

COAST GUARD MODERNIZATION ACT OF 2009

DECEMBER 3, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 2650]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 2650) to amend title 14, United States Code, to modernize the leadership of the Coast Guard, to modernize the administration of marine safety by the Coast Guard, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE LEGISLATION

H.R. 2650, the “Coast Guard Modernization Act of 2009”, reorganizes the leadership of the Coast Guard and provides a statutory framework for the Coast Guard’s marine safety program.

BACKGROUND AND NEED FOR THE LEGISLATION

In 2007, the Coast Guard proposed a modernization of the service’s leadership structure that would elevate the Vice Commandant to a full, four-star Admiral; eliminate the Area Commanders located in Portsmouth, Virginia, and Alameda, California; and establish four three-star Admiral positions to oversee the support, readiness, operations, and command of the Coast Guard. H.R. 2650 implements this Coast Guard proposal.

In recent years, the Coast Guard has not provided the resources or attention needed to its marine safety program to ensure the safety of the public. The Coast Guard acknowledged these shortcomings in a report entitled “Marine Safety Analysis: An Independent Assessment and Suggestions for Improvement”, and subsequently published the “Marine Safety Performance Plan” in No-

vember 2008 that outlines steps that the Coast Guard intends to take to improve the marine safety program. Title II of H.R. 2650 codifies the Coast Guard's role in marine safety and establishes a firm foundation for a robust marine safety program staffed by Coast Guard officers and members along with civilians who have the expertise to carry out the program and the continuity of service that will enable them to ensure the safety of transportation on the water. This revitalized marine safety program will focus attention on a substantial backlog of important marine safety regulations, including regulations for the inspection of and hours of service on towing vessels, the establishment of revised weight standards for passenger vessels, and for fishing vessel safety that have been languishing for over 15 years.

SUMMARY OF THE LEGISLATION

Section 1. Short title

Section 1 states that the legislation may be referred to as the "Coast Guard Modernization Act of 2009".

TITLE I—COAST GUARD LEADERSHIP

Sec. 101. Admirals and Vice Admirals

Section 101 implements the Coast Guard's proposed reorganization of its leadership positions by eliminating the two Area Commands that are established by law, and the Coast Guard Chief of Staff position. These three Vice Admirals are replaced by a Deputy Commandant for Mission Support; a Deputy Commandant for Operations and Policy; a Commander, Force Readiness Command; and a Commander, Operations Command. This section also promotes the Vice Commandant to a full Admiral.

In addition, section 101 requires that either the Deputy Commandant for Operations and Policy or the Assistant Commandant for Marine Safety, Security, and Stewardship have a minimum of 10 years of experience in vessel inspection, casualty investigation, mariner licensing or equivalent technical expertise, and at least four years of experience at a leadership level at a marine safety unit.

TITLE II—MARINE SAFETY ADMINISTRATION

Sec. 201. Marine safety

Section 201 establishes marine safety as a core mission of the Coast Guard.

Sec. 202. Marine safety staff

Section 202 defines Coast Guard marine safety positions; establishes minimum qualifications for all marine safety personnel requiring that individuals assigned to marine safety positions, including Safety Inspectors, Casualty Investigators, and the Chief of Marine Safety, be technically qualified for those positions; authorizes the establishment of Centers of Expertise for Maritime Safety to provide and facilitate education, training, and research in marine safety and inspection and marine casualty investigation; and establishes a marine industry training program for Coast Guard marine safety personnel.

Sec. 203. Marine safety mission priorities and long-term goals

Section 203 requires the Coast Guard to establish marine safety mission priorities, strategies to improve vessel safety and the safety of individuals on vessels, and measurable goals including resource needs for this program. This section also requires the Secretary to submit to Congress an annual marine safety strategy and plan, and a semi-annual report to Congress on the progress on meeting marine safety goals set forth in the plan.

Sec. 204. Powers and duties

Section 204 establishes the specific marine safety responsibility for which the Deputy Commandant for Operations and Policy, or his principal, acts as principal advisor to the Commandant on marine safety. This section does not affect the authority of Coast Guard officers and members under 14 U.S.C. § 89, or under other enforcement authority.

Sec. 205. Appeals and waivers

Section 205 requires that appeals and waivers of marine safety laws and regulations be handled by qualified marine inspectors. Currently, appeals of marine safety regulations and rules are handled up the chain of command in the Coast Guard, which may mean that an appeal is decided by a ship driver or helicopter pilot who has no professional qualifications in marine safety. This provision would require that such issues be handled by individuals who are qualified to assess the circumstances and safety implications of each such appeal.

Sec. 206. Coast Guard Academy

Section 206 requires the establishment of a professional course of study in marine safety at the Coast Guard Academy, and as part of other officer accession programs, to ensure that Coast Guard cadets and other officer candidates have a background and understanding of the marine safety program, including program history, vessel design and construction, vessel inspection, casualty investigation, and administrative law and regulation.

Sec. 207. Report regarding civilian marine inspectors

Section 207 requires the Commandant to report on efforts to recruit and retain civilian marine inspectors and investigators and the impact of such recruitment on Coast Guard performance.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

In the 110th Congress, the Subcommittee on Coast Guard and Maritime Transportation held a hearing on March 8, 2007, on “The Coast Guard Budget and Authorization for Fiscal Year 2008”. On February 26, 2008, the Subcommittee held a hearing on “FY 2009 Budget: Coast Guard, Federal Maritime Commission and Maritime Administration”.

At the March 8, 2007 hearing, the Commandant outlined the Coast Guard’s proposal to reorganize its leadership by eliminating the two Area Commands, which are established by law, and the Coast Guard Chief of Staff. These three Vice Admirals would be replaced by a Deputy Commandant for Mission Support; a Deputy

Commandant for Operations and Policy; a Commander, Force Readiness Command; and a Commander, Operations Command. The proposal also promoted the Vice Commandant to a full Admiral.

On August 2, 2007, the Subcommittee held a hearing on the “Challenges Facing the Coast Guard’s Marine Safety Program” at which it heard from a number of industry witnesses about the deteriorating state of the Coast Guard’s marine safety program, particularly about the lack of continuity and expertise of Coast Guard personnel who are responsible for public safety.

On June 22, 2007, Chairman James L. Oberstar introduced H.R. 2830, the “Coast Guard Authorization Act of 2008”. On June 26, 2007, the Subcommittee met to consider H.R. 2830, and favorably recommended it, as amended, to the Committee on Transportation and Infrastructure by voice vote with a quorum present. On June 28, 2007, the Committee met in open session and ordered H.R. 2830, as amended, reported favorably to the House by voice vote with a quorum present. On September 20, 2007, the Committee reported the bill, as amended, to the House. H. Rept. 110–338, Part I.

On October 1, 2007, the Committee on Homeland Security ordered the bill, as amended, reported favorably to the House. H. Rept. 110–338, Part II. On October 30, 2007, the Committee on the Judiciary ordered the bill, as amended, reported favorably to the House. H. Rept. 110–338, Part III. On April 23, 2008, the Committee on the Judiciary filed a supplemental report. H. Rept. 110–338, Part IV.

On April 24, 2008, the House passed H.R. 2830 by a vote of 395–7. The Senate did not complete action on the legislation.

In the 111th Congress, on May 13, 2009, the Subcommittee on Coast Guard and Maritime Transportation conducted an oversight hearing on the Coast Guard budget request for fiscal year 2010.

On June 2, 2009, Chairman James L. Oberstar introduced H.R. 2650, the “Coast Guard Modernization Act of 2009”.

On May 21, 2009, the Committee on Transportation and Infrastructure met in open session to consider H.R. 2650. The Committee ordered H.R. 2650 reported favorably to the House by voice vote with a quorum present.

RECORD VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 2650 or ordering the bill reported. A motion to order H.R. 2650 reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

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

COST OF LEGISLATION

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

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and section 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to reorganize the leadership positions of the Coast Guard, and to establish marine safety as a core mission of the Coast Guard.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 2650 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 23, 2009.

Hon. JAMES L. OBERSTAR,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2650, the Coast Guard Modernization Act of 2009.

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

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

H.R. 2650—Coast Guard Modernization Act of 2009

H.R. 2650 would amend federal statutes that govern the operations of the U.S. Coast Guard. CBO estimates that implementing the legislation would increase discretionary spending by less than \$500,000 annually beginning in fiscal year 2010. Enacting H.R. 2650 could affect direct spending by allowing the Coast Guard to accept and spend donations from nonfederal entities, but CBO estimates that any net impact would be minimal.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 2650 would reorganize leadership positions in the Coast Guard, establish marine safety as an agency mission, and require

the agency to produce various one-time or annual reports on marine safety topics. In addition, the bill would authorize the Coast Guard to assign officers or other employees to private entities to carry out safety training. Based on information provided by the Coast Guard, CBO estimates that implementing H.R. 2650 would have little effect on the federal budget because the agency already carries out similar or identical programs. Producing newly required studies and annual reports would add less than \$500,000 a year to the agency's cost, assuming the availability of appropriated funds.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2053 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), and 9(f) of rule XXI of the Rules of the House of Representatives.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the "Unfunded Mandates Reform Act" (P.L. 104-4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 2650 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY OF LEGISLATIVE BRANCH

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

COMMITTEE CORRESPONDENCE



U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

James L. Oberstar
Chairman

John L. Mica
Ranking Republican Member

David Heasusfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

James W. Coon II, Republican Chief of Staff

December 3, 2009

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
176 Ford House Office Building
Washington, D.C. 20515

Dear Chairman Thompson:


I write to you regarding H.R. 2650, the "Coast Guard Modernization Act of 2009".

I agree that provisions in H.R. 2650 are of jurisdictional interest to the Committee on Homeland Security. I acknowledge that by forgoing a sequential referral, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on Homeland Security has jurisdiction in H.R. 2650.

This exchange of letters will be inserted in the Committee Report on H.R. 2650 and in the *Congressional Record* as part of the consideration of this legislation in the House.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,


James L. Oberstar, M.C.
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable John L. Mica, Ranking Member
The Honorable Peter T. King, Ranking Member, Committee on Homeland Security
The Honorable John Sullivan, Parliamentarian

BENNIE G. THOMPSON, MISSISSIPPI
CHAIRMAN



PETER T. KING, NEW YORK
RANKING MEMBER

One Hundred Eleventh Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

December 3, 2009

The Honorable James L. Oberstar
Chairman
Committee on Transportation and
Infrastructure
2165 Rayburn Bldg.
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Oberstar:

I write to you regarding H.R. 2650, the "Coast Guard Modernization Act of 2009."

H.R. 2650 contains provisions that fall within the jurisdiction of the Committee on Homeland Security. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I will not seek a sequential referral of the bill. However, agreeing to waive consideration of this bill should not be construed as the Committee on Homeland Security waiving, altering, or otherwise affecting its jurisdiction over subject matters contained in the bill which fall within its Rule X jurisdiction.

Further, I request your support for the appointment of an appropriate number of Members of the Committee on Homeland Security to be named as conferees during any House-Senate conference convened on H.R. 2650 or similar legislation. I also ask that a copy of this letter and your response be included in the legislative report on H.R. 2650 and in the *Congressional Record* during floor consideration of this bill.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

A handwritten signature in black ink that reads "Bennie G. Thompson". The signature is written in a cursive, flowing style.

Bennie G. Thompson
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable Peter T. King, Ranking Member
The Honorable John Sullivan, Parliamentarian

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

TITLE 14, UNITED STATES CODE

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PART I—REGULAR COAST GUARD

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CHAPTER 3—COMPOSITION AND ORGANIZATION

Sec.

41. Grades and ratings.

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[47. Vice Commandant; assignment.]

47. *Vice Commandant; appointment.*

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[50. Area Commanders.

[50a. Chief of Staff.]

50. *Vice admirals.*

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[52. Vice admirals, continuity of grade.]

52. *Vice admirals and admirals, continuity of grade.*

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55. *Marine safety workforce.*56. *Centers of Expertise for Marine Safety.*57. *Marine industry training program.*

§ 41. Grades and ratings

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

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§ 47. Vice Commandant; [Assignment] *Appointment*

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

tached from that duty, except as provided in [subsection] section 51(d) of this title.

【§ 50. Area commanders

【(a) The President may appoint, by and with the advice and consent of the Senate, a Commander, Atlantic Area, and a Commander, Pacific Area, each of whom shall be an intermediate commander between the Commandant and the district commanders in his respective area and shall perform such duties as the Commandant may prescribe. The area commanders shall be appointed from officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for such appointments.

【(b) An area commander shall, while so serving, have the grade of vice admiral with pay and allowances of that grade. The appointment and grade of an area commander shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in subsection 51(d) of this title.

【§ 50a. Chief of Staff

【(a) The President may appoint, by and with the advice and consent of the Senate, a Chief of Staff of the Coast Guard who shall rank next after the area commanders and who shall perform duties as prescribed by the Commandant. The Chief of Staff shall be appointed from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for the appointment.

【(b) The Chief of Staff shall have the grade of vice admiral with the pay and allowances of that grade. The appointment and grade of the Chief of Staff shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.】

§ 50. Vice admirals

(a)(1) The President may designate 4 positions of importance and responsibility that shall be held by officers who—

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

(B) shall perform any duties as the Commandant may prescribe.

(2) The 4 vice admiral positions authorized under paragraph (1) are, respectively, the following:

(A) The Deputy Commandant for Mission Support.

(B) The Deputy Commandant for Operations and Policy.

(C) The Commander, Force Readiness Command.

(D) The Commander, Operations Command.

(3) The President may appoint, by and with the advice and consent of the Senate, and reappoint, by and with the advice and consent of the Senate, to each of the positions designated under paragraph (1) an officer of the Coast Guard who is serving on active duty above the grade of captain. The Commandant shall make recommendations for those appointments.

(4)(A) *Except as provided in subparagraph (B), the Deputy Commandant for Operations and Policy must have at least 10 years experience in vessel inspection, marine casualty investigations, mariner licensing, or an equivalent technical expertise in the design and construction of commercial vessels, with at least 4 years of leadership experience at a staff or unit carrying out marine safety functions.*

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

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

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

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

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

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

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

(2) *An officer serving in a grade above rear admiral who holds the permanent grade of rear admiral (lower half) shall be considered for promotion to the permanent grade of rear admiral as if the officer was serving in the officer's permanent grade.*

(d) *Whenever a vacancy occurs in a position designated under subsection (a), the Commandant shall inform the President of the qualifications needed by an officer serving in that position to carry out effectively the duties and responsibilities of that position.*

§ 51. Retirement

[(a) An officer who, while serving in the grade of vice admiral, is retired for physical disability shall be placed on the retired list with the grade of vice admiral.]

[(b) An officer who is retired while serving in the grade of vice admiral, or who, after serving at least two and one-half years in the grade of vice admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the grade of vice admiral.]

[(c) An officer who, after serving less than two and one-half years in the grade of vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade.]

(a) *An officer, other than the Commandant, who, while serving in the grade of admiral or vice admiral, is retired for physical dis-*

ability shall be placed on the retired list with the highest grade in which that officer served.

(b) An officer, other than the Commandant, who is retired while serving in the grade of admiral or vice admiral, or who, after serving at least two and one-half years in the grade of admiral or vice admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the highest grade in which that officer served.

(c) An officer, other than the Commandant, who, after serving less than two and one-half years in the grade of admiral or vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade.

(d) An officer serving in the grade of admiral or vice admiral shall continue to hold that grade—

(1) * * *

(2) while awaiting retirement, beginning on the day that officer is relieved from the position of Commandant, Vice Commandant, [Area Commander, or Chief of Staff] or Vice Admirals and ending on the day before the officer's retirement, but not for more than 60 days.

§ 52. Vice admirals and admirals, continuity of grade

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

* * * * *

§ 55. Marine safety workforce

(a) DESIGNATION OF MARINE SAFETY WORKFORCE.—

(1) IN GENERAL.—The Secretary, acting through the Commandant, shall designate those positions in the Coast Guard that constitute the marine safety workforce.

(2) REQUIRED POSITIONS.—In designating positions under paragraph (1), the Secretary shall include, at a minimum, the following marine safety-related positions:

(A) Program oversight.

(B) Vessel and facility inspection.

(C) Casualty investigation.

(D) Pollution investigation.

(E) Merchant Mariner licensing, documentation, and registry.

(F) Marine safety engineering or other technical activities.

(3) MARINE SAFETY MANAGEMENT HEADQUARTER ACTIVITIES.—The Secretary shall also designate under paragraph (1) those marine safety-related positions located at Coast Guard headquarters units, including the Marine Safety Center and the National Maritime Center.

(b) CAREER PATHS.—The Secretary, acting through the Commandant, shall ensure that appropriate career paths for civilian and military Coast Guard personnel who wish to pursue careers in marine safety are identified in terms of the education, training, ex-

perience, and assignments necessary for career progression of civilians and members of the Armed Forces to the most senior marine safety positions. The Secretary shall make available published information on such career paths.

(c) **QUALIFICATIONS.**—With regard to the marine safety workforce, an officer, member, or civilian employee of the Coast Guard assigned as a—

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

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

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

(A) the construction and operation of commercial vessels;

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

(C) the qualifications and training of vessel personnel.

(d) **APPRENTICESHIP REQUIREMENT.**—Any officer, member, or employee of the Coast Guard in training to become a marine inspector, marine casualty investigator, or a marine safety engineer shall serve a minimum of one-year apprenticeship, unless otherwise directed by the Commandant, under the guidance of a qualified marine inspector, marine casualty investigator, or marine safety engineer. The Commandant may authorize shorter apprenticeship periods for certain qualifications, as appropriate.

(e) **BALANCED WORKFORCE POLICY.**—In the development of marine safety workforce policies under this section with respect to any civilian employees or applicants for employment with the Coast Guard, the Secretary shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

(f) **MANAGEMENT INFORMATION SYSTEM.**—The Secretary, acting through the Commandant, shall establish a management information system for the marine safety workforce that shall provide, at a minimum, the following standardized information on persons serving in marine safety positions:

(1) Qualifications, assignment history, and tenure in assignments of persons in the marine safety workforce.

(2) Promotion rates for military and civilian personnel in the marine safety workforce.

(g) **ASSESSMENT OF ADEQUACY OF MARINE SAFETY WORKFORCE.**—

(1) **REPORT.**—The Secretary, acting through the Commandant, shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by December 1 of each year on the adequacy of the current marine safety workforce to meet that anticipated workload.

(2) *CONTENTS.*—The report shall specify the number of civilian and military Coast Guard personnel currently assigned to marine safety positions and shall identify positions that are understaffed to meet the anticipated marine safety workload.

(h) *SECTOR CHIEF OF MARINE SAFETY.*—

(1) *IN GENERAL.*—There shall be in each Coast Guard sector a Chief of Marine Safety who shall be at least a Lieutenant Commander or civilian employee within the grade GS-13 of the General Schedule, and who shall be a—

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

(B) qualified marine casualty investigator.

(2) *FUNCTIONS.*—The Chief of Marine Safety for a sector—

(A) is responsible for all individuals who, on behalf of the Coast Guard, inspect or examine vessels, conduct marine casualty investigations; and

(B) if not the Coast Guard officer in command of that sector, is the principal advisor to the Sector Commander regarding marine safety matters in that sector.

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

§ 56. Centers of Expertise for Marine Safety

(a) *ESTABLISHMENT.*—The Commandant of the Coast Guard may establish and operate one or more Centers of Expertise for Marine Safety (in this section referred to as a “Center”).

(b) *MISSIONS.*—The Centers shall—

(1) be used to provide and facilitate education, training, and research in marine safety including vessel inspection and casualty investigation;

(2) develop a repository of information on marine safety; and

(3) perform any other missions as the Commandant may specify.

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

(1) provide for joint operation of a Center; and

(2) provide necessary administrative services for a Center, including administration and allocation of funds.

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

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

(A) the ability of the Coast Guard or the department in which the Coast Guard is operating, any employee of the Coast Guard or the department, or any member of the Armed Forces to carry

out any responsibility or duty in a fair and objective manner;
or

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

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

§57. Marine industry training program

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

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

(A) the duration and termination of assignments;

(B) reimbursements; and

(C) status, entitlements, benefits, and obligations of program participants; and

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

(b) *ANNUAL REPORT.*—Not later than the date of the submission each year of the President's budget request under section 1105 of title 31, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that describes—

(1) the number of officers, members, and employees of the Coast Guard assigned to private entities under this section; and

(2) the specific benefit that accrues to the Coast Guard for each assignment.

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CHAPTER 5—FUNCTIONS AND POWERS

Sec.

81. Aids to navigation authorized.

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99. Marine safety.

102. Appeals and waivers.

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§ 93. Commandant; general powers

(a) * * *

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(c) *MARINE SAFETY RESPONSIBILITIES.*—*In exercising the Commandant's duties and responsibilities with regard to marine safety, the individual with the highest rank who meets the experience qualifications set forth in section 50(a)(4) shall serve as the principal advisor to the Commandant regarding—*

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

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

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

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

(5) *suspension and revocation of licenses and certificates;*

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

(7) *documentation and numbering of vessels;*

(8) *State boating safety programs;*

(9) *commercial instruments and maritime liens;*

(10) *the administration of bridge safety;*

(11) *administration of the navigation rules;*

(12) *the prevention of pollution from vessels;*

(13) *ports and waterways safety;*

(14) *waterways management; including regulation for regattas and marine parades;*

(15) *aids to navigation; and*

(16) *other duties and powers of the Secretary related to marine safety and stewardship.*

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

(1) *the authority of Coast Guard officers and members to enforce marine safety regulations using authority under section 89 of this title; or*

(2) *the exercise of authority under section 91 of this title and the provisions of law codified at sections 191 through 195 of title 50 on the date of enactment of this paragraph.*

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§99. Marine safety

To protect life, property, and the environment on, under, and over waters subject to the jurisdiction of the United States and on vessels subject to the jurisdiction of the United States, the Commandant shall promote maritime safety as follows:

(1) *By taking actions necessary and in the public interest to protect such life, property, and the environment.*

(2) *Based on the following priorities:*

(A) *Preventing marine casualties and threats to the environment.*

(B) *Minimizing the impacts of marine casualties and environmental threats.*

(C) *Maximizing lives and property saved and environment protected in the event of a marine casualty.*

§ 102. Appeals and waivers

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

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

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CHAPTER 9—COAST GUARD ACADEMY

Sec.

181. Administration of Academy.

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199. Marine safety curriculum.

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§ 199. Marine safety curriculum

The Commandant of the Coast Guard shall ensure that professional courses of study in marine safety are provided at the Coast Guard Academy, and during other officer accession programs, to give Coast Guard cadets and other officer candidates a background and understanding of the marine safety program. These courses may include such topics as program history, vessel design and construction, vessel inspection, casualty investigation, and administrative law and regulations.

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CHAPTER 11—PERSONNEL

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D. Discharges; Retirements; Revocation of Commissions

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§ 290. Rear admirals and rear admirals (lower half); continuation on active duty; involuntary retirement

(a) The Secretary shall from time to time convene boards to recommend for continuation on active duty the most senior officers on the active duty promotion list serving in the grade of rear admiral (lower half) or rear admiral who have not previously been considered for continuation in that grade. [Officers serving for the time being or who have served in the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued in the grade of rear admiral.] *Officers, other than the Commandant, serving for the time being or who have served in the grade of vice admiral or admiral are not subject to consider-*

ation for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued in the grade of rear admiral. A board shall consist of at least five officers serving in the grade of vice admiral or as rear admirals previously continued. Boards shall be convened frequently enough to assure that each officer serving in the grade of rear admiral (lower half) or rear admiral is subject to consideration for continuation during a promotion year in which that officer completes not less than four or more than five years combined service in the grades of rear admiral (lower half) and rear admiral.

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TITLE 46, UNITED STATES CODE

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Subtitle II—Vessels and Seamen

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PART A—GENERAL PROVISIONS

CHAPTER 21—GENERAL

Sec.

2101. General definitions.

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2116. *Marine safety strategy, goals, and performance assessments.*

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§2116. Marine safety strategy, goals, and performance assessments

(a) *LONG-TERM STRATEGY AND GOALS.*—*In conjunction with existing federally required strategic planning efforts, the Secretary shall develop a long-term strategy for improving vessel safety and the safety of individuals on vessels. The strategy shall include the issuance each year of an annual plan and schedule for achieving the following goals:*

- (1) *Reducing the number and rates of marine casualties.*
- (2) *Improving the consistency and effectiveness of vessel and operator enforcement and compliance programs.*
- (3) *Identifying and targeting enforcement efforts at high-risk vessels and operators.*
- (4) *Improving research efforts to enhance and promote vessel and operator safety and performance.*

(b) *CONTENTS OF STRATEGY AND ANNUAL PLANS.*—

(1) *MEASURABLE GOALS.*—*The strategy and annual plans shall include specific numeric or measurable goals designed to achieve the goals set forth in subsection (a). The purposes of the numeric or measurable goals are the following:*

- (A) *To increase the number of safety examinations on all high-risk vessels.*
- (B) *To eliminate the backlog of marine safety-related rulemakings.*

(C) To improve the quality and effectiveness of marine safety information databases by ensuring that all Coast Guard personnel accurately and effectively report all safety, casualty, and injury information.

(D) To provide for a sufficient number of Coast Guard marine safety personnel, and provide adequate facilities and equipment to carry out the functions referred to in section 93(c).

(2) RESOURCE NEEDS.—The strategy and annual plans shall include estimates of—

(A) the funds and staff resources needed to accomplish each activity included in the strategy and plans; and

(B) the staff skills and training needed for timely and effective accomplishment of each goal.

(c) SUBMISSION WITH THE PRESIDENT’S BUDGET.—Beginning with fiscal year 2011 and each fiscal year thereafter, the Secretary shall submit to Congress the strategy and annual plan not later than 60 days following the transmission of the President’s budget submission under section 1105 of title 31.

(d) ACHIEVEMENT OF GOALS.—

(1) PROGRESS ASSESSMENT.—No less frequently than semi-annually, the Coast Guard Commandant and the Assistant Commandant for Marine Safety shall jointly assess the progress of the Coast Guard toward achieving the goals set forth in subsection (b). The Commandant and the Assistant Commandant shall jointly convey their assessment to the employees of the Assistant Commandant and shall identify any deficiencies that should be remedied before the next progress assessment.

(2) REPORT TO CONGRESS.—The Secretary shall report annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(A) on the performance of the marine safety program in achieving the goals of the marine safety strategy and annual plan under subsection (a) for the year covered by the report;

(B) on the program’s mission performance in achieving numerical measurable goals established under subsection (b); and

(C) recommendations on how to improve performance of the program.

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PART B—INSPECTION AND REGULATIONS OF VESSELS

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CHAPTER 33—INSPECTION GENERALLY

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§ 3309. Certificate of inspection

(a) * * *

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(d) A certificate of inspection issued under this section shall be signed by the senior Coast Guard member or civilian employee who inspected the vessel, in addition to the officer in charge of marine inspection.

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