of the Reserve who is a member of another military component shall, if ordered to active duty therein, be disenrolled as a temporary member of the Reserve.

§ [712.] 3713. Active duty for emergency augmentation of regular forces

(a) Notwithstanding another law, and for the emergency augmentation of the Regular Coast Guard forces during a, or to aid in prevention of an imminent, serious natural or manmade disaster, accident, catastrophe, act of terrorism (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)), or transportation security incident as defined in section 70101 of title 46, the

Secretary may, without the consent of the member affected, order to active duty of not more than 120 days in any 2-year period an organized training unit of the Coast Guard Ready Reserve, a member thereof, or a member not assigned to a unit organized to serve as a unit.

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

(c) Active duty served under this section—

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

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

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

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

(e) For purposes of calculating the duration of active duty allowed pursuant to subsection (a), each period of active duty shall begin on the first day that a member reports to active duty, including for purposes of training.

§ [713.] 3714. Enlistment of members engaged in schooling

The initial period of active duty for training required by section 12103(d) of title 10, may be divided into two successive annual periods of not less than six weeks each, to permit the enlistment of a Reserve member without interrupting any full-time schooling in which the member is engaged.

SUBCHAPTER II—PERSONNEL

§ [720.] 3731. Definitions

As used in this subchapter—

(1) “Reserve officer” means a commissioned officer in the Reserve, except an officer excluded by section 721 of this title or a commissioned warrant officer; and

(2) “discharged” means released from an appointment as a Reserve officer.

§ [721.] 3732. Applicability of this subchapter

This subchapter applies only to the Reserve; except that it does not apply to a temporary member of the Reserve.

§ [722.] 3733. Suspension of this subchapter in time of war or national emergency

In time of war or national emergency declared by Congress, the President may suspend the operation of this subchapter or any part hereof. If this subchapter or any part hereof is suspended by the President, prior to placing the suspended provision in operation, the President shall by regulation, in so far as practicable, adjust the grades of Reserve officers in the same manner as adjustments in grade are made for Regular officers.

§ [723.] 3734. Effect of this subchapter on retirement and retired pay

Except as provided in subsection 746(b) of this title, nothing in this subchapter authorizes the retirement of a Reserve officer or the payment of retired, retainer, or severance pay to a Reserve officer; or affects in any manner the law relating to the retirement of, or the granting of retired or retainer pay or other benefits to a Reserve officer.

§ [724.] 3735. Authorized number of officers

(a) The authorized number of officers in the Reserve in an active status is 5,000. Reserve officers on an active-duty list shall not be counted as part of the authorized number of officers in the Reserve. The actual number of Reserve officers in an active status at any time shall not exceed the authorized number unless the Secretary determines that a greater number is necessary for planned mobilization requirements, or unless the excess results directly from the operation of law.

(b)(1) The Secretary shall make, at least once each year, a computation to determine the number of Reserve officers in an active status authorized to be serving in each grade. The number in each grade shall be computed by applying the applicable percentage to the total number of such officers serving in an active status on the date the computation is made. The number of Reserve officers in an active status below the grade of rear admiral (lower half) shall be distributed by pay grade so as not to exceed percentages of commissioned officers authorized by section 42(b) of this title. When the actual number of Reserve officers in an active status in a particular pay grade is less than the maximum percentage authorized, the difference may be applied to the number in the next lower grade. A Reserve officer may not be reduced in rank or grade solely because of a reduction in an authorized number as provided for in this subsection, or because an excess results directly from the operation of law.

(2) The authorized number of Reserve Officers in an active status not on active duty in the grades of rear admiral (lower half) and rear admiral is a total of two. However, the Secretary of the department in which the Coast Guard is operating may authorize an additional number of Reserve officers not on active duty in the grades of rear admiral (lower half) and rear admiral as necessary in order to meet planned mobilization requirements.

(c) DEFERRAL OF LIMITATION.—If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limita-

tion with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard Reserve, for a period not to exceed 6 months after the end of the war or termination of the national emergency.

§ [725.] 3736. Precedence

(a) Reserve officers rank and take precedence in their respective grades among themselves and with officers of the same grade on the active duty promotion list and the permanent commissioned teaching staff in accordance with their dates of rank. When Reserve officers and officers on the active duty promotion list or the permanent commissioned teaching staff have the same date of rank in a grade, they take precedence as determined by the Secretary.

(b) Notwithstanding any other law, a Reserve officer shall not lose precedence when transferred to or from the active duty promotion list, nor shall that officer's date of rank be changed due to the transfer.

(c) A Reserve officer shall, when on the active duty promotion list, be promoted in the same manner as any other officer on the active duty promotion list regardless of the length of active duty service of the Reserve officer.

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

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

§ [726.] 3737. Running mates

(a) The Secretary shall assign a running mate to each Reserve officer in an active status not on the active duty promotion list. The officer initially assigned as a running mate under this section shall be that officer on the active duty promotion list of the same grade who is next senior in precedence to the Reserve officer concerned. An officer who has twice failed of selection or who has been considered but has not been recommended for continuation under section 289 of this title shall not be assigned as a running mate under this section.

(b) A Reserve officer in an active status not on the active duty promotion list shall be assigned a new running mate as follows:

(1) If a previously assigned running mate is promoted from below the promotion zone, is removed from the active duty promotion list, suffers a loss of numbers, fails of selection, fails to qualify for promotion, or declines an appointment after being selected for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is next senior to the previous running mate and who is, or may become, eligible for consideration for promotion. If the previous running mate was on a list of selectees for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is on a list of selectees for promotion and who is next senior to the previous running mate.

(2) If a Reserve officer suffers a loss of numbers, the new running mate shall be that officer on the active duty promotion list who, after the loss of numbers has been effected, is the

running mate of the Reserve officer next senior to the Reserve officer concerned.

(3) If a Reserve officer is considered for promotion and fails of selection, fails to qualify for promotion, declines an appointment after being selected for promotion, or has his or her name removed from a list of selectees for promotion, and that officer's running mate is promoted, the new running mate shall be that officer on the active duty promotion list, of the same grade, who, at the time the previous running mate was considered for promotion, was next senior to the previous running mate, was eligible for consideration for promotion, and whose name was not included on a list of selectees for promotion.

(4) In a situation not expressly covered by this subsection, the Secretary may assign a new running mate as necessary to effect the intent of this section that inequitable changes of precedence do not occur.

(c) A Reserve officer on the active duty promotion list shall, to the extent practicable and consistent with the limitations imposed by this section, be assigned as the running mate of all Reserve officers junior to the officer, who are in an active status not on the active duty promotion list, and who had a running mate in common with the officer just prior to the time the officer was placed on the active duty promotion list.

(d) The Secretary may adjust, as necessary, the date of rank of a Reserve officer not on active duty so that the date will correspond with that of the running mate assigned to the officer in accordance with this section. If an overpayment of pay or allowances results from adjusting the date of rank, the overpayment is not subject to recoupment.

§ [727.] 3738. Constructive credit upon initial appointment

Under regulations prescribed by the Secretary, a person, appointed as a Reserve officer, may be assigned a date of rank and precedence which reflects that person's experience, education, or other qualifications. For the purpose of this subchapter only, a person appointed for the purpose of assignment or designation as a judge advocate in the Reserve shall be credited with a minimum of one year service in an active status. A person holding a doctor of philosophy, or a comparable degree, in medicine or in a science allied to medicine as determined by the Secretary, may be credited with a minimum of three years service in an active status if appointed for an assignment comparable to that of an officer in the Navy Medical Department.

§ [728.] 3739. Promotion of Reserve officers on active duty

(a) A Reserve officer on active duty, other than for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status, shall not be eligible for consideration for promotion under this subchapter; but shall be considered for promotion under chapter [11] 21 of this title. If promoted while serving on active duty the officer shall be considered as having been promoted under this subchapter and shall be an extra number in the grade to which promoted for the purpose of grade distribution as prescribed in this subchapter. Upon release

from active duty the officer shall be included in the grade distribution authorized by this subchapter.

(b) Notwithstanding subsection (a) of this section, a Reserve officer who has been selected for promotion to the next higher grade under this subchapter at the time the officer reports for active duty, shall be promoted to that grade under chapter **[11] 21** of this title.

(c) A Reserve officer who, at the time the officer is released from active duty, has been selected for promotion to the next higher grade under chapter **[11] 21** of this title, shall be promoted to that grade as though selected under this subchapter.

(d) A failure of selection for promotion to the next higher grade occurring under this subchapter or under chapter **[11] 21** of this title shall count for all purposes.

§ [729.] 3740. Promotion; recommendations of selection boards

(a) Except as otherwise provided by law, a Reserve officer shall only be promoted pursuant to the recommendation of a selection board.

(b) The Secretary shall convene selection boards from time to time to recommend Reserve officers for promotion to the next higher grade. A board may be convened to consider officers in one or more grades.

(c) A selection board shall, from among the names of those eligible Reserve officers submitted to it, recommend for promotion to the next higher grade:

(1) those officers serving in the grade of lieutenant (junior grade) or above whom it considers to be best qualified; and

(2) those officers serving in the grade of ensign whom it considers to be fully qualified.

(d)(1) Before convening a selection board to recommend Reserve officers for promotion, the Secretary shall establish a promotion zone for officers serving in each grade to be considered by the board. The Secretary shall determine the number of officers in the promotion zone for officers serving in any grade from among officers who are eligible for promotion in that grade.

(2)(A) Before convening a selection board to recommend Reserve officers for promotion to a grade (other than the grade of lieutenant (junior grade)), the Secretary shall determine the maximum number of officers in that grade that the board may recommend for promotion.

(B) The Secretary shall make the determination under subparagraph (A) of the maximum number that may be recommended with a view to having in an active status a sufficient number of Reserve officers in each grade to meet the needs of the Coast Guard for Reserve officers in an active status.

(C) In order to make the determination under subparagraph (B), the Secretary shall determine the following:

(i) The number of positions needed to accomplish mission objectives that require officers in the grade to which the board will recommend officers for promotion.

(ii) The estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted.

(iii) The number of officers authorized by the Secretary to serve in an active status in the grade under consideration.

(iv) Any statutory limitation on the number of officers in any grade authorized to be in an active status.

(3)(A) The Secretary may, when the needs of the Coast Guard require, authorize the consideration of officers in a grade above lieutenant (junior grade) for promotion to the next higher grade from below the promotion zone.

(B) When selection from below the promotion zone is authorized, the Secretary shall establish the number of officers that may be recommended for promotion from below the promotion zone. That number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion, except that the Secretary may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary determines that the needs of the Coast Guard so require. If the maximum number determined under this subparagraph is less than one, the board may recommend one officer for promotion from below the promotion zone.

(C) The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers that the board is authorized to recommend for promotion under paragraph (2).

(e) The law and regulations relating to the selection for promotion of a commissioned officer of the Regular Coast Guard to the grades of rear admiral (lower half) and rear admiral apply to a Reserve officer, except that to be eligible for consideration for promotion to the grade of rear admiral (lower half) an officer shall have completed at least ten years commissioned service, of which the last five years shall have been served in the Coast Guard Reserve.

(f) The provisions of section 260 of this title apply to boards convened under this section. The Secretary shall determine the procedure to be used by a selection board.

(g) The report of a selection board shall be submitted to the Secretary for review and transmission to the President for approval. When an officer recommended by a board for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.

(h) The recommendations of a selection board, as approved by the President, constitute a list of selectees from which the promotions of Reserve officers shall be made. An officer on a list of selectees remains thereon until promoted unless removed by the President under section 738 of this title. If an existing list of selectees has not been exhausted by the time a later list has been approved, all officers remaining on the older list shall be tendered appointments prior to those on the later list.

(i) A Reserve officer whose name is on a list of selectees for promotion shall, unless that officer's promotion is lawfully withheld, be tendered an appointment in the next higher grade on the date a vacancy occurs, or as soon thereafter as practicable in the grade to which the officer was selected for promotion or, if promotion was determined in accordance with a running mate system, at the same time, or as soon thereafter as practicable, as that officer's running mate is tendered a similar appointment.

§ [730.] 3741. Selection boards; appointment

(a) A selection board shall (1) be appointed and convened by the Secretary; (2) consist of at least 50 per centum Reserve officer membership, except in the case of a flag officer selection board where, to the extent practicable, it shall consist of at least 50 per centum Reserve officer membership; (3) consist only of members, Reserve or Regular, senior in grade to any officer being considered by that board; and (4) be composed of not less than five members, which number constitutes a quorum.

(b) A selection board serves for the length of time prescribed by the Secretary, but no board may serve longer than one year. No officer may serve on two consecutive selection boards for the same grade when the second of those boards considers an officer who was considered, but not recommended for promotion, by the first selection board.

(c) Each member of a selection board shall swear that he will, without prejudice or partiality, and having in view both the special fitness required of officers and the efficiency of the Coast Guard, perform the duties imposed upon him. Not less than a majority of the total membership of a selection board shall concur in each recommendation made by the board.

(d) An officer eligible for consideration for promotion by a selection board may forward, through official channels, a written communication inviting the attention of the board to any matter in the officer's record in the armed forces that, in the opinion of the officer concerned, is important to the board's consideration. A communication forwarded under this subsection shall arrive in time to allow delivery to the board prior to its convening, and may not criticize or reflect upon the character, conduct, or motive of any officer.

§ [731.] 3742. Establishment of promotion zones under running mate system

(a) **AUTHORITY TO USE RUNNING MATE SYSTEM.**—The Secretary may by regulation implement section 729(d)(1) of this title by requiring that the promotion zone for consideration of Reserve officers in an active status for promotion to the next higher grade be determined in accordance with a running mate system as provided in subsection (b).

(b) **CONSIDERATION FOR PROMOTION.**—If promotion zones are determined as authorized under subsection (a), a Reserve officer shall, subject to the eligibility requirements of this subchapter, be placed in a promotion zone when that officer's running mate is placed in a promotion zone and shall, in accordance with the provisions of this subchapter, be considered for promotion at approximately the same time as that officer's running mate or as soon thereafter as practicable, or in the event that promotion is not de-

terminated in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he or she completes the following amount of service computed from the date of rank in the grade in which he or she is serving:

- (1) two years in the grade of lieutenant (junior grade);
- (2) three years in the grade of lieutenant;
- (3) four years in the grade of lieutenant commander;
- (4) four years in the grade of commander; and
- (5) three years in the grade of captain.

(c) CONSIDERATION OF OFFICERS BELOW THE ZONE.—If the Secretary authorizes the selection of officers for promotion from below the promotion zone in accordance with section 729(d)(3) of this title, the number of officers to be considered from below the zone may be established through the application of the running mate system under this subchapter or otherwise as the Secretary determines to be appropriate to meet the needs of the Coast Guard.

§ [732.] 3743. Eligibility for promotion

A Reserve officer is eligible for consideration for promotion and for promotion under this subchapter, if that officer is in an active status. A Reserve officer who has been considered but not recommended for retention in an active status by a board convened under subsection 741(a) of this title, is not eligible for consideration for promotion.

§ [733.] 3744. Recommendation for promotion of an officer previously removed from an active status

A Reserve officer recommended for promotion by a selection board but not promoted because of removal from an active status shall be reconsidered by a selection board after returning to an active status and if selected shall be placed on a recommended list of selectees for promotion. A Reserve officer to whom this section applies is not considered to have failed of selection when eliminated from a list of selectees for promotion solely as a result of being removed from an active status.

§ [734.] 3745. Qualifications for promotion

(a) A Reserve officer shall not be promoted to a higher grade unless the officer has been found to be physically qualified and the character of the officer's service subsequent to the convening of the selection board which recommended the officer for promotion has been verified as satisfactory.

(b) Subsection (a) of this section does not exclude from promotion a Reserve officer physically disqualified by a medical board for duty at sea or in the field, if the disqualification results from wounds received in the line of duty, and those wounds do not incapacitate the officer for other duties in the grade to which the officer is to be promoted.

§ [735.] 3746. Promotion; acceptance; oath of office

(a) A Reserve officer who has been appointed under this subchapter is considered to have accepted the appointment unless delivery thereof cannot be effected.

(b) A Reserve officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5, is not required to take a new oath of office upon appointment in a higher grade.

§ [736.] 3747. Date of rank upon promotion; entitlement to pay

(a) When a Reserve officer is promoted to the next higher grade under this subchapter, the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event the same date of rank shall be assigned as that assigned to the officer's running mate. A Reserve officer so promoted shall be allowed the pay and allowances of the higher grade for duty performed from the date of the officer's appointment thereto.

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

(c) For the purposes of this section, the date of appointment shall be that date when promotion authority is exercised by the Secretary. However, the Secretary may adjust the date of appointment—

(1) if a delay in the finding required under section 734(a) of this title is beyond the control of the officer and the officer is otherwise qualified for promotion; or

(2) for any other reason that equity requires.

§ [737.] 3748. Type of promotion; temporary

Notwithstanding any other law, if a Reserve officer is promoted when the officer's running mate is promoted and the promotion of the running mate is on a temporary basis, the promotion of the Reserve officer is also on a temporary basis. If subsequently the running mate is reverted to a lower grade, other than for reasons of discipline, incompetence, or at the running mate's request, the Reserve officer shall likewise revert to the same lower grade with corresponding precedence.

§ [738.] 3749. Effect of removal by the President or failure of consent of the Senate

(a) The President may, for cause, remove the name of any officer from a list of selectees established under section 729 of this title.

(b) If the Senate, where required, does not consent to the appointment of an officer whose name is on a list of selectees established under section 729 of this title, that officer's name shall be removed from the list.

(c) An officer whose name is removed from a list of selectees under subsection (a) or (b) continues to be eligible for consideration for promotion. If selected for promotion by the next selection board and promoted, that officer shall be assigned the date of rank and precedence that would have been assigned if the officer's name had not been previously removed. However, if the officer is not selected

by the next selection board, or if the officer's name is again removed from the list of selectees, the officer shall be considered for all purposes as having twice failed of selection for promotion.

§ [739.] 3750. Failure of selection for promotion

(a) A Reserve officer, other than one serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for the officer's grade, fails of selection if not selected for promotion by the selection board that considered the officer, or if having been selected for promotion by the board, the officer's name is thereafter removed from the report of the board by the President.

(b) A Reserve officer is not considered to have failed of selection if the officer was not considered by a selection board because of administrative error. If that officer is selected by the next appropriate selection board after the error is discovered, and is promoted, the same date of rank and precedence shall be assigned that would have been assigned if the officer had been recommended for promotion by the selection board that originally would have considered the officer but for the error.

§ [740.] 3751. Failure of selection and removal from an active status

(a) The Secretary—

(1) may remove from an active status a Reserve officer who has twice failed of selection to the next higher grade; and

(2) shall remove from an active status a Reserve officer serving in the grade of captain who has completed thirty years of total commissioned service and whose name is not carried on an approved list of selectees for promotion to the grade of rear admiral (lower half).

(b) A Reserve officer who has twice failed of selection to the next higher grade and who is not removed from an active status under subsection (a)(1) of this section shall be retained for the period prescribed by the Secretary.

(c) Subject to section 12646 of title 10, a Reserve officer who is removed from an active status under subsection (a) of this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged as follows:

(1) if removed from an active status under subsection (a)(1) of this section, on June 30 next following the approval date of the board report by virtue of which the officer's second failure of selection occurs; or

(2) if removed from an active status under subsection (a)(2) of this section, on June 30 next following the date on which the officer completes thirty years of total commissioned service as computed under this section.

(d) For the purpose of this section, the total commissioned service of an officer who has served continuously in the Reserve following appointment in the grade of ensign shall be computed from the date on which that appointment to the Reserve was accepted. A Reserve officer initially appointed in a grade above ensign is considered to have the actual total commissioned service performed in a

grade above commissioned warrant officer or the same total commissioned service as an officer of the Regular Coast Guard who has served continuously from an original appointment as ensign, who has not lost numbers or precedence, and who is, or was, junior to the Reserve officer, whichever is greater.

§ [741.] 3752. Retention boards; removal from an active status to provide a flow of promotion

(a) Notwithstanding any other provision of this title, whenever the Secretary determines that it is necessary to reduce the number of Reserve officers in an active status in any grade to provide a steady flow of promotion, or that there is an excessive number of Reserve officers in an active status in any grade, the Secretary may appoint and convene a retention board to consider all of the Reserve officers in that grade in an active status who have 18 years or more of service for retirement, except those officers who—

- (1) are on extended active duty;
- (2) are on a list of selectees for promotion;
- (3) will complete 30 years total commissioned service by June 30th following the date that the retention board is convened; or
- (4) have reached age 59 by the date on which the retention board is convened.

The retention board shall select and recommend a specified number of the officers under consideration for retention in an active status.

(b) This board shall—

- (1) to the extent practicable, consist of at least 50 per centum Reserve officers;
- (2) consist only of officers who are senior in rank to any officers being considered by that board; and
- (3) to the extent practicable, consist of officers who have not served on the last previous retention board which considered officers of the same grade.

(c) Subject to section 12646 of title 10, a Reserve officer who is not recommended for retention in an active status under this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged on June 30 next following the date on which the report of the retention board is approved.

(d) The provisions of section 260 of this title shall, to the extent that they are not inconsistent with this subchapter, apply to boards convened under this section.

§ [742.] 3753. Maximum ages for retention in an active status

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

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

discharged effective upon the day the officer becomes 62 years of age.

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

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

§ [743.] 3754. Rear admiral and rear admiral (lower half); maximum service in grade

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

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

§ [744.] 3755. Appointment of a former Navy or Coast Guard officer

A former officer of the Regular Navy or Coast Guard who applies for a Reserve commission within one year of resigning the officer's Regular commission, and who is appointed in the same grade previously held in the Regular Navy or Coast Guard, shall be given the same date of rank in that grade as that previously assigned to the officer while a member of the Regular Navy or Coast Guard.

§ [745.] 3756. Grade on entry upon active duty

A Reserve officer ordered to active duty or active duty for training shall be ordered in the grade held; except that the Secretary may authorize a higher grade.

§ [746.] 3757. Recall of a retired officer; grade upon release

(a) When an officer in the Retired Reserve or an officer on a Reserve retired list is recalled to active duty, that officer shall be recalled in a manner similar to the recall of a Regular retired officer.

(b) An officer in the Retired Reserve or an officer on a Reserve retired list recalled to active duty shall upon release therefrom be advanced in the Retired Reserve or on the Reserve retired list to the highest grade held on active duty, if: (1) appointed to a higher grade while on that duty, and (2) the officer's performance has been satisfactory in the higher grade.

CHAPTER 39—COAST GUARD AUXILIARY*Sec.**3901. Administration of the Coast Guard Auxiliary.**3902. Purpose of the Coast Guard Auxiliary.**3903. Eligibility; enrollments.**3904. Members of the Auxiliary; status.**3905. Disenrollment.**3906. Membership in other organizations.**3907. Use of member's facilities.**3908. Vessel deemed public vessel.**3909. Aircraft deemed public aircraft.**3910. Radio station deemed government station.**3911. Availability of appropriations.**3912. Assignment and performance of duties.**3913. Injury or death in line of duty.***§ [821.] 3901. Administration of the Coast Guard Auxiliary**

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

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

(1) Chapter 171 of title 28 (popularly known as the Federal Tort Claims Act).

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

(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

(5) Chapter 311 of title 46 (known as the Public Vessels Act).

(6) Other matters related to noncontractual civil liability.

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

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

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

(A) for the purposes of—

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

(ii) section 641 of this title; and

(B) as otherwise provided in this chapter.

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

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

§ [822.] 3902. Purpose of the Coast Guard Auxiliary

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

(b) LIMITATION.—The Auxiliary may conduct a patrol of a waterway, or a portion thereof, only if—

(1) the Commandant has determined such waterway, or portion thereof, is navigable for purposes of the jurisdiction of the Coast Guard; or

(2) a State or other proper authority has requested such patrol pursuant to section 141 of this title or section 13109 of title 46.

§ [823.] 3903. Eligibility; enrollments

The Auxiliary shall be composed of nationals of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), and aliens lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))—

(1) who—

(A) are owners, sole or part, of motorboats, yachts, aircraft, or radio stations; or

(B) by reason of their special training or experience are deemed by the Commandant to be qualified for duty in the Auxiliary; and

(2) who may be enrolled therein pursuant to applicable regulations.

§ [823a.] 3904. Members of the Auxiliary; status

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

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

(1) Chapter 171 of title 28 (popularly known as the Federal Tort Claims Act).

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

(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

(5) Chapter 311 of title 46 (known as the Public Vessels Act).

(6) Other matters related to noncontractual civil liability.

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

(8) The resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).¹

(9) On or after January 1, 2001, section 651 of Public Law 104-208.

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

§ [824.] 3905. Disenrollment

Members of the Auxiliary may be disenrolled pursuant to applicable regulations.

§ [825.] 3906. Membership in other organizations

Members of the Auxiliary may be appointed or enlisted in the Reserve, pursuant to applicable regulations, and membership in the Auxiliary shall not be a bar to membership in any other naval or military organization.

§ [826.] 3907. Use of member's facilities

(a) MOTOR BOATS, YACHTS, AIRCRAFT, AND RADIO STATIONS.—The Coast Guard may utilize for any purpose incident to carrying out its functions and duties as authorized by the Secretary any motorboat, yacht, aircraft, or radio station placed at its disposition for any of such purposes by any member of the Auxiliary, by any corporation, partnership, or association, or by any State or political subdivision thereof.

(b) MOTOR VEHICLES.—The Coast Guard may utilize to carry out its functions and duties as authorized by the Secretary any motor vehicle (as defined in section 154 of title 23, United States Code) placed at its disposition by any member of the Auxiliary, by any corporation, partnership, or association, or by any State or political subdivision thereof, to tow Federal Government property.

§ [827.] 3908. Vessel deemed public vessel

While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.

§ [828.] 3909. Aircraft deemed public aircraft

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

§ [829.] 3910. Radio station deemed government station

Any radio station, while assigned to authorized Coast Guard duty shall be deemed to be a radio station of the Coast Guard and a “government station” within the meaning of section 305 of the Communications Act of 1934 (47 U.S.C. 305).

§ [830.] 3911. Availability of appropriations

(a) Appropriations of the Coast Guard shall be available for the payment of actual necessary traveling expense and subsistence, or commutation of ration allowance in lieu of subsistence, of members of the Auxiliary assigned to authorized duties and for actual necessary expenses of operation of any motorboat, yacht, aircraft, radio station, or motorized vehicle utilized under section 826(b) when assigned to Coast Guard duty, but shall not be available for the payment of compensation for personal services, incident to such operation, other than to personnel of the Coast Guard or the Reserve. The term “actual necessary expenses of operation,” as used in this section, shall include payment for fuel, oil, power, water, supplies, provisions, replacement or repair of equipment, repair of any damaged motorboat, yacht, aircraft, radio station, or motorized vehicle utilized under section 826(b) and for the constructive or actual loss of any motorboat, yacht, aircraft, radio station, or motorized vehicle utilized under section 826(b) where it is determined, under applicable regulations, that responsibility for the loss or damage necessitating such replacement or repair of equipment, or for the damage or loss, constructive or actual, of such motorboat, yacht, aircraft, radio station, or motorized vehicle utilized under section 826(b) rests with the Coast Guard.

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

§ [831.] 3912. Assignment and performance of duties

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

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

§ [832.] 3913. Injury or death in line of duty

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

CHAPTER 41—GENERAL PROVISIONS FOR COAST GUARD RESERVE AND AUXILIARY

Sec.

4101. Flags; pennants; uniforms and insignia.

4102. Penalty.

4103. Limitation on rights of members of the Auxiliary and temporary members of the Reserve.

4104. Availability of facilities and appropriations.

§ [891.] 4101. Flags; pennants; uniforms and insignia

The Secretary may prescribe one or more suitable distinguishing flags, pennants, or other identifying insignia to be displayed by the motorboats, yachts, aircraft, and radio stations owned by members of the Auxiliary and one or more suitable insignia which may be worn by members of the Reserve or the Auxiliary, and may prescribe one or more suitable uniforms which may be worn by members of the Auxiliary. Such flags, pennants, uniforms, and insignia may be furnished by the Coast Guard at actual cost, and the proceeds received therefor shall be credited to current appropriations from which purchase of these articles is authorized.

§ [892.] 4102. Penalty

Whoever, without proper authority, flies from any building, aircraft, motorboat, yacht, or other vessel, any flag or pennant or dis-

plays any identifying insignia or wears any uniform or insignia of the Reserve or the Auxiliary shall be fined not more than \$500.

§ [893.] 4103. Limitation on rights of members of the Auxiliary and temporary members of the Reserve

Members of the Auxiliary and temporary members of the Reserve shall be entitled only to such rights, privileges, and benefits as are specifically set forth for them in this title or as may be specifically provided for them in any other Act of Congress. Any Act of Congress which grants rights, privileges, or benefits generally to military personnel, or among others, to personnel of the Coast Guard and the Coast Guard Reserve, without specifically granting such rights, privileges, or benefits to members of the Auxiliary or temporary members of the Reserve, shall not be deemed applicable to members of the Auxiliary or to temporary members of the Reserve.

§ [894.] 4104. Availability of facilities and appropriations

The services and facilities of and appropriations for the Coast Guard shall be available to effectuate the purposes of the Reserve and the Auxiliary.

Subtitle IV—Coast Guard Authorizations and Reports to Congress

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CHAPTER 49—AUTHORIZATIONS

<i>Sec.</i>
4901. <i>Requirement for prior authorization of appropriations.</i>
4902. <i>Authorization of appropriations.</i>
4903. <i>Authorization of personnel end strengths.</i>
4904. <i>Authorized levels of military strength and training.</i>

§ [2701.] 4901. Requirement for prior authorization of appropriations

Amounts may be appropriated to or for the use of the Coast Guard for the following matters only if the amounts have been authorized by law after December 31, 1976:

- (1) For the operation and maintenance of the Coast Guard, not otherwise provided for.
- (2) For the acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, and for maintenance, rehabilitation, lease, and operation of facilities and equipment.
- (3) For the Coast Guard Reserve program, including operations and maintenance of the program, personnel and training costs, equipment, and services.
- (4) For the environmental compliance and restoration functions of the Coast Guard under [chapter 19] section 318 of this title.

(5) For research, development, test, and evaluation of technologies, materials, and human factors directly related to improving the performance of the Coast Guard.

(6) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Alteration of Bridges Program.

§ [2702.] 4902. Authorization of appropriations

Funds are authorized to be appropriated for each of fiscal years 2016 and 2017 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, not otherwise provided for—

- (A) \$6,981,036,000 for fiscal year 2016; and
- (B) \$6,986,815,000 for fiscal year 2017.

(2) For the acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, and for maintenance, rehabilitation, lease, and operation of facilities and equipment—

- (A) \$1,945,000,000 for fiscal year 2016; and
- (B) \$1,945,000,000 for fiscal year 2017.

(3) For the Coast Guard Reserve program, including operations and maintenance of the program, personnel and training costs, equipment, and services—

- (A) \$140,016,000 for fiscal year 2016; and
- (B) \$134,237,000 for fiscal year 2017.

(4) For the environmental compliance and restoration functions of the Coast Guard under [chapter 19] *section 318* of this title—

- (A) \$16,701,000 for fiscal year 2016; and
- (B) \$16,701,000 for fiscal year 2017.

(5) To the Commandant of the Coast Guard for research, development, test, and evaluation of technologies, materials, and human factors directly related to improving the performance of the Coast Guard's mission with respect to search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, and for maintenance, rehabilitation, lease, and operation of facilities and equipment—

- (A) \$19,890,000 for fiscal year 2016; and
- (B) \$19,890,000 for fiscal year 2017.

§ [2703.] 4903. Authorization of personnel end strengths

(a) For each fiscal year, Congress shall authorize the strength for active duty personnel of the Coast Guard as of the end of that fiscal year. Amounts may be appropriated for a fiscal year to or for the use of active duty personnel of the Coast Guard only if the end strength for active duty personnel for that fiscal year has been authorized by law. If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian

component of the Coast Guard, for a period not to exceed 6 months after the end of the war or termination of the national emergency.

(b)(1) Congress shall authorize the average military training student loads for the Coast Guard for each fiscal year. That authorization is required for student loads for the following individual training categories:

- (A) Recruit and specialized training.
- (B) Flight training.
- (C) Professional training in military and civilian institutions.
- (D) Officer acquisition training.

(2) Amounts may be appropriated for a fiscal year for use in training military personnel of the Coast Guard in the categories referred to in paragraph (1) only if the average student loads for the Coast Guard for that fiscal year have been authorized by law.

§ [2704.] 4904. Authorized levels of military strength and training

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 43,000 for each of fiscal years 2016 and 2017.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads for each of fiscal years 2016 and 2017 as follows:

- (1) For recruit and special training, 2,500 student years.
- (2) For flight training, 165 student years.
- (3) For professional training in military and civilian institutions, 350 student years.
- (4) For officer acquisition, 1,200 student years.

CHAPTER 51—REPORTS

Sec.

5101. *Transmission of annual Coast Guard authorization request.*

5102. *Capital investment plan.*

5103. *Major acquisitions.*

5104. *Manpower requirements plan.*

5105. *Inventory of real property.*

§ [2901.] 5101. Transmission of annual Coast Guard authorization request

(a) IN GENERAL.—Not later than 30 days after the date on which the President submits to Congress a budget for a fiscal year pursuant to section 1105 of title 31, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a Coast Guard authorization request with respect to such fiscal year.

(b) COAST GUARD AUTHORIZATION REQUEST DEFINED.—In this section, the term “Coast Guard authorization request” means a proposal for legislation that, with respect to the Coast Guard for the relevant fiscal year—

- (1) recommends end strengths for personnel for that fiscal year, as described in section 2703;

(2) recommends authorizations of appropriations for that fiscal year, including with respect to matters described in section 2701; and

(3) addresses any other matter that the Secretary determines is appropriate for inclusion in a Coast Guard authorization bill.

§ [2902.] 5102. Capital investment plan

(a) IN GENERAL.—On the date on which the President submits to Congress a budget pursuant to section 1105 of title 31, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(1) a capital investment plan for the Coast Guard that identifies for each capital asset for which appropriations are proposed in that budget—

(A) the proposed appropriations included in the budget;

(B) the total estimated cost of completion based on the proposed appropriations included in the budget;

(C) projected funding levels for each fiscal year for the next 5 fiscal years or until project completion, whichever is earlier;

(D) an estimated completion date based on the proposed appropriations included in the budget; and

(E) an acquisition program baseline, as applicable; and

(2) a list of each unfunded priority for the Coast Guard.

(b) NEW CAPITAL ASSETS.—In the fiscal year following each fiscal year for which appropriations are enacted for a new capital asset, the report submitted under subsection (a) shall include—

(1) an estimated life-cycle cost estimate for the new capital asset;

(2) an assessment of the impact the new capital asset will have on—

(A) delivery dates for each capital asset;

(B) estimated completion dates for each capital asset;

(C) the total estimated cost to complete each capital asset; and

(D) other planned construction or improvement projects; and

(3) recommended funding levels for each capital asset necessary to meet the estimated completion dates and total estimated costs included in the such asset's approved acquisition program baseline.

(c) DEFINITIONS.—In this section—

(1) the term “unfunded priority” means a program or mission requirement that—

(A) has not been selected for funding in the applicable proposed budget;

(B) is necessary to fulfill a requirement associated with an operational need; and

(C) the Commandant would have recommended for inclusion in the applicable proposed budget had additional resources been available or had the requirement emerged before the budget was submitted; and

(2) the term “new capital asset” means—

(A) an acquisition program that does not have an approved acquisition program baseline; or

(B) the acquisition of a capital asset in excess of the number included in the approved acquisition program baseline.

§ [2903.] 5103. Major acquisitions

(a) **IN GENERAL.**—In conjunction with the transmittal by the President to Congress of the budget of the United States for fiscal year 2014 and biennially thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of all major acquisition programs.

(b) **INFORMATION TO BE INCLUDED.**—Each report under subsection (a) shall include for each major acquisition program—

(1) a statement of the Coast Guard's mission needs and performance goals relating to such program, including a justification for any change to those needs and goals subsequent to a report previously submitted under this section;

(2) a justification explaining how the projected number and capabilities of assets acquired under such program meet applicable mission needs and performance goals;

(3) an identification of any and all mission hour gaps, accompanied by an explanation of how and when the Coast Guard will close those gaps;

(4) an identification of any changes with respect to such program, including—

(A) any changes to the timeline for the acquisition of each new asset and the phaseout of legacy assets; and

(B) any changes to—

(i) the costs of new assets or legacy assets for that fiscal year or future fiscal years; or

(ii) the total acquisition cost;

(5) a justification explaining how any change to such program fulfills the mission needs and performance goals of the Coast Guard;

(6) a description of how the Coast Guard is planning for the integration of each new asset acquired under such program into the Coast Guard, including needs related to shore-based infrastructure and human resources;

(7) an identification of how funds in the applicable fiscal year's budget request will be allocated, including information on the purchase of specific assets;

(8) a projection of the remaining operational lifespan and life-cycle cost of each legacy asset that also identifies any anticipated resource gaps;

(9) a detailed explanation of how the costs of legacy assets are being accounted for within such program; and

(10) an annual performance comparison of new assets to legacy assets.

(c) **ADEQUACY OF ACQUISITION WORKFORCE.**—Each report under subsection (a) shall—

(1) include information on the scope of the acquisition activities to be performed in the next fiscal year and on the ade-

quacy of the current acquisition workforce to meet that anticipated workload;

(2) specify the number of officers, members, and employees of the Coast Guard currently and planned to be assigned to each position designated under section 562(c); and

(3) identify positions that are or will be understaffed and actions that will be taken to correct such understaffing.

(d) **CUTTERS NOT MAINTAINED IN CLASS.**—Each report under subsection (a) shall identify which, if any, Coast Guard cutters that have been issued a certificate of classification by the American Bureau of Shipping have not been maintained in class, with an explanation detailing the reasons why the cutters have not been maintained in class.

(e) **LONG-TERM MAJOR ACQUISITIONS PLAN.**—Each report under subsection (a) shall include a plan that describes for the upcoming fiscal year, and for each of the 20 fiscal years thereafter—

(1) the numbers and types of cutters and aircraft to be decommissioned;

(2) the numbers and types of cutters and aircraft to be acquired to—

(A) replace the cutters and aircraft identified under paragraph (1); or

(B) address an identified capability gap; and

(3) the estimated level of funding in each fiscal year required to—

(A) acquire the cutters and aircraft identified under paragraph (2);

(B) acquire related command, control, communications, computer, intelligence, surveillance, and reconnaissance systems; and

(C) acquire, construct, or renovate shoreside infrastructure.

(f) **QUARTERLY UPDATES ON RISKS OF PROGRAMS.**—

(1) **IN GENERAL.**—Not later than 15 days after the end of each fiscal year quarter, the Commandant of the Coast Guard shall submit to the committees of Congress specified in subsection (a) an update setting forth a current assessment of the risks associated with all current major acquisition programs.

(2) **ELEMENTS.**—Each update under this subsection shall set forth, for each current major acquisition program, the following:

(A) The top five current risks to such program.

(B) Any failure of such program to demonstrate a key performance parameter or threshold during operational test and evaluation conducted during the fiscal year quarter preceding such update.

(C) Whether there has been any decision during such fiscal year quarter to order full-rate production before all key performance parameters or thresholds are met.

(D) Whether there has been any breach of major acquisition program cost (as defined by the Major Systems Acquisition Manual) during such fiscal year quarter.

(E) Whether there has been any breach of major acquisition program schedule (as so defined) during such fiscal year quarter.

(g) MAJOR ACQUISITION PROGRAM DEFINED.—In this section, the term “major acquisition program” means an ongoing acquisition undertaken by the Coast Guard with a life-cycle cost estimate greater than or equal to \$300,000,000.

§ [2904.] 5104. Manpower requirements plan

(a) IN GENERAL.—On the date on which the President submits to the Congress a budget for fiscal year 2017 under section 1105 of title 31, on the date on which the President submits to the Congress a budget for fiscal year 2019 under such section, and every 4 years thereafter, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a manpower requirements plan.

(b) SCOPE.—A manpower requirements plan submitted under subsection (a) shall include for each mission of the Coast Guard—

(1) an assessment of all projected mission requirements for the upcoming fiscal year and for each of the 3 fiscal years thereafter;

(2) the number of active duty, reserve, and civilian personnel assigned or available to fulfill such mission requirements—

(A) currently; and

(B) as projected for the upcoming fiscal year and each of the 3 fiscal years thereafter;

(3) the number of active duty, reserve, and civilian personnel required to fulfill such mission requirements—

(A) currently; and

(B) as projected for the upcoming fiscal year and each of the 3 fiscal years thereafter;

(4) an identification of any capability gaps between mission requirements and mission performance caused by deficiencies in the numbers of personnel available—

(A) currently; and

(B) as projected for the upcoming fiscal year and each of the 3 fiscal years thereafter; and

(5) an identification of the actions the Commandant will take to address capability gaps identified under paragraph (4).

(c) CONSIDERATION.—In composing a manpower requirements plan for submission under subsection (a), the Commandant shall consider—

(1) the marine safety strategy required under section 2116 of title 46;

(2) information on the adequacy of the acquisition workforce included in the most recent report under section 2903 of this title; and

(3) any other Federal strategic planning effort the Commandant considers appropriate.

§ [679.] 5105. Inventory of real property

(a) IN GENERAL.—Not later than September 30, 2015, the Commandant shall establish an inventory of all real property, including submerged lands, under the control of the Coast Guard, which shall include—

(1) the size, the location, and any other appropriate description of each unit of such property;

- (2) an assessment of the physical condition of each unit of such property, excluding lands;
 - (3) a determination of whether each unit of such property should be—
 - (A) retained to fulfill a current or projected Coast Guard mission requirement; or
 - (B) subject to divestiture; and
 - (4) other information the Commandant considers appropriate.
- (b) INVENTORY MAINTENANCE.—The Commandant shall—
- (1) maintain the inventory required under subsection (a) on an ongoing basis; and
 - (2) update information on each unit of real property included in such inventory not later than 30 days after any change relating to the control of such property.
- (c) RECOMMENDATIONS TO CONGRESS.—Not later than March 30, 2016, and every 5 years thereafter, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that includes—
- (1) a list of all real property under the control of the Coast Guard and the location of such property by property type;
 - (2) recommendations for divestiture with respect to any units of such property; and
 - (3) recommendations for consolidating any units of such property, including—
 - (A) an estimate of the costs or savings associated with each recommended consolidation; and
 - (B) a discussion of the impact that such consolidation would have on Coast Guard mission effectiveness.

ACT OF APRIL 28, 1908

CHAP. 151.—An Act To provide for safety of life on navigable waters during regattas or marine parades.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That the Secretary of Commerce and Labor is hereby authorized and empowered in his discretion to issue from time to time regulations, not contrary to law, to promote the safety of life on navigable waters during regattas or marine parades.

[SEC. 2. That to enforce such regulations the Secretary of Commerce and Labor may detail any public vessel in the service of that Department and make use of any private vessel tendered gratuitously for the purpose, or upon the request of the Secretary of Commerce and Labor the head of any other Department may enforce the regulations issued under this Act by means of any public vessel of such Department and of any private vessel tendered gratuitously for the purpose.

[SEC. 3. That the authority and power bestowed upon the Secretary of Commerce and Labor by sections one and two may be transferred for any special occasion to the head of another Department by the President whenever in his judgment such transfer is desirable.

【SEC. 4. That for any violation of regulations issued pursuant to this Act the following penalties shall be incurred:

【(a) A licensed officer shall be liable to suspension or revocation of license in the manner now prescribed by law for incompetency or misconduct.

【(b) Any person in charge of the navigation of a vessel other than a licensed officer shall be liable to a penalty of \$5,000.

【(c) The owner of a vessel (including any corporate officer of a corporation owning the vessel) actually on board shall be liable to a penalty of \$5,000, unless the violation of regulations shall have occurred without his knowledge.

【(d) Any other person shall be liable to a penalty of \$2,500.

【The Secretary of Commerce and Labor is hereby authorized and empowered to mitigate or remit any penalty herein provided for in the manner prescribed by law for the mitigation or remission of penalties for violation of the navigation laws.

【SEC. 5. That the Act approved May nineteenth, eighteen hundred and ninety-six, entitled "An Act to provide for the safety of passengers on excursion steamers," is hereby repealed.

【SEC. 6. That this Act shall take effect on April tenth, nineteen hundred and eight.】

TITLE II OF THE ACT OF JUNE 15, 1917

AN ACT To punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes.

TITLE II.

VESSELS IN PORTS OF THE UNITED STATES.

【SECTION 1. Whenever the President by proclamation or Executive order declares a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance or threatened disturbance of the international relations of the United States, or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to, or arriving off the coast of, the United States presents urgent circumstances requiring an immediate Federal response, the Secretary of the Treasury may make, subject to the approval of the President, rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, may inspect such vessel at any time, place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of the rights and obligations of the United States, may take, by and with the consent of the President, for such purposes, full possession and control of such vessel and remove therefrom the officers and crew thereof and all other persons not specially authorized by him to go or remain on board thereof.

【Whenever the President finds that the security of the United States is endangered by reason of actual or threatened war, or invasion, or insurrection, or subversive activity, or of disturbances or threatened disturbances of the international relations of

the United States, the President is authorized to institute such measures and issue such rules and regulations—

[(a) to govern the anchorage and movement of any foreign-flag vessels in the territorial waters of the United States, to inspect such vessels at any time, to place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of rights and obligations of the United States, may take for such purposes full possession and control of such vessels and remove therefrom the officers and crew thereof, and all other persons not especially authorized by him to go or remain on board thereof;

[(b) to safeguard against destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of similar nature, vessels, harbors, ports, and waterfront facilities in the United States and all territory and water, continental or insular, subject to the jurisdiction of the United States.

The President may delegate the authority to issue such rules and regulations to the Secretary of the department in which the Coast Guard is operating. Any appropriation available to any of the Executive Departments shall be available to carry out the provisions of this title.

[SEC. 2. (a) IN GENERAL.—If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this title, or obstructs or interferes with the exercise of any power conferred by this title, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than ten years and may, in the discretion of the court, be fined not more than \$10,000.

[(b) APPLICATION TO OTHERS.—If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this title, or knowingly obstructs or interferes with the exercise of any power conferred by this title, he shall be punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than \$10,000.

[(c) CIVIL PENALTY.—A person violating this title, or a regulation prescribed under this title, shall be liable to the United States Government for a civil penalty of not more than \$25,000 for each violation. Each day of a continuing violation shall constitute a separate violation.

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

[(e) WITHHOLDING OF CLEARANCE.—

[(1) IN GENERAL.—If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (c), or if reasonable cause exists to believe that the

owner, agent, master, officer, or person in charge may be subject to a penalty or fine under this section, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

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

[SEC. 4. The President may employ such departments, agencies, officers, or instrumentalities of the United States as he may deem necessary to carry out the purpose of this title.]

TITLE 46, UNITED STATES CODE

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SUBTITLE II—VESSELS AND SEAMEN

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**PART B—INSPECTION AND REGULATION OF
VESSELS**

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**CHAPTER 37—CARRIAGE OF LIQUID BULK DANGEROUS
CARGOES**

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§ 3719. Reduction of oil spills from single hull non-self-propelled tank vessels

The Secretary shall, in consultation with the *National Towing Safety Advisory Committee* and taking into consideration the characteristics, methods of operation, and the size and nature of service of single hull non-self-propelled tank vessels and towing vessels, prescribe regulations requiring a single hull non-self-propelled tank vessel that operates in the open ocean or coastal waters, or the vessel towing it, to have at least one of the following:

- (1) A crew member and an operable anchor on board the tank vessel that together are capable of arresting the tank vessel without additional assistance under reasonably foreseeable sea conditions.
- (2) An emergency system on the tank vessel or towing vessel that without additional assistance under reasonably foreseeable sea conditions will allow the tank vessel to be retrieved by the towing vessel if the tow line ruptures.
- (3) Any other measure or combination of measures that the Secretary determines will provide protection against grounding of the tank vessel comparable to that provided by the measures described in paragraph (1) or (2).

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CHAPTER 41—UNINSPECTED VESSELS GENERALLY

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§ 4102. Safety equipment

(a) Each uninspected vessel propelled by machinery shall be provided with the number, type, and size of fire extinguishers, capable of promptly and effectively extinguishing burning liquid fuel, that may be prescribed by regulation. The fire extinguishers shall be kept in condition for immediate and effective use and so placed as to be readily accessible.

(b) The Secretary shall prescribe regulations requiring the installation, maintenance, and use of life preservers and other lifesaving devices for individuals on board uninspected vessels.

(c) Each uninspected vessel shall have the carburetors of each engine of the vessel (except an outboard motor) using gasoline as fuel, equipped with an efficient flame arrestor, backfire trap, or other similar device prescribed by regulation.

(d) Each uninspected vessel using a volatile liquid as fuel shall be provided with the means prescribed by regulation for properly and efficiently ventilating the bilges of the engine and fuel tank compartments, so as to remove any explosive or flammable gases.

(e) Each manned uninspected vessel owned in the United States and operating beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured or beyond three nautical miles from the coastline of the Great Lakes shall be equipped with the number and type of alerting and locating equipment, including emergency position indicating radio beacons, prescribed by the Secretary.

(f)(1) The Secretary, in consultation with the *National Towing Safety Advisory Committee* and taking into consideration the characteristics, methods of operation, and nature of service of towing vessels, may require the installation, maintenance, and use of a fire suppression system or other measures to provide adequate assurance that fires on board towing vessels can be suppressed under reasonably foreseeable circumstances.

(2) The Secretary shall require under paragraph (1) the use of a fire suppression system or other measures to provide adequate assurance that a fire on board a towing vessel that is towing a non-self-propelled tank vessel can be suppressed under reasonably foreseeable circumstances.

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CHAPTER 43—RECREATIONAL VESSELS

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§ 4302. Regulations

(a) The Secretary may prescribe regulations—

(1) establishing minimum safety standards for recreational vessels and associated equipment, and establishing procedures and tests required to measure conformance with those standards, with each standard—

(A) meeting the need for recreational vessel safety; and

(B) being stated, insofar as practicable, in terms of performance;

(2) requiring the installation, carrying, or use of associated equipment (including fuel systems, ventilation systems, electrical systems, sound-producing devices, firefighting equipment, lifesaving devices, signaling devices, ground tackle, life-and grab-rails, and navigational equipment) on recreational vessels and classes of recreational vessels subject to this chapter, and prohibiting the installation, carrying, or use of associated equipment that does not conform with safety standards established under this section; and

(3) requiring or permitting the display of seals, labels, plates, insignia, or other devices for certifying or evidencing compliance with safety regulations and standards of the United States Government for recreational vessels and associated equipment.

(b) Each regulation prescribed under this section shall specify an effective date that is not earlier than 180 days from the date the regulation was published, unless the Secretary finds that there exists a recreational vessel safety hazard so critical as to require an earlier effective date. However, this period may not be more than 24 months for cases involving, in the discretion of the Secretary, major product design, retooling, or major changes in the manufacturing process.

(c) In prescribing regulations under this section, the Secretary shall, among other things—

(1) consider the need for and the extent to which the regulations will contribute to recreational vessel safety;

(2) consider relevant available recreational vessel safety standards, statistics, and data, including public and private research, development, testing, and evaluation;

(3) not compel substantial alteration of a recreational vessel or item of associated equipment that is in existence, or the construction or manufacture of which is begun before the effective date of the regulation, but subject to that limitation may require compliance or performance, to avoid a substantial risk of personal injury to the public, that the Secretary considers appropriate in relation to the degree of hazard that the compliance will correct; and

(4) consult with the National Boating Safety Advisory **【**Council established under section 13110 of this title**】** *Committee established under section 1305 of title 14* about the considerations referred to in clauses (1)–(3) of this subsection.

(d) Section 8903 of this title does not apply to a vessel being operated for bona fide dealer demonstrations provided without fee to business invitees. However, if on the basis of substantial evidence, the Secretary decides under this section that requiring vessels so operated to be under the control of licensed individuals is necessary for boating safety, then the Secretary may prescribe regulations requiring the licensing of individuals controlling these vessels in the same manner as provided in chapter 89 of this title for individuals in control of vessels carrying passengers for hire.

(e)(1) Under this section, a model year for recreational vessels and associated equipment shall, except as provided in paragraph (2)—

(A) begin on June 1 of a year and end on July 31 of the following year; and

(B) be designated by the year in which it ends.

(2) Upon the request of a recreational vessel manufacturer to which this chapter applies, the Secretary may alter a model year for a model of recreational vessel of the manufacturer and associated equipment, by no more than 6 months from the model year described in paragraph (1).

* * * * *

§ 4310. Repair and replacement of defects

(a) In this section, “associated equipment” includes only items or classes of associated equipment that the Secretary shall prescribe by regulation after deciding that the application of the requirements of this section to those items or classes of associated equipment is reasonable and in furtherance of this chapter.

(b) If a recreational vessel or associated equipment has left the place of manufacture and the recreational vessel manufacturer discovers or acquires information that the manufacturer decides, in the exercise of reasonable and prudent judgment, indicates that a recreational vessel or associated equipment subject to an applicable regulation prescribed under section 4302 of this title either fails to comply with the regulation, or contains a defect that creates a substantial risk of personal injury to the public, the manufacturer shall provide notification of the defect or failure of compliance as provided by subsections (c) and (d) of this section within a reasonable time after the manufacturer has discovered the defect.

(c)(1) The notification required by subsection (b) of this section shall be given to the following persons in the following manner:

(A) by first class mail or by certified mail to the first purchaser for other than resale, except that the requirement for notification of the first purchaser shall be satisfied if the recreational vessel manufacturer exercises reasonable diligence in establishing and maintaining a list of those purchasers and their current addresses, and sends the required notice to each person on that list at the address appearing on the list.

(B) by first class mail or by certified mail to subsequent purchasers if known to the manufacturer.

(C) by first class mail or by certified mail or other more expeditious means to the dealers and distributors of the recreational vessels or associated equipment.

(2) The notification required by subsection (b) of this section is required to be given only for a defect or failure of compliance discovered by the recreational vessel manufacturer within a reasonable time after the manufacturer has discovered the defect or failure, except that the manufacturer’s duty of notification under paragraph (1)(A) and (B) of this subsection applies only to a defect or failure of compliance discovered by the manufacturer within one of the following appropriate periods:

(A) if a recreational vessel or associated equipment required by regulation to have a date of certification affixed, 10 years from the date of certification.

(B) if a recreational vessel or associated equipment not required by regulation to have a date of certification affixed, 10 years from the date of manufacture.

(d) The notification required by subsection (b) of this section shall contain a clear description of the defect or failure to comply, an evaluation of the hazard reasonably related to the defect or failure, a statement of the measures to correct the defect or failure, and an undertaking by the recreational vessel manufacturer to take those measures only at the manufacturer's cost and expense.

(e) Each recreational vessel manufacturer shall provide the Secretary with a copy of all notices, bulletins, and other communications to dealers and distributors of that manufacturer, and to purchasers of recreational vessels or associated equipment of that manufacturer, about a defect related to safety in the recreational vessels or associated equipment, and any failure to comply with the regulation or order applicable to the recreational vessels or associated equipment. The Secretary may publish or otherwise disclose to the public information in the notices or other information the Secretary has that the Secretary considers will assist in carrying out this chapter. However, the Secretary may disclose any information that contains or relates to a trade secret only if the Secretary decides that the information is necessary to carry out this chapter.

(f) If, through testing, inspection, investigation, or examination of reports, the Secretary decides that a recreational vessel or associated equipment to which this chapter applies contains a defect related to safety or fails to comply with an applicable regulation prescribed under this chapter and notification under this chapter is appropriate, the Secretary shall notify the recreational vessel manufacturer of the defect or failure. The notice shall contain the findings of the Secretary and shall include a synopsis of the information on which they are based. The manufacturer may then provide the notification required by this chapter to the persons designated in this chapter or dispute the Secretary's decision. If disputed, the Secretary shall provide the manufacturer with an opportunity to present views and establish that there is no such defect or failure. When the Secretary considers it to be in the public interest, the Secretary may publish notice of the proceeding in the Federal Register and provide interested persons, including the National Boating Safety [Advisory Council] *Advisory Committee*, with an opportunity to comment. If, after presentation by the manufacturer, the Secretary decides that the recreational vessel or associated equipment contains a defect related to safety or fails to comply with an applicable regulation, the Secretary may direct the manufacturer to provide the notifications specified in this chapter.

(g) The Secretary may prescribe regulations to carry out this section, including the establishment of procedures that require dealers and distributors to assist manufacturers in obtaining information required by this section. A regulation prescribed under this subsection does not relieve a manufacturer of any obligation imposed by this section.

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**CHAPTER 45—UNINSPECTED COMMERCIAL FISHING
INDUSTRY VESSELS**

Sec.

4501. Application.

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【4508. Commercial Fishing Safety Advisory Committee.】						
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【§ 4508. Commercial Fishing Safety Advisory Committee

【(a) The Secretary shall establish a Commercial Fishing Safety Advisory Committee. The Committee—

【(1) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to the safe operation of vessels to which this chapter applies, including navigation safety, safety equipment and procedures, marine insurance, vessel design, construction, maintenance and operation, and personnel qualifications and training;

【(2) may review proposed regulations under this chapter;

【(3) may make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary; and

【(4) shall meet at the call of the Secretary, who shall call such a meeting at least once during each calendar year.

【(b)(1) The Committee shall consist of eighteen members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:

【(A) ten members who shall represent the commercial fishing industry and who—

【(i) reflect a regional and representational balance; and

【(ii) have experience in the operation of vessels to which this chapter applies or as a crew member or processing line worker on a fish processing vessel;

【(B) three members who shall represent the general public, including, whenever possible—

【(i) an independent expert or consultant in maritime safety;

【(ii) a marine surveyor who provides services to vessels to which this chapter applies; and

【(iii) a person familiar with issues affecting fishing communities and families of fishermen;

【(C) one member each of whom shall represent—

【(i) naval architects and marine engineers;

【(ii) manufacturers of equipment for vessels to which this chapter applies;

【(iii) education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety or personnel qualifications;

【(iv) underwriters that insure vessels to which this chapter applies; and

【(v) owners of vessels to which this chapter applies.

【(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for member-

ship on the Committee, and, after timely notice is published, appoint the members of the Committee. An individual may be appointed to a term as a member of the Committee more than once. The Secretary may not seek or use information concerning the political affiliation of individuals in making appointments to the Committee.

[(3)(A) A member of the Committee shall serve a term of three years.

[(B) If a vacancy occurs in the membership of the Committee, the Secretary shall appoint a member to fill the remainder of the vacated term.

[(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

[(5) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to vessels to which this chapter applies which are under the jurisdiction of their respective agencies. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 App. U.S.C.).

[(c)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to the safe operation of vessels to which this chapter applies.

[(2) The Secretary shall consider the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding the safe operation of vessels to which this chapter applies.

[(d)(1) A member of the Committee who is not an officer or employee of the United States or a member of the Armed Forces, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

[(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5 including travel time; and

[(B) travel or transportation expenses under section 5703 of title 5.

[(2) Payments under this section do not render a member of the Committee an officer or employee of the United States or a member of the Armed Forces for any purpose.

[(3) A member of the Committee who is an officer or employee of the United States or a member of the Armed Forces may not receive additional pay based on the member's service to the Committee.

[(4) The provisions of this section relating to an officer or employee of the United States or a member of the Armed Forces do not apply to a member of a reserve component of the Armed Forces unless that member is in an active status.

[(e)(1) The Federal Advisory Committee Act (5 App. U.S.C.) applies to the Committee, except that the Committee terminates on September 30, 2020.

[(2) Two years prior to the termination date referred to in paragraph (1) of this subsection, the Committee shall submit to Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.]

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**PART E—MERCHANT SEAMEN LICENSES,
CERTIFICATES, AND DOCUMENTS**

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**CHAPTER 71—LICENSES AND CERTIFICATES OF
REGISTRY**

Sec.

7101. Issuing and classifying licenses and certificates of registry.

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[7115. Merchant Mariner Medical Advisory Committee.]

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[§ 7115. Merchant Mariner Medical Advisory Committee

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—There is established a Merchant Mariner Medical Advisory Committee (in this section referred to as the “Committee”).

[(2) FUNCTIONS.—The Committee shall advise the Secretary on matters relating to—

[(A) medical certification determinations for issuance of licences, certificates of registry, and merchant mariners’ documents;

[(B) medical standards and guidelines for the physical qualifications of operators of commercial vessels;

[(C) medical examiner education; and

[(D) medical research.

[(b) MEMBERSHIP.—

[(1) IN GENERAL.—The Committee shall consist of 14 members, none of whom is a Federal employee, and shall include—

[(A) ten who are health-care professionals with particular expertise, knowledge, or experience regarding the medical examinations of merchant mariners or occupational medicine; and

[(B) four who are professional mariners with knowledge and experience in mariner occupational requirements.

[(2) STATUS OF MEMBERS.—Members of the Committee shall not be considered Federal employees or otherwise in the service or the employment of the Federal Government, except that members shall be considered special Government employees, as defined in section 202(a) of title 18, United States Code, and shall be subject to any administrative standards of conduct ap-

plicable to the employees of the department in which the Coast Guard is operating.

[(c) APPOINTMENTS; TERMS; VACANCIES.—

[(1) APPOINTMENTS.—The Secretary shall appoint the members of the Committee, and each member shall serve at the pleasure of the Secretary.

[(2) TERMS.—Each member shall be appointed for a term of five years, except that, of the members first appointed, three members shall be appointed for a term of two years.

[(3) VACANCIES.—Any member appointed to fill the vacancy prior to the expiration of the term for which that member's predecessor was appointed shall be appointed for the remainder of that term.

[(d) CHAIRMAN AND VICE CHAIRMAN.—The Secretary shall designate one member of the Committee as the Chairman and one member as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

[(e) COMPENSATION; REIMBURSEMENT.—Members of the Committee shall serve without compensation, except that, while engaged in the performance of duties away from their homes or regular places of business of the member, the member of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

[(f) STAFF; SERVICES.—The Secretary shall furnish to the Committee the personnel and services as are considered necessary for the conduct of its business.]

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CHAPTER 75—GENERAL PROCEDURES FOR LICENSING, CERTIFICATION, AND DOCUMENTATION

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§ 7510. Examinations for merchant mariner credentials

(a) DISCLOSURE NOT REQUIRED.—Notwithstanding any other provision of law, the Secretary is not required to disclose to the public—

(1) a question from any examination for a merchant mariner credential;

(2) the answer to such a question, including any correct or incorrect answer that may be presented with such question; and

(3) any quality or characteristic of such a question, including—

(A) the manner in which such question has been, is, or may be selected for an examination;

(B) the frequency of such selection; and

(C) the frequency that an examinee correctly or incorrectly answered such question.

(b) EXCEPTION FOR CERTAIN QUESTIONS.—Notwithstanding subsection (a), the Secretary may, for the purpose of preparation by the general public for examinations required for merchant mariner credentials, release an examination question and answer that the

Secretary has retired or is not presently on or part of an examination, or that the Secretary determines is appropriate for release.

(c) EXAM REVIEW.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of the Coast Guard Authorization Act of 2016, and once every two years thereafter, the Commandant of the Coast Guard shall commission a working group to review new questions for inclusion in examinations required for merchant mariner credentials, composed of—

(A) 1 subject matter expert from the Coast Guard;

(B) representatives from training facilities and the maritime industry, of whom—

(i) one-half shall be representatives from approved training facilities; and

(ii) one-half shall be representatives from the appropriate maritime industry;

(C) at least 1 representative from the *National Merchant Marine Personnel Advisory Committee*;

(D) at least 2 representatives from the State maritime academies, of whom one shall be a representative from the deck training track and one shall be a representative of the engineer license track;

(E) representatives from other Coast Guard Federal advisory committees, as appropriate, for the industry segment associated with the subject examinations;

(F) at least 1 subject matter expert from the Maritime Administration; and

(G) at least 1 human performance technology representative.

(2) INCLUSION OF PERSONS KNOWLEDGEABLE ABOUT EXAMINATION TYPE.—The working group shall include representatives knowledgeable about the examination type under review.

(3) LIMITATION.—The requirement to convene a working group under paragraph (1) does not apply unless there are new examination questions to review.

(4) BASELINE REVIEW.—

(A) IN GENERAL.—Within 1 year after the date of the enactment of the Coast Guard Authorization Act of 2016, the Secretary shall convene the working group to complete a baseline review of the Coast Guard's Merchant Mariner Credentialing Examination, including review of—

(i) the accuracy of examination questions;

(ii) the accuracy and availability of examination references;

(iii) the length of merchant mariner examinations; and

(iv) the use of standard technologies in administering, scoring, and analyzing the examinations.

(B) PROGRESS REPORT.—The Coast Guard shall provide a progress report to the appropriate congressional committees on the review under this paragraph.

(5) FULL MEMBERSHIP NOT REQUIRED.—The Coast Guard may convene the working group without all members present if any non-Coast-Guard representative is present.

(6) NONDISCLOSURE AGREEMENT.—The Secretary shall require all members of the working group to sign a nondisclosure agreement with the Secretary.

(7) TREATMENT OF MEMBERS AS FEDERAL EMPLOYEES.—A member of the working group who is not a Federal Government employee shall not be considered a Federal employee in the service or the employment of the Federal Government, except that such a member shall be considered a special government employee, as defined in section 202(a) of title 18 for purposes of sections 203, 205, 207, 208, and 209 of such title and shall be subject to any administrative standards of conduct applicable to an employee of the department in which the Coast Guard is operating.

(8) FORMAL EXAM REVIEW.—The Secretary shall ensure that the Coast Guard Performance Technology Center—

(A) prioritizes the review of examinations required for merchant mariner credentials; and

(B) not later than 3 years after the date of enactment of the Coast Guard Authorization Act of 2016, completes a formal review, including an appropriate analysis, of the topics and testing methodology employed by the National Maritime Center for merchant seamen licensing.

(9) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any working group created under this section to review the Coast Guard’s merchant mariner credentialing examinations.

(d) MERCHANT MARINER CREDENTIAL DEFINED.—In this section, the term “merchant mariner credential” means a merchant seaman license, certificate, or document that the Secretary is authorized to issue pursuant to this title.

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PART F—MANNING OF VESSELS

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CHAPTER 81—GENERAL

Sec.
8101. Complement of inspected vessels.

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[8108. Merchant Marine Personnel Advisory Committee.]

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[§ 8108. Merchant Marine Personnel Advisory Committee

[(a) ESTABLISHMENT.—The Secretary shall establish a Merchant Marine Personnel Advisory Committee (in this section referred to as “the Committee”). The Committee—

[(1) shall act solely in an advisory capacity to the Secretary through the Commandant of the Coast Guard on matters relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards, and other matters as assigned by the Commandant;

[(2) shall review and comment on proposed Coast Guard regulations and policies relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards;

[(3) may be given special assignments by the Secretary and may conduct studies, inquiries, workshops, and fact finding in consultation with individuals and groups in the private sector and with State or local governments;

[(4) shall advise, consult with, and make recommendations reflecting its independent judgment to the Secretary;

[(5) shall meet not less than twice each year; and

[(6) may make available to Congress recommendations that the Committee makes to the Secretary.

[(b) MEMBERSHIP.—

[(1) IN GENERAL.—The Committee shall consist of not more than 19 members who are appointed by and serve terms of a duration determined by the Secretary. Before filling a position on the Committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Committee.

[(2) REQUIRED MEMBERS.—Subject to paragraph (3), the Secretary shall appoint as members of the Committee—

[(A) 9 United States citizens with active licenses or certificates issued under chapter 71 or merchant mariner documents issued under chapter 73, including—

[(i) 3 deck officers who represent the viewpoint of merchant marine deck officers, of whom—

[(I) 2 shall be licensed for oceans any gross tons;

[(II) 1 shall be licensed for inland river route with a limited or unlimited tonnage;

[(III) 2 shall have a master's license or a master of towing vessels license;

[(IV) 1 shall have significant tanker experience; and

[(V) to the extent practicable—

[(aa) 1 shall represent the viewpoint of labor; and

[(bb) another shall represent a management perspective;

[(ii) 3 engineering officers who represent the viewpoint of merchant marine engineering officers, of whom—

[(I) 2 shall be licensed as chief engineer any horsepower;

[(II) 1 shall be licensed as either a limited chief engineer or a designated duty engineer; and

[(III) to the extent practicable—

[(aa) 1 shall represent a labor viewpoint; and

[(bb) another shall represent a management perspective;

[(iii) 2 unlicensed seamen, of whom—

[(I) 1 shall represent the viewpoint of able-bodied seamen; and

- [(II) another shall represent the viewpoint of qualified members of the engine department; and
- [(iv) 1 pilot who represents the viewpoint of merchant marine pilots;
- [(B) 6 marine educators, including—
 - [(i) 3 marine educators who represent the viewpoint of maritime academies, including—
 - [(I) 2 who represent the viewpoint of State maritime academies and are jointly recommended by such State maritime academies; and
 - [(II) 1 who represents either the viewpoint of the State maritime academies or the United States Merchant Marine Academy; and
 - [(ii) 3 marine educators who represent the viewpoint of other maritime training institutions, 1 of whom shall represent the viewpoint of the small vessel industry;
 - [(C) 2 individuals who represent the viewpoint of shipping companies employed in ship operation management; and
 - [(D) 2 members who are appointed from the general public.

[(3) CONSULTATION.—The Secretary shall consult with the Secretary of Transportation in making an appointment under paragraph (2)(B)(i)(II).

[(c) CHAIRMAN AND VICE CHAIRMAN.—The Secretary shall designate one member of the Committee as the Chairman and one member of the Committee as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman.

[(d) SUBCOMMITTEES.—The Committee may establish and disestablish subcommittees and working groups for any purpose consistent with this section, subject to conditions imposed by the Committee. Members of the Committee and additional persons drawn from the general public may be assigned to such subcommittees and working groups. Only Committee members may chair subcommittee or working groups.

[(e) TERMINATION.—The Committee shall terminate on September 30, 2020.]

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PART I—STATE BOATING SAFETY PROGRAMS

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CHAPTER 131—RECREATIONAL BOATING SAFETY

Sec.
13101. Definitions.

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[13110. National Boating Safety Advisory Council.]

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§ 13110. National Boating Safety Advisory Council

[(a) The Secretary shall establish a National Boating Safety Advisory Council. The Council shall consist of 21 members appointed by the Secretary, whom the Secretary considers to have a particular expertise, knowledge, and experience in recreational boating safety.

[(b)(1) The membership of the Council shall consist of—

[(A) 7 representatives of State officials responsible for State boating safety programs;

[(B) 7 representatives of recreational vessel manufacturers and associated equipment manufacturers; and

[(C) 7 representatives of national recreational boating organizations and from the general public, at least 5 of whom shall be representatives of national recreational boating organizations.

[(2) Additional individuals from the sources referred to in paragraph (1) of this subsection may be appointed to panels of the Council to assist the Council in performing its duties.

[(3) At least once a year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Council.

[(c) In addition to the consultation required by section 4302 of this title, the Secretary shall consult with the Council on other major boating safety matters related to this chapter. The Council may make available to Congress information, advice, and recommendations that the Council is authorized to give to the Secretary.

[(d) When serving away from home or regular place of business, the member may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5 for individuals employed intermittently in the Government service. A payment under this section does not make a member of the Council an officer or employee of the United States Government for any purpose.

[(e) The Council shall terminate on September 30, 2020.]

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SECTION 5 OF THE INLAND NAVIGATIONAL RULES ACT OF 1980

[SEC. 5. (a) ESTABLISHMENT OF COUNCIL.—

[(1) **IN GENERAL.**—The Secretary of the department in which the Coast Guard is operating shall establish a Navigation Safety Advisory Council (hereinafter referred to as the “Council”), consisting of not more than 21 members. All members shall have expertise in Inland and International vessel navigation Rules of the Road, aids to maritime navigation, maritime law, vessel safety, port safety, or commercial diving safety. Upon appointment, all non-Federal members shall be designated as representative members to represent the viewpoints and interests of one of the following groups or organizations:

[(A) Commercial vessel owners or operators.

[(B) Professional mariners.

[(C) Recreational boaters.

[(D) The recreational boating industry.

[(E) State agencies responsible for vessel or port safety.

[(F) The Maritime Law Association.

[(2) PANELS.—Additional persons may be appointed to panels of the Council to assist the Council in performance of its functions.

[(3) NOMINATIONS.—The Secretary, through the Coast Guard Commandant, shall not less often than once a year publish a notice in the Federal Register soliciting nominations for membership on the Council.

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

[(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary for the conduct of its business. Members of the Council, while away from their home or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5. Payments under this section shall not render members of the Council officers or employees of the United States for any purpose.

[(d) Unless extended by subsequent Act of Congress, the Council shall terminate on September 30, 2020.]

ACT OF OCTOBER 6, 1980

(Public Law 96-380)

AN ACT To establish a Towing Safety Advisory Committee in the Department of Transportation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled[], That (a) There is established a Towing Safety Advisory Committee (hereinafter referred to as the “Committee”). The Committee shall consist of eighteen members with particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety as follows:

[(1) Seven members representing the barge and towing industry, reflecting a regional geographic balance.

[(2) One member representing the offshore mineral and oil supply vessel industry.

[(3) One member representing holders of active licensed Masters or Pilots of towing vessels with experience on the Western Rivers and the Gulf Intracoastal Waterway.

[(4) One member representing the holders of active licensed Masters of towing vessels in offshore service.

[(5) One member representing Masters who are active ship-docking or harbor towing vessel.

[(6) One member representing licensed or unlicensed towing vessel engineers with formal training and experience.

[(7) Two members representing each of the following groups:

[(A) Port districts, authorities, or terminal operators.

[(B) Shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge).

[(8) Two members representing the general public.

[(b) The Secretary of the department in which the Coast Guard is operating (hereinafter referred to as the "Secretary") shall appoint the members of the Committee. The Secretary shall designate one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman. The Secretary may request the Secretary of the Army and the Secretary of Commerce to each designate a representative to participate as an observer on the Committee. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

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

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

[(e) Unless extended by subsequent Act of Congress, the Committee shall terminate on September 30, 2020.]