

Calendar No. 209

**107th Congress }
1st Session }**

SENATE

**{ REPORT
107-89 }**

**COAST GUARD AUTHORIZATION ACT OF
2001**

R E P O R T

OF THE

**COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION**

ON

S. 951



OCTOBER 31, 2001.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

99-010

WASHINGTON : 2001

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

ERNEST F. HOLLINGS, South Carolina, *Chairman*

DANIEL K. INOUE, Hawaii	JOHN MCCAIN, Arizona
JOHN D. ROCKEFELLER IV, West Virginia	TED STEVENS, Alaska
JOHN F. KERRY, Massachusetts	CONRAD BURNS, Montana
JOHN B. BREAUX, Louisiana	TRENT LOTT, Mississippi
BYRON L. DORGAN, North Dakota	KAY BAILEY HUTCHISON, Texas
RON WYDEN, Oregon	OLYMPIA SNOWE, Maine
MAX CLELAND, Georgia	SAM BROWNBACK, Kansas
BARBARA BOXER, California	GORDON SMITH, Oregon
JOHN EDWARDS, North Carolina	PETER G. FITZGERALD, Illinois
JEAN CARNAHAN, Missouri	JOHN ENSIGN, Nevada
BILL NELSON, Florida	GEORGE ALLEN, Virginia

KEVIN D. KAYES, *Staff Director*

MOSES BOYD, *Chief Counsel*

GREGG ELIAS, *General Counsel*

MARK BUSE, *Republican Staff Director*

JEANNE BUMPUS, *Republican General Counsel*

107TH CONGRESS }
1st Session }

SENATE

{ REPORT
107–89

COAST GUARD AUTHORIZATION ACT OF 2001

OCTOBER 31, 2001.—Ordered to be printed

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

REPORT

[To accompany S. 951]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 951) “to authorize appropriations for the Coast Guard, and for other purposes”, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

S. 951, as amended, authorizes appropriations for the United States Coast Guard for Fiscal Year 2002, covering six accounts: (1) operation and maintenance expenses; (2) acquisition, construction, and improvement of facilities and equipment (AC&I); (3) research, development, testing, and evaluation (RDT&E); (4) retired pay; (5) environmental compliance and restoration; and (6) alteration or removal of bridges. The bill also authorizes end-of-year military strength and training loads; the operation and maintenance of up to seven excess Navy patrol craft; the recapitalization of the LORAN–C radio navigation system; and the operation and maintenance of a Caribbean Support Tender. In addition, the bill addresses various personnel management and marine safety issues, extends the charters of various Coast Guard advisory committees, and addresses harbor safety committees, lighthouse leases, and other measures.

BACKGROUND AND NEEDS

The Coast Guard is the principal Federal maritime safety and law enforcement agency. Coast Guard activities include commercial and recreational vessel safety inspection, the rescue of life and property at sea, fisheries law enforcement, marine environmental

protection, and the interdiction of drug traffickers and illegal alien migrants. In addition, the agency carries out port security functions, cooperates closely with the other armed forces in military readiness activities, and has primary responsibility for the coastal defense of the United States. Upon the declaration of war 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 Transportation.

The Coast Guard Authorization Act of 1998 (Public Law 105-383) authorized appropriations and levels of military strength and training for the Coast Guard for FY 1998 and FY 1999. S. 951 would authorize appropriations and levels of military strength and training for the Coast Guard in fiscal year 2002 and make other changes to existing law to address issues related to the Coast Guard.

In FY 2002, the Administration requested approximately \$5.05 billion, a 12 percent overall increase from the level appropriated in FY 2001. In addition, the Administration requested an FY 2002 end-of-year strength for active duty military personnel of 40,000.

The Coast Guard budget accounts that are authorized in S. 951 are summarized below.

Operating Expenses.—The Coast Guard consumes over two-thirds of its total budget conducting operations in support of its primary mission areas: protecting public safety and the marine environment; enforcing laws and treaties, including the prevention of illegal drug trafficking and illegal alien migration; maintaining aids to navigation; and preserving defense readiness. In FY 2002, the Administration requested \$3.383 billion, an increase of approximately \$191 million from the FY 2001 appropriated level. The request assumes that \$25 million would be transferred from the Oil Spill Liability Trust Fund to the operating expenses account and that approximately \$330 million would be available from the Department of Defense (DOD) for defense-related activities.

Acquisition, Construction, and Improvements (AC&I).—AC&I funds are used to pay for major capital improvements, including vessel and aircraft acquisition and rehabilitation, information management, and construction programs at selected facilities. Major AC&I projects include replacement of seagoing buoy tenders and coastal patrol boats; recapitalizing the National Distress and Response System; aircraft sensor, avionics, and engine upgrades; the Integrated Deepwater System project; and various communications and computer software systems. In FY 2002, the Administration requested \$659 million; of that amount \$338 million would fund the Integrated Deepwater System and \$42 million would fund the National Distress and Response System procurement program. The AC&I request assumes that \$20 million would be transferred from the Oil Spill Liability Trust Fund to the AC&I account.

Research, Development, Test, and Evaluation.—Funds from this account are used to develop hardware, procedures, and systems that directly contribute to increasing the productivity of Coast Guard operating and regulatory programs. The Administration requested \$21.7 million for this account in FY 2002. In each fiscal year, the request assumes that \$3.5 million would be transferred from the Oil Spill Liability Trust Fund to this account.

Retired Pay.—Funds from this account are used for retired pay, annuities, and medical care for retired military personnel and former Lighthouse Service members, their dependents, and their survivors under chapter 55 of title 10, United States Code. The Administration requested \$876 million for this account in FY 2002.

Alteration of Bridges.—Under the Truman-Hobbs Act, the Federal government shares with the States the cost of altering publicly-owned highway and railroad bridges that obstruct the free movement of marine traffic. The Administration requested \$15.46 million for FY 2002 Truman-Hobbs Act projects.

Environmental Compliance and Restoration.—This account provides resources to bring current and former Coast Guard facilities into compliance with national environmental standards. The Administration requested \$16.9 million for FY 2002, a one percent increase from the FY 2001 appropriated level.

Authorization Requests.—The authorization bill transmitted by the Administration proposes various changes to existing law to address issues and problems identified by the Coast Guard. These proposals include provisions to seek efficiencies in Coast Guard operations and parity with Department of Defense personnel laws and regulations. Specific provisions authorize the acquisition and operation of seven excess Navy 170-foot patrol craft; raise the eligible rank of the Coast Guard Band Director; extend the definition of isolated duty stations for compensatory absence purposes; allow accelerated promotion of certain Coast Guard officers; suspend retirement pay for members who flee the United States to avoid prosecution; increase advancement authority for the Oil Spill Liability Trust Fund (OSLTF); eliminate redundant OSLTF reports; extend the Territorial Sea to 12 miles with regard to radiotelephone regulations for foreign flag vessels; exempt certain non-critical entertainment and service workers from merchant marine documentation requirements; and extend the charters of various marine advisory committees.

SUMMARY OF MAJOR PROVISIONS

Authorization Levels.—S. 951, as reported, authorizes appropriations for the Coast Guard accounts covered in the bill that total over \$5.2 billion in FY 2002. Appropriations for FY 2002 are authorized at the levels equal to or greater than the Administration's request.

Within the AC&I account, the Committee is supportive of the Coast Guard's need to upgrade its Deepwater assets. This multi-year effort to recapitalize the service's offshore surface fleet, aviation assets, and command and control system is critical to the long-term viability of Coast Guard operations in offshore waters. With an aging fleet of cutters and aircraft, maintenance and personnel costs will rise dramatically unless the fleets are replaced. Further, the multi-mission nature of the Coast Guard requires a modern and flexible fleet that will continue operating as a unique vehicle of national security. The Committee is also very supportive of the need to modernize the National Distress & Response System. This system is crucial for the Coast Guard to improve its capabilities to respond to and aid mariners in distress. Indeed, this capability is what most individuals and certainly most mariners view as the Coast Guard's primary mission, yet the timeline for this urgently

needed upgrade has lagged far behind the schedule originally established and now is estimated for completion by 2006.

The reported bill also authorizes for FY 2002 an end-of-year active duty military strength level of 45,500. This end-of-year strength level is larger than the Administration request. The Committee notes that Coast Guard missions and demands have continued to expand over the past several years. Moreover, the agency's current strength is comparable to the Coast Guard of 1966, before the advent of migrant interdiction, large-scale fisheries law enforcement, or maritime drug interdiction. The 1999 Interagency Task Force report on Coast Guard roles and missions reaffirmed the need for a strong Coast Guard in the 21st century. Therefore, the Committee increased the end-of-year strength numbers beyond those recommended by the Administration to ensure that the Coast Guard has the personnel resources and flexibility it needs to meet these new challenges and demands.

Annual Training Student Levels are Authorized as Requested.—Levels for flight training increase by 25 students in an attempt to offset the recent departure of qualified aviators from the service. The Committee notes that approximately forty percent of current mid-grade Coast Guard officers (8 to 15 years of service) who fly fixed-wing aircraft have requested resignation from the service.

LORAN-C.—Authority is granted to the Secretary of Transportation to transfer \$22 million in FY 2002 from the Federal Aviation Administration to the Coast Guard. This funding is intended to recapitalize the aging LORAN-C radio navigation system. The LORAN-C system remains the primary navigation tool for many vessels and general aviation aircraft, and a viable back-up system for some military aircraft. It is critical to maritime traffic and should be available for future use.

Patrol Craft.—The bill authorizes the Coast Guard to accept, modify, and operate up to seven excess Navy patrol craft. The 170-foot vessels will be used primarily in the Coast Guard's drug interdiction mission. These ships have been used successfully by the Navy in the Caribbean Basin to conduct counter narcotics operations in support of Coast Guard forces. The Navy's plans to decommission the vessels would decrease the overall number of assets devoted to maritime drug interdiction. The logical transfer of these ships to Coast Guard service will maintain the existing counterdrug infrastructure and provide the service with tested multi-mission platforms in good condition. Up to \$100 million is authorized to be appropriated to outfit, man, and operate the ships. This additional funding is required to modify the ships to Coast Guard standards, overhaul worn out equipment, construct shore-side facilities, and train Coast Guard personnel.

DOD Parity.—The reported bill includes several measures that grant the Coast Guard parity with its Department of Defense counterparts. The Secretary of Transportation is given discretionary authority to promote the Coast Guard Band Director from the rank of Commander to the rank of Captain. Additionally, the Coast Guard is authorized to suspend retirement pay for members who flee the United States to avoid prosecution. Finally, the Coast Guard is given parity with Department of Defense authorities concerning severance pay.

Coast Guard Personnel Management and Administration.—The reported bill authorizes several measures that should improve the Coast Guard's ability to recruit, reward, and retain high-quality personnel. The current definition of "isolated duty", for the purposes of compensatory absence, is limited to lightships and other isolated aids to navigation. Coast Guard missions have changed since the original provision was enacted in 1955. Today, marine inspectors are stationed at remote locations to protect the environment and ensure vessel safety. This new provision will change the definition of isolated duty locations to encompass current Coast Guard mission areas and provide equity within the service.

The reported bill also authorizes promotion boards to recommend exceptionally high-performing officers for advancement ahead of their peers, within their promotion zone, without causing the non-promotion of other officers. Currently, the only method to advance the promotion of an officer relative to his peers on the Active Duty Promotion List is through selection from below the identified promotion zone. Due to the competitive nature of advancement, the advanced promotion of one officer results in the non-selection of another. This provision will allow the reward of one officer without disadvantaging another highly performing officer.

The bill as reported authorizes the Coast Guard to create a "Reserve Student Pre-Commissioning Assistance Program," which is similar to the ROTC programs used by the other armed services, in order to improve recruitment success.

The bill authorizes the Coast Guard to allow personnel to continue on active duty in certain situations. Current regulations require personnel to retire after a certain length of service or if they have not been selected for promotion. This is an outdated standard that has led to the loss of expertise that is critical to Coast Guard operations and planning.

Extension of Territorial Sea for Vessel Bridge-to-Bridge Radio Telephone.—The reported bill extends Coast Guard authority to enforce radiotelephone monitoring requirements from 3 miles to 12 miles offshore. Recent changes to the international Safety of Life at Sea (SOLAS) Convention have removed the requirement that ships maintain a watch on the distress, safety, and calling on VHF-FM channel 16. Thus, there is no international requirement for foreign vessels to monitor radiotelephone equipment between 3 and 12 miles off United States shores. United States flag vessels are already required to monitor channel 16 within 12 miles of shore. This provision will only affect foreign flag vessels operating within the Territorial Sea and increases safety for operation of such foreign flag vessels.

Icebreaking Services.—In FY 2000, the Coast Guard proposed to decommission eleven WYTL-class harbor tugs. These tugs provide, among other things, icebreaking services critical to several East Coast areas. The Coast Guard acknowledged that there would be a degradation of service and did not have a plan to minimize the impact. The Committee notes that during the harsh 1999–2000 and 2000–2001 winters, these WYTL-class harbor tugs conducted many critical icebreaking missions. This section requires the Coast Guard to certify to Congress that icebreaking services will not be degraded before decommissioning any WYTL-class harbor tugs.

Oil Spill Liability Trust Fund (OSLTF).—The reported bill authorizes the Coast Guard to receive an advance of up to \$100 million for emergency oil spill cleanup costs. Under current law, the OSLTF, known as the Parent Fund, pays claims, salaries, operating expenses, and scheduled expenditures associated with the Oil Pollution Act of 1990. Additionally, a permanent annual appropriation of \$50 million is taken from the Parent Fund and made available to carry out emergency oil spill response needs. This fund is called the Emergency Fund. Expenditures from the Emergency Fund are then collected from responsible parties and reimbursed to the Parent Fund. Annual Emergency Fund expenditures during the last 4 years have been approximately \$42–\$50 million, without a major oil spill.

Although an emergency supplemental appropriations request could be submitted to replenish the Emergency Fund, a spill similar to the Exxon Valdez could deplete the fund in 2–3 weeks. If Congress were not in session when the fund ran out, there would be no way to secure the additional funding needed to continue response work. This provision would authorize the Coast Guard to receive an advance of up to an additional \$100 million, per incident, from the OSLTF Parent Fund and use the funds for emergency oil spill response costs. Funds advanced from the Parent Fund under these circumstances would be repaid to the Parent Fund when the funds are recovered from the responsible party by the Coast Guard. It also requires the Coast Guard to notify Congress within 30 days of the amount advanced and the circumstances necessitating the advance.

Merchant Mariner Documentation Requirements.—The reported bill authorizes the Coast Guard to eliminate the merchant mariner document requirement for vessel employees who do not have operation, navigation, or safety responsibilities (including emergency responsibilities) on United States merchant vessels. This Administration-requested provision is intended to apply to casino workers, entertainers, and food service personnel on board United States flagged ships. According to the Administration, requiring documentation of such service personnel does not significantly enhance maritime safety and places an unnecessary administrative burden on the Coast Guard and the affected employees.

Reports and Studies.—The reported bill removes certain reporting requirements, reinstates others, and requires new reports. The Secretary of Transportation is required to prepare a status report on the modernization of the National Distress and Response System. This is of particular concern to the Committee because the National Distress and Response System Modernization Project (NDRSMP) is designed to be the maritime equivalent of the “911” system for mariners in distress. In spite of years of planning, improvements in the NDRSMP have not been realized. The gaps in this communications system have proven deadly in a number of marine accidents, and interim actions will be required to prevent future tragedies. The Coast Guard has spent approximately \$4 million to purchase limited direction finding systems and replace outdated digital voice recorders at all communication centers. However, even the Coast Guard acknowledges this effort as a “Band-Aid” approach. The Committee is concerned that existing communications gaps and insufficient direction-finding capabilities pre-

vent the Coast Guard from aiding boaters in distress. The Department of Transportation Inspector General has expressed the same concerns. Further, the Committee was initially notified that the NDRSMP was scheduled for operational production and deployment in 2004; the Committee has recently been told that this timeline has moved to 2006. The Committee is concerned that this critical timeline will slip further, especially in light of increasing budget constraints combined with the additional funding requirements imposed by the Integrated Deepwater System. The requirement for this report is only one step in the Committee's plans to ensure that the Coast Guard's primary role of at-sea search-and-rescue is not compromised by other programs. The Committee recognizes that modern communications systems and viable offshore assets play complementary roles in fulfilling the Coast Guard's search-and-rescue mission.

The Coast Guard is also required to study the Harbor Safety Committee model used in various United States ports. These committees attempt to improve navigational and port safety by identifying impediments to safety, then collaboratively developing ways to overcome them through local coordination of maritime stakeholders. The Ports and Waterways Safety Committee for the Columbia River in Oregon could be a model to establish prototype groups in small and medium-sized ports such as Coos Bay, Oregon, the site of the tanker *New Carissa* grounding and resulting oil spill.

Administrative Jones Act Waivers: The bill as reported contains a provision repealing the authority of the Secretary of Transportation to revoke administrative Jones Act waivers once they have been granted.

LEGISLATIVE HISTORY

S. 951 was introduced on May 24, 2001, by Senator Snowe, with Senators McCain, Hollings, Kerry, Breaux, DeWine, Lott, and Murkowski as original cosponsors. On August 3, 2001 the bill was considered by the Committee in an open executive session. Senators Kerry, Snowe, and Hollings offered an amendment in the nature of a substitute. Sen. Stevens offered an amendment to section 204 of the substitute that would authorize a housing demonstration project in Kodiak, Alaska; the amendment was approved via voice vote. The Committee, without objection, ordered S. 951 reported with amendments.

ESTIMATED COSTS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 20, 2001.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 951, the Coast Guard Authorization Act of 2001.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 951—Coast Guard Authorization Act of 2001

Summary: CBO estimates that implementing S. 951 would cost \$3.1 billion in fiscal year 2002 and \$4.4 billion over the 2002–2006 period, assuming appropriation of the authorized amounts. The bill could affect governmental receipts by increasing certain civil penalties; therefore, pay-as-you-go procedures would apply to the bill, but CBO estimates that any resulting increase in receipts would be less than \$500,000 annually. S. 951 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

S. 951 would extend to 10 years, the period of time during which manufacturers of recreational boating vessels and associated equipment are required to issue recalls for products found to be defective or out of compliance with current regulation. This extension would constitute a private-sector mandate as defined by UMRA. According to both government and industry sources, vessel and equipment manufacturers already comply with this requirement. Therefore, CBO expects that there would be no additional cost associated with this private-sector mandate.

The legislation would authorize the appropriation of \$4.4 billion for discretionary programs of the U.S. Coast Guard (USCG) for fiscal year 2002, including about \$3.6 billion for operating expenses, \$669 million for acquisition and other capital projects, \$22 million for research activities, \$16 million for bridge alterations, and \$17 million for environmental compliance. Of the amounts authorized, \$48.5 million would be derived from the Oil Spill Liability Trust Fund (OSLTF). In addition to annual appropriations for routine Coast Guard activities, the bill also would authorize 2002 appropriations of \$22 million for capital expenses related the LORAN-C infrastructure and \$100 million to convert, operate, and maintain up to seven PC-170 patrol craft that may be received by the agency from the Department of Defense.

The bill also would extend the availability of an existing \$20 million authorization of appropriations for innovative financing of Coast Guard housing projects until 2006. (Under existing law, the housing program authority expires at the end of fiscal year 2001.)

Finally, S. 951 would authorize the appropriation of \$876 million for Coast Guard retirement benefits—an appropriated entitlement—in 2002.

Other provisions of the bill would change certain Coast Guard personnel practices, provide additional authority for marine safety programs, and add or eliminate various reporting requirements. Any costs or savings for these changes in fiscal year 2002 are included in the bill's specified authorization levels for Coast Guard appropriations.

Estimated cost to the Federal Government: The estimated budgetary effects of S. 951 are summarized in the following table. The costs of this legislation fall within budget functions 300 (natural resources and environment) and 400 (transportation).

	By fiscal year in millions of dollars—					
	2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION						
USCG Spending Under Current Law:						
Budget Authority/Authorization Level ¹	3,736	29	0	0	0	0
Estimated Outlays	3,805	1,061	467	282	137	23
Proposed Changes:						
Authorization Level	0	4,454	4	4	4	4
Estimated Outlays	0	3,120	773	297	157	52
USCG Spending Under S. 951:						
Authorization Level ¹	3,736	4,483	4	4	4	4
Estimated Outlays	3,805	4,181	1,240	579	294	75

¹ The 2001 level is the amount appropriated for that year. The \$29 million in 2002 is the amount already authorized to be appropriated from the OSLTF for Coast Guard operating expenses and research.

The amount authorized by the bill for Coast Guard retirement has not been included in the above table because such pay is an entitlement under current law and it is not subject to appropriation actions.

Basic of estimate: For this estimate, CBO assumes that the amounts authorized by S. 951 for USCG programs will be appropriated for fiscal year 2002.

The authorization level for 2002 is the amount stated in the bill for discretionary activities, excluding \$28.5 million of the \$48.5 million to be derived from the OSLTF. This amount, which consists of \$25 million for Coast Guard operations and \$3.5 million for research, has been excluded from the incremental cost of implementing the bill because such funding is already authorized under existing law. For this estimate, CBO assumes that the \$20 million reauthorized for innovative financing of USCG housing projects will be appropriated in equal increments over the five-year period. Estimated outlays reflect historical spending patterns for Coast Guard programs.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO estimates that enacting the provisions in S. 951 regarding penalties for interfering with the safe operation of vessels could increase revenues from civil penalties, but by less than \$500,000 annually.

Estimated impact on state, local, and tribal governments: S. 951 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: S. 951 would extend to 10 years, the period of time during which recreational boating vessel and associated equipment manufacturers are required to issue recalls for products found to be defective or out of compliance with current regulation. The extension would constitute a private-sector mandate as defined by UMRA. Current law requires manufacturers to issue a recall if a product is found to be defective or in violation of standards within five years of its manufacture or certification. According to both government and industry sources, vessel and equipment manufacturers already voluntarily issue recalls for such products after the 10 years required by the bill. Therefore, CBO expects that there would be no additional cost associated with this private-sector mandate.

Previous CBO estimates: On May 17, 2001, CBO prepared a cost estimate for H.R. 1699, the Coast Guard Authorization Act of 2001, as ordered reported by the House Committee on Transportation and Infrastructure on May 16, 2001. Differences in the estimates for H.R. 1699 and S. 951 reflect differences in the authorization levels contained in the two bills.

On August 16, 2001, CBO prepared an estimate for H.R. 2481, the Omnibus Maritime Improvements Act of 2001 as ordered reported by the House Committee on Transportation and Infrastructure on July 18, 2001. H.R. 2481 contains many of the same provisions in S. 951, several of which would increase Coast Guard operating and capital costs. The costs of such provisions are included in the estimate of S. 951 within the levels specifically authorized to be appropriated.

H.R. 1699 and H.R. 2481 contain no private-sector mandates as defined by UMRA.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins; Impact on the Private Sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

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

NUMBER OF PERSONS COVERED

S. 951 as reported by the Committee authorizes appropriations to continue existing Coast Guard programs and makes a number of changes to current law. The bill would have little, if any, regulatory impact, but a few of the bill's sections could impact some individuals and businesses, and the effects of these sections can be clarified as follows:

Section 203 authorizes the Coast Guard to suspend the retired pay of Coast Guard members who flee the United States to avoid prosecution. This provision provides compensation parity with current law applied to retired military personnel under the Department of Defense. However, this section would not impose new regulatory requirements on such individuals.

Section 302 requires foreign flag vessels to monitor inter-ship radiotelephone frequencies when operating within United States Territorial waters (out to 12 miles offshore). Under current law, foreign flag vessels are required to monitor such frequencies when operating between 0–3 miles offshore and this provision extends that requirement to 12 miles. Recent changes to the international Safety of Life at Sea (SOLAS) Convention have removed the requirement that ships maintain a watch on the distress, safety, and calling VHF–FM channel 16. Thus, there is no international requirement for foreign vessels to monitor radiotelephone equipment between 3 and 12 miles off United States shores. Because United States flag vessels are already required to monitor channel 16 within 12 miles of shore, section 301 of the reported bill will only affect foreign flag vessels operating within the Territorial Sea. This provision expands the area of application of this law and is intended to provide for safe maritime transportation and protection of the environment. Since nearly all marine transport vessels operating from 3 to 12 miles offshore also operate between 0 and 3 miles offshore, they are already subject to the requirements of the law amended by the reported bill.

Several other sections of the bill would require changes to current regulations, but they have the effect of removing regulatory requirements on individuals. These include: Sections 306, 506, and 507.

ECONOMIC IMPACT

Sections 203, 211, and 309 could have an economic impact on some individuals and businesses, but these impacts would result from DoD compensation parity reforms or measures designed to improve protections for consumers of maritime equipment.

PRIVACY

The reported bill would have little, if any, impact on the personal privacy of United States citizens.

PAPERWORK

The reported bill should not significantly increase paperwork requirements for individuals and businesses.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

This section states that the Act may be cited as the Coast Guard Authorization Act of 2001.

Section 2. Table of Contents

TITLE I—AUTHORIZATION

Section 101. Authorization of Appropriations

This section of the reported bill would authorize Coast Guard appropriations for FY 2002. The following chart summarizes the FY 2002 authorization levels proposed in subsections (a) and (b), respectively:

PROPOSED LEVELS FOR PROGRAMS AUTHORIZED IN S. 951, AS REPORTED

Programs	Requested	Authorized
Operating Expenses	\$3,382,838,000	\$3,633,000,000
AC&I	659,323,000	669,323,000
R&D	21,722,000	22,000,000
Retired Pay	876,350,000	876,350,000
Alteration of Bridges	15,466,000	15,500,000
Environmental Compliance	16,927,000	17,000,000
Total	4,972,626,000	5,206,173,000

Section 102. Authorized Levels of Military Strength and Training

This section of the reported bill provides authorization for levels of military personnel strength and training for FY 2002. Subsection (a) authorizes a Coast Guard end-of-fiscal-year strength for active duty military personnel of 45,500 as of September 30, 2002. Subsection (b) authorizes average military training student levels in FY 2002 of 1,500 student years for recruit and special training; 125 student years for flight training; 300 student years for professional training in military and civilian institutions; and 1,050 student years for officer acquisition.

Section 103. LORAN-C

This section of the reported bill authorizes the Department of Transportation to transfer \$22 million in FY 2002 from the Federal Aviation Administration to the Coast Guard for recapitalization of the LORAN-C radio navigation system.

Section 104. Patrol Craft

This section of the reported bill authorizes the Coast Guard to receive and operate up to seven excess PC170 patrol ships from the United States Navy. The vessels will primarily operate in support of the drug interdiction mission area. This section authorizes \$100 million, in addition to funds authorized in section 101, for outfitting and operating the vessels.

Section 105. Caribbean Support Tender

This section would permanently reauthorize the Coast Guard's ability to operate the Caribbean International Support Tender (CST), which is used to train and support foreign coast guards in the Caribbean region.

TITLE II—PERSONNEL MANAGEMENT

Section 201. Coast Guard Band Director Rank

This section of the reported bill amends section 336(d) of title 14, United States Code, to authorize the Coast Guard to promote the Coast Guard Band Director from the rank of Commander to the rank of Captain. This provision assures parity with the other Services which provide their band directors eligibility to attain the officer grade level of O-6.

Section 202. Compensatory Absence for Isolated Duty

This section of the reported bill amends section 511 of title 14, United States Code which limits the definition of Isolated Duty, for the purposes of compensatory absence, to lightships and other isolated aids to navigation. Because Coast Guard mission areas have changed since the law was enacted in 1955, this provision allows the definition of isolated duty locations to encompass current Coast Guard mission areas.

Section 203. Suspension of Retired Pay of Coast Guard Members Who are Absent from the United States to Avoid Prosecution

This section of the reported bill provides parity between the Department of Transportation and the Department of Defense to prevent retired Coast Guard members from receiving retirement pay if they flee the country to avoid prosecution.

Section 204. Extension of Coast Guard Housing Authorities

Section 208 of the Coast Guard Authorization Act of 1996 provided the Coast Guard with the legal authority to encourage private sector participation in the acquisition or construction of Coast Guard housing on or near Coast Guard installations. This proposal would extend the present Coast Guard housing authority until October 1, 2006. Under current law, this authority expires on October 1, 2001. In addition, the bill as reported authorizes a Coast Guard housing demonstration project on the Coast Guard Kodiak, Alaska facilities.

Section 205. Accelerated Promotion of Certain Coast Guard Officers

This section of the reported bill amends sections 259, 260(a), and 271(a) of title 14, United States Code, authorizing the Coast Guard to advance officers ahead of their peers within a given promotion zone, without disadvantaging other high performing officers.

Section 206. Regular Lieutenant Commanders and Commanders; Continuation on Failure of Selection for Promotion

This proposal would authorize the Coast Guard to continue, through board action, Commanders and Lieutenant Commanders scheduled to retire due to failure of selection for promotion. This section would provide the Coast Guard with authority similar to that available to the Department of Defense services. This measure will allow the Coast Guard to retain experienced officers who wish to remain in service rather than be forced to retire.

Section 207. Reserve Officer Promotion

This proposal makes technical amendments to fully implement changes made to sections 729(d) and 731 of title 14, United States Code, by the National Defense Authorization Act for Fiscal Year 2001, P.L. 106–398. Specifically, this section would prescribe the method for determining the date a promotion becomes effective and for establishing the date of rank in the event the Coast Guard implements the change authorized by section 502 of P.L. 106–398.

Section 208. Reserve Student Pre-Commissioning Assistance Program

This section authorizes the Coast Guard to adopt a program similar to that which has proven to be highly successful for the Marine Corps. Under the program, the Coast Guard would be authorized to pay up to \$25,000 of an individual's tuition and certain other costs in exchange for obligated service. The individual would enlist in the Coast Guard Reserve in an inactive duty status while attending college or graduate school and, upon successful completion of the program, would be offered a commission as an officer in the Coast Guard Reserve to serve on active duty. The active duty term would be up to five years of obligated active service as well as three years inactive service.

Section 209. Continuation on Active Duty Beyond 30 Years

This section authorizes the Coast Guard to offer to Captains who would otherwise be forced to retire at thirty years the opportunity to continue on active duty. This would allow the Coast Guard to retain experienced officers.

Section 210. Payment of Death Gratuities on Behalf of Coast Guard Auxiliarists

This section would authorize the Coast Guard to pay death gratuities to personal representatives of Coast Guard Auxiliarists to the same extent that death gratuities are paid on behalf of Federal employees.

Section 211. Align Coast Guard Severance Pay and Revocation of Commission Authority with Department of Defense Authority

This section revises the Coast Guard severance pay provisions to incorporate, into title 14 of the United States Code, the Department of Defense separation pay computations. In particular, it ends a practice whereby officers request not to be selected for promotion so as to qualify for severance pay. In addition, this section allows the Secretary to revoke the commission of an officer with up to five years of commissioned service, rather than three years, to achieve parity with the DoD services.

TITLE III—MARINE SAFETY

Section 301. Modernization of National Distress And Response System

This section requires the Secretary of Transportation to prepare and submit to Congress within 60 days of enactment, a status report on the modernization of the National Distress and Response System.

Section 302. Extension of Territorial Sea for Vessel Bridge-to-Bridge Radiotelephone Act

This section of the reported bill amends section 1203(b) of title 33, United States Code, to require foreign flag vessels to monitor inter-ship radiotelephone frequencies when operating within United States Territorial waters (out to 12 miles offshore).

Section 303. Icebreaking Services

This section requires the Coast Guard to certify to Congress that icebreaking services will be maintained before decommissioning any WYTL-class harbor tugs.

Section 304. Modification of Various Reporting Requirements

This section of the reported bill eliminates the requirement for an annual report to Congress of information which is duplicated in other required reports.

Section 305. Oil Spill Liability Trust Fund; Emergency Fund Advancement Authority

This section of the reported bill amends section 2752(b) of title 33, United States Code, to provide the Coast Guard authority to receive an advance of up to \$100 million for emergency oil spill clean-up from the Oil Spill Liability Trust Fund.

Section 306. Merchant Mariner Documentation Requirements

This section of the reported bill amends section 8701(a) of title 46, United States Code, to authorize the Coast Guard to eliminate the merchant mariner document requirement for vessel employees who do not have operation, navigation, or safety responsibilities (including emergency responsibilities) on United States merchant vessels. This section is intended to apply to casino workers, entertainers, and food service personnel on board United States flag ships.

Section 307. Penalties for Negligent Operations and Interfering with Safe Operation

This proposal would increase the maximum civil penalty for negligent operation of a vessel or for interfering with the safe operation of a vessel, from \$1,000 to \$25,000.

Section 308. Fishing Vessel Safety Training

This section authorizes the Coast Guard to support fishing vessel safety training programs as long as such support does not interfere with any Coast Guard functions or operations.

Section 309. Extend Time for Recreational Vessel and Associated Equipment Recalls

This proposal would amend 46 U.S.C. 4310(c)(2) (A) and (B) to extend to ten years the current five-year limit on the obligation of manufacturers of recreational vessels or associated equipment to notify owners of recalls due to safety defects or noncompliance with Federal recreational boat safety regulations.

Section 310. Safety Equipment Requirement

This section would require the Coast Guard to provide adequate safety equipment, including survival suits when appropriate to local conditions, to its personnel involved in search and rescue missions.

Section 311. Marine Casualty Investigations Involving Foreign Vessels

This proposal would amend section 6101 of title 46, United States Code, to authorize the Coast Guard specifically to conduct marine casualty investigations involving foreign vessels, consistent with generally recognized practices and procedures of International Law, and the provisions of the International Maritime Organization Code for the Investigation of Marine Casualties and Incidents.

TITLE IV—RENEWAL OF ADVISORY GROUPS

Section 401. Commercial Fishing Industry Vessel Advisory Committee

This section of the reported bill amends section 4508 of title 46, United States Code, to authorize the Coast Guard to extend the Commercial Fishing Vessel Advisory Committee from 2000 to 2005 and make technical changes.

Section 402. Houston-Galveston Navigation Safety Advisory Committee

This section of the reported bill amends section 18 of the Coast Guard Authorization Act of 1991 (P.L. 102–241), to authorize the Coast Guard to extend the Houston-Galveston Navigation Safety Advisory Committee from 2000 to 2005 and make technical changes.

Section 403. Lower Mississippi River Waterway Advisory Committee

This section of the reported bill amends section 19 of the Coast Guard Authorization Act of 1991 (P.L. 102–241), to authorize the Coast Guard to extend the Lower Mississippi River Waterway Advisory Committee from 2000 to 2005 and make technical changes.

Section 404. Navigation Safety Advisory Council

This section of the reported bill amends section 2073 of title 33, United States Code, to authorize the Coast Guard to extend the Navigation Safety Advisory Council from 2000 to 2005 and make technical changes.

Section 405. National Boating Safety Advisory Council

This section of the reported bill amends section 13110 of title 46, United States Code, to authorize the Coast Guard to extend the National Boating Safety Advisory Council from 2000 to 2005 and make technical changes.

Section 406. Towing Safety Advisory Committee

This section of the reported bill amends section 1231(a) of title 33, United States Code, to authorize the Coast Guard to extend the Towing Safety Advisory Committee from 2000 to 2005 and make technical changes.

Section 407. Great Lakes Pilotage Advisory Committee

This section of the reported bill amends section 9307 of title 46, United States Code, to authorize the Coast Guard to extend the Great Lakes Pilotage Advisory Committee from 2003 to 2005 and make technical changes.

TITLE V—MISCELLANEOUS

Section 501. Conveyance of Coast Guard Property in Portland, Maine

This section of the reported bill authorizes the Coast Guard to transfer excess property in Portland harbor to the Gulf of Maine Aquarium Development Corporation.

Section 502. Harbor Safety Committees

This section of the reported bill requires the Coast Guard to study existing waterway safety committees to test the feasibility of expanding the concept to small and medium-sized ports.

Section 503. Limitation of Liability of Pilots at Coast Guard Vessel Traffic Services

This section limits the liability of a pilot, acting in the course and scope of his duties while at a United States Coast Guard Vessel Traffic Service, to only damages caused by gross negligence or willful misconduct.

Sec. 504. Conforming references to the former Merchant Marine and Fisheries Committee.

This section makes several conforming amendments by replacing certain references to the former Committee on Merchant Marine and Fisheries of the United States House of Representatives (which was abolished in 1995) with the Committee on Transportation and Infrastructure.

Section 505. Long-term Lease Authority for Lighthouse Property

This section would authorize the Coast Guard to lease lighthouse properties under the administrative control of the Coast Guard for no monetary consideration, for terms not to exceed thirty years. Current authority limits leases of Coast Guard property to five years.

Section 506. Electronic Filing of Commercial Instruments for Vessels

Currently, a bill of sale, conveyance, mortgage, assignment, or related instrument pertaining to any documented vessel must be filed with the Secretary of Transportation to be effective. Electronic filing of such instruments was authorized beginning in 1996. However, in order for the electronic filing to be effective, an original of the instrument must be filed with the Secretary of Transportation within 10 days. This section would amend section 31321 of title 46, United States Code, to remove the requirement for filing an original commercial instrument within ten days of the electronic filing of the instrument.

Section 507. Radio Direction Finding Apparatus Carriage Requirement

This section would exempt vessels with Global Maritime Distress and Safety System equipment installed and operating in good working condition from the requirement to carry obsolete radio direction-finding apparatus. Elimination of the requirement to carry this equipment will have no negative impact on the safety of life

at sea because the only signals the radio direction finding apparatus affected by this proposal are designed to detect are no longer in use.

TITLE VI—JONES ACT WAIVERS

Section 601. Repeal of Special Authority to Revoke Endorsements

This section repeals the authority of the Secretary of Transportation to revoke administrative Jones Act waivers once they have been granted.

CHANGES IN EXISTING LAW

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

SEC. 633. SUSPENSION OF PAYMENT OF RETIRED PAY OF MEMBERS WHO ARE ABSENT FROM THE UNITED STATES TO AVOID PROSECUTION. [5 U.S.C. 8313 nt]

(a) **DEVELOPMENT OF PROCEDURES FOR SUSPENSION.**—The Secretary of Defense shall develop uniform procedures under which the Secretary of a military department may suspend the payment of the retired pay of a member or former member of the Armed Forces 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, United States Code, 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.

(b) **APPLICATION TO COAST GUARD.**—*Procedures promulgated by the Secretary of Defense under subsection (a) shall apply to the Coast Guard. The Commandant of the Coast Guard shall be considered a Secretary of a military department for purposes of suspending pay under this section.*

[(b)] (c) **REPORT TO CONGRESS.**—The Secretary of Defense shall submit to Congress a report describing the procedures developed under subsection (a). The report shall include recommendations regarding changes to existing provisions of law (including section 8313 of title 5, United States Code) that the Secretary determines are necessary to fully implement the procedures.

[(c)] (d) **RETIRED PAY DEFINED.**—For purposes of this section, the term “retired pay” means retired pay, retirement pay, retainer pay, or equivalent pay, payable under a statute to a member or former member of a uniformed service.

[(d)] (e) **EFFECTIVE DATE.**—The uniform procedures required by subsection (a) shall be developed not later than 30 days after the date of the enactment of this Act.

TITLE 14. COAST GUARD

PART I. REGULAR COAST GUARD

CHAPTER 11. PERSONNEL OFFICERS

B. SELECTION FOR PROMOTION

§ 259. Officers to be recommended for promotion

(a) A selection board convened to recommend officers for promotion shall recommend those eligible officers whom the board 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) 7½ 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) *After 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) *A selection board may not make any recommendation under this subsection before the date the Secretary publishes a finding that implementation of this subsection will improve Coast Guard officer retention and management.*

(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. 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.]** *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 of those officers whose names have been furnished to the board.

* * * * *

C. PROMOTIONS

§ 271. 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.

* * * * *

D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

§ 281. Revocation of commissions during first [three] *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 [three] *five* years of continuous service as a commissioned officer in the Regular Coast Guard.

* * * * *

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

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

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

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

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

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

(b)(1) When the needs of the service require, the Secretary may direct a selection board, which has been convened under section 251 of this title, to recommend for continuation on active duty for terms of not less than two nor more than four years a designated number of officers of the grade of lieutenant who would otherwise be discharged or retired under this section. When so directed, the board shall recommend for continuation on active duty those officers under consideration who are, in the opinion of the board, best

qualified for continuation. Each officer so recommended may, with the approval of the Secretary, and notwithstanding subsection (a), be continued on active duty for the term recommended.

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

(A) except as provided in subparagraph (B), be honorably discharged with **severance** *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.

* * * * *

§ 285. Regular lieutenant commanders and commanders; retirement for failure of selection for promotion

[Each officer] (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 which 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 which 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), 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. Discharge in lieu of retirement; [severance] 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) Each officer discharged under this section or under section 282, 283, or 284 of this title is entitled to a lump-sum payment computed by multiplying his years of active commissioned service, but not more than twelve, by two months' basic pay of the grade in which he is serving on the date of his discharge. In determining the total number of years of active service to be used as a multiplier in computing his payment, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded. The acceptance of a lump-sum payment 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 payment under this section until the total amount deducted equals the amount of the lump-sum payment.]

(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title who 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, who 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) or (b), an officer discharged under chapter 11 of this title 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. Regular warrant officers: [severance] separation pay

[(a) The severance pay of a regular warrant officer of the Coast Guard who is separated under section 580(a)(4)(A) of title 10 is computed by multiplying his years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended, but not more than 12, by twice the monthly basic pay to which he is entitled at the time of separation.

[(b) The severance pay of a regular warrant officer of the Coast Guard who is separated under section 1166 of title 10 is computed by multiplying his years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended, but not more than 12, by the monthly basic pay to which he is entitled at the time of separation, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.

[(c) For the purposes of this section, a part of the year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.]

(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 computed 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 severance 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 severance pay under this section, until the total deductions equal the amount of such severance pay.

* * * * *

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

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

of rear admiral (lower half). Officers who are subject to retirement under section 288 of this title during the promotion year in which the board meets shall not be considered by this board.

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

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

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

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

(f) A board convened under this section shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After his final review the Secretary shall submit the report of the board to the President for his approval. 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.

* * * * *

E. SEPARATION FOR CAUSE

§ 327. Officers considered for removal; retirement or discharge; [severance] *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 therefore; or

[(2) for honorable discharge with severance benefits under subsection (b) in those cases arising under clause (1) of section 321 of this title; or]

(2) for discharge with separation benefits under section 286(c) of this title.

[(3) for discharge with severance benefits under subsection (b) in those cases arising under clause (2) of section 321 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 in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month's basic pay of that grade, in those cases arising under clause (1) of section 321 of this title; 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.

[(3) if on that date the officer is ineligible for voluntary retirement under any law, be discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month's basic pay of that grade, in those cases arising under clause (2) of section 321 of this title, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.]

* * * * *

F. MISCELLANEOUS PROVISIONS

§ 336. 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 shall designate the director from among qualified members of the Coast Guard. Upon the recommendation of the Secretary, a member so designated may be appointed by the President, by and with the advice and consent of the Senate, to a commissioned grade in the Regular Coast Guard.

(c) The initial appointment to a commissioned grade of a member designated as director of the Coast Guard Band shall be in the grade of lieutenant (junior grade) or lieutenant.

(d) A member 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 [commander.] *captain*.

(e) The Secretary may revoke any designation as director of the Coast Guard Band. When a member'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.

* * * * *

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

§ [511. **Compensatory absence of military personnel at isolated aids to navigation**

[The Secretary, under regulations prescribed by him, may grant compensatory absence from duty to military personnel of the Coast Guard serving in lightships and at lighthouses and other isolated aids to navigation of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.]

§511. 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.

* * * * *

CHAPTER 17. ADMINISTRATION

§ 663. **Submission of plans to Congress**

The President shall submit to Congress with each budget request for the Coast Guard the current copy of the Coast Guard's Capital Investment Plan, Cutter Plan, Aviation Plan, Shore Facilities Plan, and Information Resources Management Plan. Not later than 30 days after the date on which the President submits to the Congress a budget under section 1105 of title 31 which includes a proposed 2-year budget for the Coast Guard, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the

Committee on Appropriations of the Senate, and to the Committee on [Merchant Marine and Fisheries] *Transportation and Infrastructure* and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for the fiscal years covered by such proposed 2-year budget.

§ 664. 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) Before January 1 of each year, the Secretary shall submit a report to the Committee on [Merchant Marine and Fisheries] *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.

* * * * *

§ 672b. 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, but not limited to, 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 Treasury.*

* * * * *

CHAPTER 18. COAST GUARD HOUSING AUTHORITIES

§ 687. 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 Transportation or Coast Guard for the acquisition or construction of military family housing or unaccompanied housing.

(3) Proceeds from the conveyance or lease of property or facilities under section 685 of this title for the purpose of carrying out activities under this chapter with respect to military family and military unaccompanied housing.

(4) Income from any activities under this chapter, including interest on loan guarantees made under section 682 of this title, income and gains realized from investments under section 684 of this title, and any return of capital invested as part of such investments.

(c) **USE OF AMOUNTS IN FUND.**—

(1) In such amounts as provided in appropriation 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 and military unaccompanied housing units, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this chapter.

(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) or (b)(3) 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.

(f) **LIMITATION ON AMOUNT OF BUDGET AUTHORITY.**—The total value in budget authority of all contracts and investments undertaken using the authorities provided in this chapter shall not exceed \$20,000,000.

(g) **DEMONSTRATION PROJECT AUTHORIZED.**—*To promote efficiencies through the use of alternative procedures for expediting new housing projects, the Secretary—*

(1) *may develop and implement a demonstration project for acquisition or construction of military family housing and military unaccompanied housing at the Coast Guard installation at Kodiak, Alaska;*

(2) *in implementing the demonstration project shall utilize, to the maximum extent possible, the contracting authority of the Small Business Administration's section 8(a) program;*

(3) *shall, to the maximum extent possible, acquire or construct such housing through contracts with small business concerns qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) that have their principal place of business in the State of Alaska; and*

(4) *shall report to Congress by September 1st of each year on the progress of activities under the demonstration project.*

* * * * *

§ 689. Expiration of authority

The authority to enter into a transaction under this chapter shall expire October 1, **[2001.] 2006.**

* * * * *

PART II. COAST GUARD RESERVE AND AUXILIARY

CHAPTER 21. COAST GUARD RESERVE

SUBCHAPTER A. GENERAL

§ 709a. 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 doctor of jurisprudence or bachelor of laws degree in not more than 3 academic years.*

(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 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 because 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 member shall reimburse the United States in an amount that bears the same ratio to the total cost of the education provided to such person as the unserved portion of active duty bears to the total period of active duty such person agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty.
- (2) The Secretary may waive the service obligated under subsection (f) of a member 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.
- (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).

SUBCHAPTER B. COMMISSIONED OFFICERS

§ 729. 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.*

* * * * *

PART II. COAST GUARD RESERVE AND AUXILIARY

CHAPTER 21. COAST GUARD RESERVE

SUBCHAPTER B. COMMISSIONED OFFICERS

§ 731. 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), or in the event that promotion is not determined 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*

completes the following amount of service computed from his date of rank in the grade in which he is serving:

- (1) 2 years in the grade of lieutenant (junior grade).*
- (2) 3 years in the grade of lieutenant.*
- (3) 4 years in the grade of lieutenant commander.*
- (4) 4 years in the grade of commander.*
- (5) 3 years in the grade of captain.*

(b) CONSIDERATION FOR PROMOTION.—If promotion zones are determined as authorized under subsection (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.

(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.

* * * * *

§ 736. 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 law, when the running mate of a reserve officer serving in the grade of rear admiral (lower half) is promoted to the grade of rear admiral, the reserve officer shall also be promoted to that grade.

(c) For the purposes of subsection (a) 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.

* * * * *

CHAPTER 23. COAST GUARD AUXILIARY

§ 823a. 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 em-

ployee 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 26 of title 28 (popularly known as the Federal Tort Claims Act).

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

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

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

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

(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).

(9) *On or after January 1, 2001, the first section 651 in the Omnibus Consolidated Appropriations Act, 1997 (110 Stat. 3009–368).*

(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.

* * * * *

FEDERAL REPORTS ELIMINATION AND SUNSET ACT OF 1995

SEC. 1122. REPORTS MODIFIED. [26 U.S.C. 9509 nt]

[(a) REPORT ON OIL SPILL LIABILITY TRUST FUND.—The quarterly report regarding the Oil Spill Liability Trust Fund required to be submitted to the House and Senate Committees on Appropriations under House Report 101–892, accompanying the appropriations for the Coast Guard in the Department of Transportation and Related Agencies Appropriations Act, 1991, shall be submitted not later than 30 days after the end of the fiscal year in which this Act is enacted and annually thereafter.]

[(b) REPORT ON JOINT FEDERAL AND STATE MOTOR FUEL TAX COMPLIANCE PROJECT.—]Section 1040(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note) is amended by striking “September 30 and”.

* * * * *

VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT

SEC. 4. RADIOTELEPHONE REQUIREMENT. [33 U.S.C. 1203]

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

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

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

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

(4) every dredge and floating plant engaged in or near a channel or fairway in operations likely to restrict or affect navigation of other vessels shall have a radiotelephone capable of operation from its navigational bridge or, in the case of a dredge, from its main control station and capable of transmitting and receiving on the frequency or frequencies within the 156–162 Mega-Hertz band using the classes of emissions designated by the Federal Communications Commission, after consultation with other cognizant agencies, for the exchange of navigational information.

(b) VESSELS UPON NAVIGABLE WATERS OF UNITED STATES INSIDE HIGH SEAS LINES.—The radiotelephone required by subsection (a) shall be carried on board the described vessels, dredges, and floating plants upon the navigable waters of the [United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended.] *United States, which includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.*

PUBLIC LAW 96–380

[33 U.S.C. 1231A]

TOWING SAFETY ADVISORY COMMITTEE

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

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

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

(3) two members from each of the following—

(A) port districts, authorities, or terminal operators;

(B) maritime labor;

(C) shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge); and

(D) the general public.

(b) 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, United States Code. The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are considered necessary for the conduct of its business. There are authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection.

(e) Unless extended by subsequent Act of Congress, the Committee shall terminate on **September 30, 2000.** *September 30, 2005.*

INTERNATIONAL NAVIGATIONAL RULES ACT OF 1977

SEC. 3. INTERNATIONAL REGULATIONS. [33 U.S.C. 1602]

(a) **PROCLAMATION BY PRESIDENT; EFFECTIVE DATE.**—The President is authorized to proclaim the International Regulations for Preventing Collisions at Sea, 1972 (hereinafter referred to as the “International Regulations”). The effective date of the International Regulations for the United States shall be specified in the proclamation and shall be the date as near as possible to, but no earlier than, the date on which the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (hereinafter referred to as the “Convention”), signed at London, England, under date of October 20, 1972, enters into force for the United States. The Inter-

national Regulations proclaimed shall consist of the rules and other annexes attached to the Convention.

(b) PUBLICATION OF PROCLAMATION IN FEDERAL REGISTER.—The proclamation shall include the International Regulations and shall be published in the Federal Register. On the date specified in the proclamation, the International Regulations shall enter into force for the United States and shall have effect as if enacted by statute.

(c) AMENDMENT OF INTERNATIONAL REGULATIONS.—Subject to the provisions of subsection (d) hereof, the President is also authorized to proclaim any amendment to the International Regulations hereafter adopted in accordance with the provisions of article VI of the Convention, and to which the United States does not object. The effective date of the amendment shall be specified in the proclamation and shall be in accordance with the provisions of the said article VI. The proclamation shall include the adopted amendment and shall be published in the Federal Register. On the date specified in the proclamation, the amendment shall enter into force for the United States as a constituent part of the International Regulations, as amended, and shall have effect as if enacted by statute.

(d) NOTIFICATION TO CONGRESS OF PROPOSED AMENDMENTS; CONGRESSIONAL RESOLUTION OF DISAPPROVAL.—

(1) Upon receiving a proposed amendment to the International Regulations, communicated to the United States pursuant to clause 3 of article VI of the Convention, the President shall promptly notify the Congress of the proposed amendment. If, within sixty days after receipt of such notification by the Congress, or ten days prior to the date under clause 4 of article VI for registering an objection, whichever comes first, the Congress adopts a resolution of disapproval, such resolution shall be transmitted to the President and shall constitute an objection by the United States to the proposed amendment. If, upon receiving notification of the resolution of disapproval, the President has not already notified the Inter-Governmental Maritime Consultative Organization of an objection to the United States to the proposed amendment, he shall promptly do so.

(2) For the purposes of this subsection, “resolution of disapproval” means a concurrent resolution initiated by either House of the Congress, the matter after the resolving clause of which is to read as follows: “That the — (the — concurring) does not favor the proposed amendment to the International Regulations for Preventing Collisions at Sea, 1972, relating to —, and forwarded to the Congress by the President on —.”, the first blank space therein to be filled with the name of the resolving House, the second blank space therein to be filled with the name of the concurring House, the third blank space therein to be filled with the subject matter of the proposed amendment, and the fourth blank space therein to be filled with the day, month, and year.

(3) Any proposed amendment transmitted to the Congress by the President and any resolution of disapproval pertaining thereto shall be referred, in the House of Representatives, to the Committee on [Merchant Marine and Fisheries,] Transportation and Infrastructure and shall be referred, in the Sen-

ate, to the Committee on Commerce, Science, and Transportation.

INLAND NAVIGATIONAL RULES ACT OF 1980

SEC. 5. NAVIGATION SAFETY ADVISORY COUNCIL. [33 U.S.C. 2073]

(a) **ESTABLISHMENT; MEMBERSHIP; COUNCIL PANELS; PUBLICATION IN FEDERAL REGISTER.**—The Secretary shall establish a Navigation Safety Advisory Council (hereinafter referred to as the Council) not exceeding 21 members. To assure balanced representation, members shall be chosen, insofar as practical, from the following groups:

- (1) recognized experts and leaders in organizations having an active interest in the Rules of the Road and vessel and port safety,
- (2) representatives of owners and operators of vessels, professional mariners, recreational boaters, and the recreational boating industry,
- (3) individuals with an interest in maritime law, and
- (4) Federal and State officials with responsibility for vessel and port safety.

Additional persons may be appointed to panels of the Council to assist the Council in the performance of its functions. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.

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

(c) **EXECUTIVE SECRETARY; STAFF; TRAVEL EXPENSES AND STATUS OF MEMBERS.**—The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary for the conduct of its business. Members of the Council, while away from their home or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Payments under this section shall not render members of the Council officers or employees of the United States for any purpose.

(d) **TERMINATION OF COUNCIL.**—Unless extended by subsequent Act of Congress, the Council shall terminate on **[September 30, 2000.] September 30, 2005.**

SEC. 6002. ANNUAL APPROPRIATIONS. [33 U.S.C. 2752]

(a) **REQUIRED.**—Except as provided in subsection (b), amounts in the Fund shall be available only as provided in annual appropriation Acts.

(b) EXCEPTIONS.—Subsection (a) shall not apply to sections 1006(f), 1012(a)(4), or 5006, and shall not apply to an amount not to exceed \$50,000,000 in any fiscal year which the President may make available from the Fund to carry out section 311(c) of the Federal Water Pollution Control Act, as amended by this Act, and to initiate the assessment of natural resources damages required under section 1006. *To the extent that such amount is not adequate for removal of a discharge or the mitigation or prevention of a substantial threat of a discharge, the Coast Guard may obtain an advance from the Fund such sums as may be necessary, up to a maximum of \$100,000,000, and within 30 days shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance. Amounts advanced shall be repaid to the Fund when, and to the extent that removal costs are recovered by the Coast Guard from responsible parties for the discharge or substantial threat of discharge.* Sums to which this subsection applies shall remain available until expended.

OIL POLLUTION ACT OF 1990

SEC. 5004. VESSEL TRAFFIC SERVICE SYSTEM. [33 U.S.C. 2734]

The Secretary of Transportation shall within one year after the date of the enactment of this title—

(1) acquire, install, and operate such additional equipment (which may consist of radar, closed circuit television, satellite tracking systems, or other shipboard dependent surveillance), train and locate such personnel, and issue such final regulations as are necessary to increase the range of the existing VTS system in the Port of Valdez, Alaska, sufficiently to track the locations and movements of tank vessels carrying oil from the Trans-Alaska Pipeline when such vessels are transiting Prince William Sound, Alaska, and to sound an audible alarm when such tankers depart from designated navigation routes; and

(2) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on [Merchant Marine and Fisheries] *Transportation and Infrastructure* of the House of Representatives a report on the feasibility and desirability of instituting positive control of tank vessel movements in Prince William Sound by Coast Guard personnel using the Port of Valdez, Alaska, VTS system, as modified pursuant to paragraph (1).

TITLE 46. SHIPPING

SUBTITLE II. VESSELS AND SEAMEN

PART A. GENERAL PROVISIONS

CHAPTER 23. OPERATION OF VESSELS GENERALLY

§ 2302. Penalties for negligent operations and interfering with safe operation

(a) A person operating a vessel in a negligent manner or interfering with the safe operation of a vessel, so as to endanger the life, limb, or property of a person is liable to the United States Government for a civil penalty of not more than **[\$1,000.] \$5,000** in the

case of a recreational vessel, or \$25,000 in the case of any other vessel.

(b) A person operating a vessel in a grossly negligent manner that endangers the life, limb, or property of a person commits a class A misdemeanor.

(c) An individual who is under the influence of alcohol, or a dangerous drug in violation of a law of the United States when operating a vessel, as determined under standards prescribed by the Secretary by regulation—

(1) is liable to the United States Government for a civil penalty of not more than \$5,000; or

(2) commits a class A misdemeanor.

(d) For a penalty imposed under this section, the vessel also is liable in rem unless the vessel is—

(1) owned by a State or a political subdivision of a State;

(2) operated principally for governmental purposes; and

(3) identified clearly as a vessel of that State or subdivision.

(e)(1) A vessel may not transport Government-impelled cargoes if—

(A) the vessel has been detained and determined to be substandard by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel; or

(B) the operator of the vessel has on more than one occasion had a vessel detained and determined to be substandard by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel.

(2) The prohibition in paragraph (1) expires for a vessel on the earlier of—

(A) 1 year after the date of the publication in electronic form on which the prohibition is based; or

(B) any date on which the owner or operator of the vessel prevails in an appeal of the violation of the relevant international convention on which the detention is based.

(3) As used in this subsection, the term “Government-impelled cargo” means cargo for which a Federal agency contracts directly for shipping by water or for which (or the freight of which) a Federal agency provides financing, including financing by grant, loan, or loan guarantee, resulting in shipment of the cargo by water.

* * * * *

§ 2307. *Limitation of liability for Coast Guard Vessel Traffic Service pilots*

Any pilot, acting in the course and scope of his duties while at a United States Coast Guard Vessel Traffic Service, who provides information, advice or communication assistance shall not be liable for damages caused by or related to such assistance unless the acts or omissions of such pilot constitute gross negligence or willful misconduct.

SUBTITLE II. VESSELS AND SEAMEN

PART B. INSPECTION AND REGULATION OF VESSELS

CHAPTER 43. RECREATIONAL VESSELS

§ 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 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 certified mail to subsequent purchasers if known to the manufacturer.

(C) 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, [5] 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, [5] 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, 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.

SUBTITLE II. VESSELS AND SEAMEN

PART B. INSPECTION AND REGULATION OF VESSELS

CHAPTER 45. UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

§ 4508. Commercial Fishing Industry Vessel *Safety* Advisory Committee

(a) The Secretary shall establish a Commercial Fishing Industry Vessel *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 seventeen members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:

(A) ten members from the commercial fishing industry who—

(i) reflect a regional and representational balance; and

(ii) have experience in the operation of vessels to which this chapter applies or as a crew member or processing line worker on an uninspected fish processing vessel;

(B) three members from the general public, including, whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing owners of vessels to which this chapter applies and persons representing the marine insurance industry;

(C) one member representing each of—

(i) naval architects or marine surveyors;

(ii) manufacturers of equipment for vessels to which this chapter applies;

(iii) education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety or personnel qualifications; and

(iv) underwriters that insure vessels to which this chapter applies.

(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee, and, after timely notice is published, appoint the members of the Committee. An individual may be appointed to a term as a member of the Committee more than once. The Secretary may not seek or use information concerning the political affiliation of individuals in making appointments to the Committee.

(3)(A) A member of the Committee shall serve a term of three years.

(B) If a vacancy occurs in the membership of the Committee, the Secretary shall appoint a member to fill the remainder of the vacated term.

(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(5) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to vessels to which this chapter applies which are under the jurisdiction of their re-

spective agencies. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 App. U.S.C.).

(c)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to the safe operation of vessels to which this chapter applies.

(2) The Secretary shall consider the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding the safe operation of vessels to which this chapter applies.

(d)(1) A member of the Committee who is not an officer or employee of the United States or a member of the Armed Forces, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5 including travel time; and

(B) travel or transportation expenses under section 5703 of title 5.

(2) Payments under this section do not render a member of the Committee an officer or employee of the United States or a member of the Armed Forces for any purpose.

(3) A member of the Committee who is an officer or employee of the United States or a member of the Armed Forces may not receive additional pay based on the member's service to the Committee.

(4) The provisions of this section relating to an officer or employee of the United States or a member of the Armed Forces do not apply to a member of a reserve component of the Armed Forces unless that member is in an active status.

(e)(1) The Federal Advisory Committee Act [(5 U.S.C. App. 1 et seq.)] (5 U.S.C. App.) applies to the Committee, except that the Committee terminates [on September 30, 2000.] *on September 30, 2005.*

(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.

SUBTITLE II. VESSELS AND SEAMEN

PART D. MARINE CASUALTIES

CHAPTER 61. REPORTING MARINE CASUALTIES

§ 6101. Marine casualties and reporting

(a) The Secretary shall prescribe regulations on the marine casualties to be reported and the manner of reporting. The regulations shall require reporting the following marine casualties:

- (1) death of an individual.
- (2) serious injury to an individual.
- (3) material loss of property.
- (4) material damage affecting the seaworthiness or efficiency of the vessel.

(5) significant harm to the environment.

(b) A marine casualty shall be reported within 5 days as provided in this part and regulations prescribed under this part. Each report filed under this section shall include information as to whether the use of alcohol contributed to the casualty.

(c) [Repealed]

(d)(1) This part applies to a foreign vessel when involved in a marine casualty on the navigable waters of the United States.

(2) This part applies, to the extent consistent with generally recognized principles of international law, to a foreign vessel constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue involved in a marine casualty described under subsection (a)(4) or (5) in waters subject to the jurisdiction of the United States, including the Exclusive Economic Zone.

(e) A marine casualty not resulting in the death of an individual shall be classified according to the gravity of the casualty, as prescribed by regulation, giving consideration to the extent of injuries to individuals, the extent of property damage, the dangers that the casualty creates, and the size, occupation, and means of propulsion of each vessel involved.

[(e)] (f)(1) This chapter applies to a marine casualty involving a United States citizen on a foreign passenger vessel operating south of 75 degrees north latitude, west of 35 degrees west longitude, and east of the International Date Line; or operating in the area south of 60 degrees south latitude that—

(A) embarks or disembarks passengers in the United States;

or

(B) transports passengers traveling under any form of air and sea ticket package marketed in the United States.

(2) When there is a marine casualty described in paragraph (1) of this subsection and an investigation is conducted, the Secretary shall ensure that the investigation—

(A) is thorough and timely; and

(B) produces findings and recommendations to improve safety on passenger vessels.

(3) When there is a marine casualty described in paragraph (1) of this subsection, the Secretary may—

(A) seek a multinational investigation of the casualty under auspices of the International Maritime Organization; or

(B) conduct an investigation of the casualty under chapter 63 of this title.

(g) *To the extent consistent with generally recognized practices and procedures of international law, this part applies to a foreign vessel involved in a marine casualty or incident, as defined in the International Maritime Organization Code for the Investigation of Marine Casualties and Incidents, where the United States is a Substantially Interested State and is, or has the consent of, the Lead Investigating State under the Code.*

PART D. MARINE CASUALTIES

CHAPTER 63. INVESTIGATING MARINE CASUALTIES

§ 6307. Notifications to Congress

(a) The Secretary shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on

[Merchant Marine and Fisheries] *Transportation and Infrastructure* of the House of Representatives of any hearing, before the hearing occurs, investigating a major marine casualty involving a death under section 6301 of this title.

(b) The Secretary shall submit to a committee referred to in subsection (a) of this section information on a major marine casualty that is requested by that committee or the chairman of the committee if the submission of that information is not prohibited by a law of the United States.

(c) The Secretary shall submit annually to Congress a summary of the marine casualties reported during the prior fiscal year, together with a brief statement of action taken concerning those casualties.

PART E. MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

CHAPTER 73. MERCHANT MARINERS' DOCUMENTS

§ 7302. Issuing merchant mariners' documents and continuous discharge books

(a) The Secretary shall issue a merchant mariner's document to an individual required to have that document under part F of this subtitle if the individual satisfies the requirements of this part. The document serves as a certificate of identification and as a certificate of service, specifying each rating in which the holder is qualified to serve on board vessels on which that document is required under part F.

(b) The Secretary also may issue a continuous discharge book to an individual issued a merchant mariner's document if the individual requests.

(c) The Secretary may not issue a merchant mariner's document under this chapter unless the individual applying for the document makes available to the Secretary, under section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note), any information contained in the National Driver Register related to an offense described in section 205(a)(3) (A) or (B) of that Act committed by the individual.

(d) The Secretary may review the criminal record of an individual who applies for a merchant mariner's document under this section.

(e) The Secretary shall require the testing of an individual applying for issuance or renewal of a merchant mariner's document under this chapter for the use of a dangerous drug in violation of law or Federal regulation.

(f) **[A]** *Except as provided in subsection (g), a merchant mariner's document issued under this chapter is valid for 5 years and may be renewed for additional 5-year periods.*

(g)(1) The Secretary may, pending receipt and review of information required under subsections (c) and (d), immediately issue an interim merchant mariner's document valid for a period not to exceed 120 days, to—

(A) an individual to be employed as gaming personnel, entertainment personnel, wait staff, or other service personnel on board a passenger vessel not engaged in foreign service, with no duties, including emergency duties, related to the navigation of

the vessel or the safety of the vessel, its crew, cargo or passengers; or

(B) an individual seeking renewal of, or qualifying for a supplemental endorsement to, a valid merchant mariner's document issued under this section.

(2) No more than one interim document may be issued to an individual under paragraph (1)(A) of this subsection.

PART F. MANNING OF VESSELS

CHAPTER 87. UNLICENSED PERSONNEL

§ 8701. Merchant mariners' documents required

(a) This section applies to a merchant vessel of at least 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title except—

(1) a vessel operating only on rivers and lakes (except the Great Lakes);

(2) a barge (except a seagoing barge or a barge to which chapter 37 of this title applies);

(3) a fishing, or fish tender, or whaling vessel or yacht;

(4) a sailing school vessel with respect to sailing school instructors and sailing school students;

(5) an oceanographic research vessel with respect to scientific personnel;

(6) a fish processing vessel entered into service before January 1, 1988, and not more than 1,600 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title or entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products;

(7) a fish processing vessel (except a vessel to which clause (6) of this subsection applied) with respect to individuals on board primarily employed in the preparation of fish or fish products or in a support position not related to navigation;

(8) a mobile offshore drilling unit with respect to individuals, other than crew members required by the certificate of inspection, engaged on board the unit for the sole purpose of carrying out the industrial business or function of the unit; **[and]**

(9) *a passenger vessel not engaged in a foreign voyage with respect to individuals on board employed for a period of not more than 30 service days within a 12 month period as entertainment personnel, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; and*

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

(b) A person may not engage or employ an individual, and an individual may not serve, on board a vessel to which this section applies if the individual does not have a merchant mariner's document issued to the individual under section 7302 of this title. Except for an individual required to be licensed or registered under

this part, the document must authorize service in the capacity for which the holder of the document is engaged or employed.

(c) On a vessel to which section 10306 or 10503 of this title does not apply, an individual required by this section to hold a merchant mariner's document must exhibit it to the master of the vessel before the individual may be employed.

(d) A person (including an individual) violating this section is liable to the United States Government for a civil penalty of \$500.

PART F. MANNING OF VESSELS

CHAPTER 93. GREAT LAKES PILOTAGE

§ 9307. Great Lakes Pilotage Advisory Committee

(a) The Secretary shall establish a Great Lakes Pilotage Advisory Committee. The Committee—

(1) may review proposed Great Lakes pilotage regulations and policies and make recommendations to the Secretary that the Committee considers appropriate;

(2) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to Great Lakes pilotage;

(3) may make available to the Congress recommendations that the Committee makes to the Secretary; and

(4) shall meet at the call of—

(A) the Secretary, who shall call such a meeting at least once during each calendar year; or

(B) a majority of the Committee.

(b)(1) The Committee shall consist of seven members appointed by the Secretary in accordance with this subsection, each of whom has at least 5 years practical experience in maritime operations. The term of each member is for a period of not more than 5 years, specified 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) The membership of the Committee shall include—

(A) The President of *an association within* each of the 3 Great Lakes pilotage districts, or the President's representative;

(B) one member representing the interests of vessel operators that contract for Great Lakes pilotage services;

(C) one member representing the interests of Great Lakes ports;

(D) one member representing the interests of shippers whose cargoes are transported through Great Lakes ports; and

(E) a member with a background in finance or accounting, who—

(i) must have been recommended to the Secretary by a unanimous vote of the other members of the Committee, and

(ii) may be appointed without regard to requirement in paragraph (1) that each member have 5 years of practical experience in maritime operations.

(c)(1) 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 the

Chairman, or in the event of a vacancy in the office of the Chairman.

(2) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. [The Secretary's designated representative shall act as the executive secretary of the Committee and shall perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App.).]

(d)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to Great Lakes pilotage.

(2) The Secretary shall consider the information, advice, and recommendations of the Committee in formulating policy regarding matters affecting Great Lakes pilotage.

(3) Any recommendations to the Secretary under subsection (a)(2) must have been approved by at least all but one of the members then serving on the committee.

(e)(1) A member of the Committee, 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, United States Code.

(2) A member of the Committee shall not be considered to be an officer or employee of the United States for any purpose based on their receipt of any payment under this subsection.

(f)(1) The Federal Advisory Committee Act (5 U.S.C. App.) applies to the Committee, except that the Committee terminates on September 30, 2005.

(2) 2 years before the termination date set forth in paragraph (1) of this subsection, the Committee shall submit to the Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.

SUBTITLE II. VESSELS AND SEAMEN

PART I. STATE BOATING SAFETY PROGRAMS

CHAPTER 131. RECREATIONAL BOATING SAFETY

§ 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 attending meetings of the Council, a member of the council or a panel may be paid at a rate not more than the rate for GS-18. 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, 2000.** *September 30, 2005.*

SUBTITLE III. MARITIME LIABILITY

CHAPTER 313. COMMERCIAL INSTRUMENTS AND MARITIME LIENS

SUBCHAPTER II. COMMERCIAL INSTRUMENTS

§ 31321. Filing, recording, and discharge

(a)(1) A bill of sale, conveyance, mortgage, assignment, or related instrument, whenever made, that includes any part of a documented vessel or a vessel for which an application for documentation is filed, must be filed with the Secretary of Transportation to be valid, to the extent the vessel is involved, against any person except—

(A) the grantor, mortgagor, or assignor;

(B) the heir or devisee of the grantor, mortgagor, or assignor;
and

(C) a person having actual notice of the sale, conveyance, mortgage, assignment, or related instrument.

(2) Each bill of sale, conveyance, mortgage, assignment, or related instrument that is filed in substantial compliance with this section is valid against any person from the time it is filed with the Secretary.

(3) The parties to an instrument or an application for documentation shall use diligence to ensure that the parts of the instrument or application for which they are responsible are in substantial compliance with the filing and documentation requirements.

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

[(B)] A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the

date of the filing unless the original instrument is provided to the Secretary within that 10-day period.】

(b) To be filed, a bill of sale, conveyance, mortgage, assignment, or related instrument must—

- (1) identify the vessel;
- (2) state the name and address of each party to the instrument;
- (3) state, if a mortgage, the amount of the direct or contingent obligations (in one or more units of account as agreed to by the parties) that is or may become secured by the mortgage, excluding interest, expenses, and fees;
- (4) state the interest of the grantor, mortgagor, or assignor in the vessel;
- (5) state the interest sold, conveyed, mortgaged, or assigned; and
- (6) be signed and acknowledged.

(c) If a bill of sale, conveyance, mortgage, assignment, or related document is filed that involves a vessel for which an application for documentation is filed, and the Secretary decides that the vessel cannot be documented by an applicant—

- (1) the Secretary shall send notice of the Secretary's decision, including reasons for the decision, to each interested party to the instrument filed for recording; and
- (2) 90 days after sending the notice as provided under clause (1) of this subsection, the Secretary—
 - (A) may terminate the filing; and
 - (B) may return the instrument filed without recording it under subsection (e) of this section.

(d) A person may withdraw an application for documentation of a vessel for which a mortgage has been filed under this section only if the mortgagee consents.

(e) The Secretary shall—

- (1) record the bills of sale, conveyances, mortgages, assignments, and related instruments of a documented vessel complying with subsection (b) of this section in the order they are filed; and
- (2) maintain appropriate indexes, for use by the public, of instruments filed or recorded, or both.

(f) On full and final discharge of the indebtedness under a mortgage recorded under subsection (e)(1) of this section, a mortgagee, on request of the Secretary or mortgagor, shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness in a form prescribed by the Secretary. The Secretary shall record the certificate.

(g) The mortgage or related instrument of a vessel covered by a preferred mortgage under section 31322(d) of this title, that is later filed under this section at the time an application for documentation is filed, is valid under this section from the time the mortgage or instrument representing financing became a preferred mortgage under section 31322(d).

(h) On full and final discharge of the indebtedness under a mortgage deemed to be a preferred mortgage under section 31322(d) of this title, a mortgagee, on request of the Secretary, a State, or mortgagor, shall provide the Secretary or the State, as appropriate, with an acknowledged certificate of discharge of the indebtedness

in a form prescribed by the Secretary or the State, as applicable. If filed with the Secretary, the Secretary shall enter that information in the vessel identification system under chapter 125 of this title.

* * * * *

COAST GUARD AUTHORIZATION ACT OF 1998

[SEC. 503. REVOCATION. [46 U.S.C. 12106 nt]

【The Secretary may revoke an endorsement issued under section 502, after notice and an opportunity for public comment, if the Secretary determines that the employment of the vessel in the coastwise trade has substantially changed since the issuance of the endorsement, and—

- 【(1) the vessel is employed other than as a small passenger vessel or an uninspected passenger vessel; or
- 【(2) the employment of the vessel adversely affects—
 - 【(A) United States vessel builders; or
 - 【(B) the coastwise trade business of any person who employs vessels built in the United States.】

MERCHANT MARINE ACT, 1936

SEC. 901g. NATIONAL ADVISORY COMMISSION ON AGRICULTURAL EXPORT TRANSPORTATION POLICY. [46 U.S.C. App. 1241k]

(a) **ESTABLISHMENT.**—There is hereby established an advisory commission to be known as the National Advisory Commission on Agricultural Export Transportation Policy (hereafter in this section through section 901j referred to as the “Commission”).

(b) **MEMBERSHIP; COMPOSITION, APPOINTMENT, ETC.**—

- (1) The Commission shall be composed of 16 members.
- (2) Eight members of the Commission shall be appointed by the President.
- (3) The chairman and ranking minority members of the Senate Committee on Agriculture, Nutrition, and Forestry, of the Subcommittee on Merchant Marine of the Senate Committee on Commerce, Science, and Transportation, of the House Committee on Agriculture, and of the House Committee on **[Merchant Marine and Fisheries]** *Transportation and Infrastructure* shall serve as members of the Commission.

(4)(A) Four of the members appointed by the President shall be representatives of agricultural producers, cooperatives, merchandisers, and processors of agricultural commodities.

(B) The remaining four members appointed by the President shall be representatives of the United States-flag maritime industry, two of whom shall represent labor and two of whom shall represent management.

(c) **CHAIRMAN; VACANCY.**—

- (1) The members of the Commission shall elect a Chairman from among its members.
- (2) Any vacancy in the Commission does not affect its powers but shall be filled in the same manner in which the original appointment was made.

INTERNATIONAL MARITIME AND PORT SECURITY ACT

SEC. 913. REPORTS. [46 U.S.C. APP. 1809]

(a) CONSOLIDATION.—To the extent practicable, the reports required under sections 903, 905, and 907 shall be consolidated into a single document before being submitted to the Congress. Any classified material in those reports shall be submitted separately as an addendum to the consolidated report.

(b) SUBMISSION TO COMMITTEES.—The reports required to be submitted to the Congress under this title shall be submitted to the Committee on Foreign Affairs and the Committee on [Merchant Marine and Fisheries] *Transportation and Infrastructure* of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science and Transportation of the Senate.

COMMUNICATIONS ACT OF 1934

SEC. 365. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS. [47 U.S.C. 363]

Notwithstanding any provision of this Act or any other provision of law or regulation, a ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention shall not be required to be equipped with a radio telegraphy station operated by one or more radio officers or [operators.] *operators, or with radio direction-finding apparatus.* This section shall take effect for each vessel upon a determination by the United States Coast Guard that such vessel has the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition.

COAST GUARD AUTHORIZATION ACT OF 1991

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

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

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(b) The Committee shall consist of eighteen members, who have particular expertise, knowledge, and experience regarding the

transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the inshore and the offshore waters of the Gulf of Mexico:

(1) Two members who are employed by the Port of Houston Authority or have been selected by that entity to represent them.

(2) Two members who are employed by the Port of Galveston or the Texas City Port Complex or have been selected by those entities to represent them.

(3) Two members from organizations that represent ship-owners, stevedores, shipyards, or shipping organizations domiciled in the State of Texas.

(4) Two members representing organizations that operate tugs or barges that utilize the port facilities at Galveston, Houston, and Texas City Port Complex.

(5) Two members representing shipping companies that transport cargo from the Ports of Galveston and Houston on liners, break bulk, or tramp steamer vessels.

(6) Two members representing those who pilot or command vessels that utilize the Ports of Galveston and Houston.

(7) Two at-large members who may represent a particular interest group but who utilize the port facilities at Galveston, Houston, and Texas City.

(8) One member representing labor organizations which load and unload cargo at the Ports of Galveston and Houston.

(9) One member representing licensed merchant mariners, other than pilots, who perform shipboard duties on vessels which utilize the port facilities of Galveston and Houston.

(10) One member representing environmental interests.

(11) One member representing the general public.

(c) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

(d) The Committee shall elect, by majority vote at its first meeting, 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.

(e) Terms of members appointed to the Committee shall be for two years. 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.

(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(g) The term of members of the Committee shall begin on October 1, 1992.

(h) The Committee shall terminate on **【September 30, 2000.】**
September 30, 2005.

SEC. 19. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

(a)(1) There is established a Lower Mississippi River Waterway Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on a wide range of matters regarding all facets of navigational safety related to the Lower Mississippi River. The Secretary shall, whenever practicable, consult with the Committee through the Commandant, before taking any significant action related to navigation safety in the Lower Mississippi River. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give the Secretary. The Committee shall meet at the call of the Chairman, or upon request of the majority of Committee members, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(b) The Committee shall consist of twenty-four members who have expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels on the Lower Mississippi River and its connecting navigable waterways including the Gulf of Mexico:

(1) Five members representing River Port Authorities between Baton Rouge, Louisiana, and the head of passes of the Lower Mississippi River, of which one member shall be from the Port of St. Bernard and one member from the Port of Plaquemines.

(2) Two members representing vessel owners or ship owners domiciled in the State of Louisiana.

(3) Two members representing organizations which operate harbor tugs or barge fleets in the geographical area covered by the Committee.

(4) Two members representing companies which transport cargo or passengers on the navigable waterways in the geographical area covered by the Committee.

(5) Three members representing State Commissioned Pilot organizations, with one member each representing the New Orleans/Baton Rouge Steamship Pilots Association, the Crescent River Port Pilots Association, and the Associated Branch Pilots Association.

(6) Two at-large members who utilize water transportation facilities located in the geographical area covered by the Committee.

(7) Three members representing consumers, shippers, or importers/exporters that utilize vessels which utilize the navigable waterways covered by the Committee.

(8) Two members representing those licensed merchant mariners, other than pilots, who perform shipboard duties on those vessels which utilize navigable waterways covered by the Committee.

(9) One member representing an organization that serves in a consulting or advisory capacity to the maritime industry.

(10) One member representing an environmental organization.

(11) One member representing the general public.

(c) The Secretary shall appoint the members of the Committee upon recommendation after first soliciting nominations by notice in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department, who shall not be a voting member of the Committee.

(d) The Committee shall annually elect, by majority vote at its first meeting, a chairman and vice chairman from its membership. 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) Terms of members appointed to the Committee shall be two years. The Secretary shall, not less than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(f) 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 place of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(g) The Committee shall terminate on **September 30, 2000.** *September 30, 2005.*