
COAST GUARD AUTHORIZATION, FISCAL YEAR 1993

JUNE 15, 1992.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 5055

[Including cost estimates of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 5055) to authorize appropriations for the Coast Guard for fiscal year 1993, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SECTION 101. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1992"

SEC. 102. AUTHORIZATION.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for Fiscal Year 1993, as follows:

(a) For the operation and maintenance of the Coast Guard, \$2,603,000,000, of which—

(1) \$142,100,000 shall be transferred from the Department of Defense;

(2) \$31,876,000 shall be derived from the Oil Spill Liability Trust Fund; and

(3) \$35,000,000 shall be expended from the Boat Safety Account.

(b) For the acquisition, construction, rebuilding, and improvement of aids-to-navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$419,030,000 to remain available until expended, of which—

(1) \$18,000,000 shall be transferred from the Department of Defense; and

(2) \$37,852,000 shall be derived from the Oil Spill Liability Trust Fund.

(c) For research, development, test, and evaluation, \$29,900,000, to remain available until expended, of which \$4,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(d) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of re-

tired personnel and their dependents under chapter 55 of title 10, United States Code, \$519,700,000, to remain available until expended.

(e) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Administration Program, \$12,600,000, to remain available until expended.

(f) For environmental compliance and restoration at Coast Guard facilities, \$30,500,000, to remain available until expended.

SEC. 103. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) As of September 30, 1993, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,732. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) For Fiscal Year 1993, the Coast Guard is authorized average military training student loads as follows:

- (1) For recruit and special training, 2,653 student years.
- (2) For flight training, 110 student years.
- (3) For professional training in military and civilian institution, 362 student years.
- (4) For officer acquisition, 878 student years.

SEC. 104. SHORE FACILITIES IMPROVEMENTS AT GROUP CAPE HATTERAS.

The Secretary of Transportation shall expend not more than \$5,500,000, of amounts authorized to be appropriated for the Coast Guard in Fiscal Years 1993, 1994, 1995, 1996, and 1997, for shore facilities improvements within Group Cape Hatteras, North Carolina.

SEC. 105. PREPOSITIONED OIL SPILL CLEANUP EQUIPMENT.

Of the amounts authorized to be appropriated for acquisition, construction, rebuilding, and improvement that are derived from the Oil Spill Liability Trust Fund in Fiscal Year 1993, the Secretary of Transportation shall expend \$1,780,000 to acquire and preposition oil spill response equipment at Traverse City, Michigan and Houston, Texas.

SEC. 106. OIL SPILL TRAINING SIMULATORS.

Of the amounts authorized to be appropriated for acquisition, construction, rebuilding, and improvement that are derived from the Oil Spill Liability Trust Fund in Fiscal Year 1993, the Secretary of Transportation shall make available—

- (1) \$1,250,000 to the Texas Center for Marine Training and Safety at Galveston, Texas, for the purchase of a marine oil spill management simulator; and
- (2) \$1,250,000 to the Massachusetts Center for Marine Environmental Protection, located at Buzzards Bay, Massachusetts, for the purchase of a marine oil spill management simulator.

SEC. 107. DESIGNATION OF THE FLORIDA AVENUE BRIDGE AS AN UNREASONABLE OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Florida Avenue Bridge, which is located 1.63 miles east of the Mississippi River on the Gulf Intracoastal Waterway in Orleans Parish, Louisiana, is deemed to be an unreasonable obstruction to navigation.

SEC. 108. DESIGNATION OF THE CHELSEA STREET BRIDGE AS AN UNREASONABLE OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Chelsea Street Bridge, which is located at mile 1.2 on the Chelsea River (Creek), in Chelsea, Massachusetts, is deemed to be an unreasonable obstruction to navigation.

SEC. 109. PROCUREMENT OF BUOY CHAIN.

(a) **IN GENERAL.**—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

“§ 96. Procurement of buoy chain

“(a) The Coast Guard may not procure buoy chain unless—

“(1) it is manufactured in the United States; or

“(2) substantially all of its components are produced or manufactured in the United States.

“(b) For purposes of subsection (a)(2), substantially all of the components of a buoy chain are deemed to be produced or manufactured in the United States if the aggregate cost of the components that are produced or manufactured in the United States

is greater than the aggregate cost of the components that are produced or manufactured outside the United States.

“(c) In this section—

“(1) ‘buoy chain’ means any chain, cable, or other device that is—

“(A) used to hold in place, by attachment to the bottom of a body of water, a floating aid to navigation; and

“(B) not more than four inches in diameter; and

“(2) ‘manufacture’ includes cutting, heat treating, quality control, welding (including the forging and shot blasting process), and testing.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 14, United States Code, is amended by adding at the end the following:

“96. Procurement of buoy chain.”.

SEC. 110. TRANSFER OF AMOUNTS FOR STATE BOATING SAFETY PROGRAMS.

Section 4 of the Act of August 9, 1950 (16 U.S.C. 777c; popularly known as the “Dingell-Johnson Sport Fish Restoration Act”), is amended—

(1) by inserting “distribution, and transfer” in the third sentence after “deduction,”; and

(2) by inserting after the second sentence the following: “Of annual appropriations allocated under section 3, \$10,000,000 for Fiscal Year 1993, \$15,000,000 for Fiscal Years 1994 and 1995, and \$20,000,000 for each fiscal year thereafter, shall be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.”.

TITLE II—BOATING SAFETY

SEC. 201. INCREASED PENALTIES FOR OPERATING A VESSEL WHILE INTOXICATED.

Section 2302(c)(1) of title 46, United States Code, is amended by striking “\$1,000;” and inserting “\$1,000 for a first violation and not more than \$5,000 for a subsequent violation;”

SEC. 202. FUTURE BOATERS EDUCATION PROGRAM.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a plan to increase the availability of voluntary safe boating education to individuals 16 years of age or younger. In developing the plan, the Secretary shall consider using the resources of the Coast Guard Auxiliary to provide boating education to the greatest extent possible.

SEC. 203. COAST GUARD AUXILIARY MISSION REPORT.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on ways to enlarge the mission of the Coast Guard Auxiliary and to increase Auxiliary participation in Coast Guard programs and activities.

SEC. 204. LAW ENFORCEMENT COORDINATION DEMONSTRATION PROJECT.

Not later than two months after the date of enactment of this Act, the Secretary of Transportation shall conduct a demonstration project in the Ninth Coast Guard District in conjunction with other appropriate officials of Federal, State, and local government agencies, to increase coordination of enforcement of boating laws and regulations.

TITLE III—MISCELLANEOUS

SEC. 301. STATE MARITIME ACADEMY VESSEL INSPECTION FEE RELIEF.

Section 2110 of title 46, United States Code, is amended by adding at the end the following:

“(j) Effective October 1, 1992, the Secretary may not establish or collect a fee or charge for the inspection under part B of this subtitle for training ships operated by state maritime academies.”.

SEC. 302. AUTHORITY FOR THE COAST GUARD TO INSPECT AND WITHHOLD THE DOCUMENTS OF CERTAIN FOREIGN PASSENGER VESSELS.

(a) Section 3303(a) title 46, United States Code, is amended in the first sentence by—

(1) striking “only”; and

(2) striking "the condition of the vessel's propulsion and lifesaving equipment are" and inserting "the condition of the vessel is".

(b) Section 3505 of title 46, United States Code, is amended by striking "or domestic vessel of more than 100 gross tons having berth or stateroom accommodations for at least 50 passengers" and inserting "vessel".

SEC. 303. STUDY OF THE APPLICATION OF TILTROTOR AIRCRAFT TECHNOLOGY TO COAST GUARD MISSIONS.

(a) Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall submit a study to Congress on the application of the V-22 Osprey tiltrotor technology to Coast Guard missions.

(b) In conducting the study under subsection (a), the Secretary shall—

(1) evaluate the application of tiltrotor technology to Coast Guard missions including—

(A) search and rescue at sea; and

(B) the enforcement of laws of the United States especially with respect to drug interdiction;

(2) determine whether use of the technology in the Coast Guard marine environmental protection program would minimize the damage caused by oil or hazardous substances spills in the waters of the United States; and

(3) determine what effect the technology would have on Coast Guard manpower and operating costs, compared to those costs associated with technology currently used by the Coast Guard.

SEC. 304. ENFORCEMENT AGREEMENTS.

The Coast Guard and the Department of Commerce shall enter into a Memorandum of Agreement regarding fisheries enforcement practices and procedures that provide at a minimum for the opportunity, if timely requested, to appear in person to respond to charges of violation of law or regulation when the opportunity for a hearing is granted by statute. The Memorandum of Agreement shall also provide that all enforcement procedures shall be fair and consistently applied.

SEC. 305. RADAR BEACON AID-TO-NAVIGATION FOR THE ECKHOLMS ISLANDS.

Not later than 90 days after enactment of this Act, the Secretary of Transportation shall install a radar beacon aid-to-navigation at the Eckholms Islands, near Sitka, Alaska.

SEC. 306. AUTHORIZING PAYMENT TO CERTAIN SUBCONTRACTORS.

(a) Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall determine whether the Coast Guard failed to investigate the adequacy, availability, and financial soundness of the security for payment to subcontractors under Coast Guard contract DTCG50-87-C-00096, notwithstanding any law or regulation in effect at the time the contract was made.

(b) If the Secretary determines that the Coast Guard failed to investigate as provided in subsection (a) of this section, the Secretary shall—

(1) not later than 180 days after the date of enactment of this Act, determine the amounts that MZP, Incorporated owes to all subcontractors that performed work or supplied materials under the contract; and

(2) not later than 60 days after making that determination, the Secretary shall pay the subcontractors out of amounts authorized to be appropriated under this Act.

(c) The Secretary shall conduct investigations and interviews under this section in Ketchikan, Alaska.

SEC. 307. STUDY OF THE APPLICATION OF NIGHT VISION AND THERMAL IMAGING TECHNOLOGY TO COAST GUARD MISSIONS.

(a) Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit a study to Congress on the application of the Driver's Thermal Viewer (DTV) to Coast Guard missions.

(b) In conducting the study required under subsection (a), the Secretary shall—

(1) evaluate the applications of the Driver's Thermal Viewer to Coast Guard missions on Coast Guard utility boats and motor lifeboats including—

(A) search and rescue at sea;

(B) the enforcement of laws of the United States, especially with respect to drug interdiction; and

(C) marine environmental protection; and

(2) determine what effect implementing the technology would have on Coast Guard operating costs and manpower.

PURPOSE OF THE BILL

The primary purpose of H.R. 5055 is to authorize the appropriation of funds for the United States Coast Guard for Fiscal Year 1993. The appropriation of funds are authorized for the following accounts within the Coast Guard: Operations and Maintenance; Acquisition, Construction, and Improvements; Research and Development; Retired Pay; Alteration of Bridges; and, Environmental Compliance and Restoration.

H.R. 5055 also:

Sets end-of-year strength levels for active duty military personnel and establishes military training levels (section 103);

Authorizes not more than \$5.5 million for Fiscal Years 1993-1997 for improvements to the shore facilities within Group Cape Hatteras, North Carolina (section 104);

Authorizes \$1.78 million to purchase additional oil spill response equipment for Traverse City, Michigan, and Houston, Texas (section 105);

Authorizes \$2.5 million for the purchase of marine oil spill management simulators for the Massachusetts Center for Marine Environmental Protection and for the Texas Center for Marine Training and Safety (section 106);

Designates the Florida Avenue Bridge in New Orleans, Louisiana, as an unreasonable obstruction to navigation (section 107);

Designates the Chelsea Street Bridge in Chelsea, Massachusetts, an unreasonable obstruction to navigation (section 108);

Mandates that the Coast Guard procure only U.S. manufactured buoy chain (section 109);

Increases the funds available from the Aquatic Resources Trust Fund (Wallop-Breaux Trust Fund) for state boating safety programs (section 110);

Increases penalties for operating a vessel while intoxicated (section 201);

Requires the Secretary of Transportation to submit a plan to increase the availability of safe boating education programs for minors (section 202);

Requires the Secretary of Transportation to report on ways to enlarge the mission of the Coast Guard Auxiliary (section 203);

Directs the Secretary of Transportation to conduct a demonstration project in the Ninth Coast Guard District to increase the coordination of enforcement of boating laws and regulations (section 204);

Exempts state marine academies from vessel inspection user fees on their training ships effective October 1, 1992 (section 301);

Authorizes the Coast Guard to inspect and withhold the documents of certain foreign passenger vessels in accordance with the International Convention for the Safety of Life at Sea (SOLAS) (section 302);

Requires the Secretary to study the applicability of tiltrotor aircraft technology (V-22 Osprey) to Coast Guard missions (section 303);

Requires the Coast Guard and the Department of Commerce to enter into a Memorandum of Agreement regarding the enforcement of fisheries laws to ensure that an individual charged with a violation has the opportunity to appear in person at a hearing and to ensure that fisheries enforcement procedures are fair and consistently applied (section 304);

Directs the Coast Guard to install a radar beacon aid-to-navigation at the Eckholms Islands near Sitka, Alaska (section 305);

Establishes a procedure for the Secretary of Transportation to determine whether payments are owed to certain subcontractors (section 306); and

Directs the Coast Guard to report to Congress on the application of the Driver's Thermal Viewer to Coast Guard missions (section 307).

BACKGROUND AND NEED FOR LEGISLATION

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

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

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

As a military service and a branch of the Armed Forces, the Coast Guard also maintains a readiness to operate as a specialized service in the Navy upon the declaration of war or when the President directs.

The Coast Guard has defended our nation in every war since 1790, including the recent crisis in the Persian Gulf. Coast Guard law enforcement personnel were deployed on naval vessels to assist in enforcing the U.N. economic sanctions against Iraq. In what became the first involuntary overseas mobilization of the Coast Guard Reserve in its 50-year history, Reserve units were deployed to the Middle East with orders to provide coastal patrol, anti-terrorist operations, and overall port security. The Coast Guard also used its considerable expertise in oil pollution response in advising Saudi Arabia on the cleanup of the massive oil spill in the Persian Gulf.

In the twenty one months since the enactment of the Oil Pollution Act of 1990, (Public Law 101-380 (OPA 90)) the Coast Guard has promulgated and implemented numerous regulations. This Act

greatly expanded the responsibilities of the Coast Guard in the area of oil pollution, including implementing the liability and compensation fund, contingency planning, and oil spill response.

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

Act to Prevent Pollution from Ships: Requires the Coast Guard to administer and enforce international environmental safety agreements through certification and inspections.

Anti-Drug Abuse Act of 1986 and 1988: Expanded the Coast Guard's role in waterborne and airborne marine drug interdiction.

Deepwater Port Act of 1964: Directs the Coast Guard to oversee offshore oil port operation and construction.

Federal Water Pollution Control Act of 1972 (Clean Water Act): Requires the Coast Guard to coordinate environmental cleanup activities affecting the marine environment.

Magnuson Fishery Conservation and Management Act of 1976: Assigns joint responsibility to the Coast Guard and the National Marine Fisheries Service to enforce the expanded U.S. fisheries jurisdiction.

Hazardous Liquid Pipeline Safety Act of 1979: Requires the Secretary of Transportation to establish minimum Federal safety standards for those who transport hazardous liquids and who own or operate pipeline facilities. This Act also requires offshore pipeline operators to report potential or existing navigational hazards involving pipelines to Coast Guard field offices.

Hazardous Materials Transportation Act: Requires the Coast Guard to enforce safety standards for the waterborne transportation of hazardous materials.

Intervention on the High Seas Act: Gives the Coast Guard authority to intervene in situations involving pollution discharges on the high seas that pose a threat to the United States and its territorial seas.

Maritime Drug Law Enforcement Act: Authorizes the Coast Guard to search or seize any vessel that is manufacturing, distributing, or possessing with the intent to manufacture or distribute any controlled substance in the United States.

Natural Gas Pipeline Safety Act of 1968: Requires the Secretary of Transportation to establish minimum Federal safety standards for those that transport natural gas and own and operate pipeline facilities. It also requires companies that operate offshore pipelines to report potential or existing hazards to navigation involving pipelines to the Coast Guard.

Marine Protection, Research and Sanctuaries Act: Gives the Coast Guard enforcement authority over ocean dumping and marine sanctuaries.

Oil Pollution Act of 1990: Expands the Coast Guard's authority over oil spills, and establishes a comprehensive regime for oil spill compensation, liability, response, and research and development.

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

Outer Continental Shelf Lands Act Amendments of 1978: Authorizes the Coast Guard to monitor oil and gas development activities in offshore areas.

Plastic Pollution Research and Control Act of 1988: Requires the Coast Guard to monitor the disposal of plastic materials and other garbage at sea and to establish regulations for vessel waste management plans.

Port and Waterways Safety Act of 1972: Requires the Coast Guard to ensure port and merchant vessel safety.

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

Recreational Boating Fund Act of 1980: Requires the Coast Guard to prescribe standards for manufacturing and constructing pleasure boats and boating equipment. This Act also established the Boat Safety Fund, which the Coast Guard uses to promote recreational boating safety through a national boat safety program.

COMPARISON OF COAST GUARD BUDGET LEVELS

The following table compares the amount appropriated for Fiscal Year 1992, the amount the President requested for Fiscal Year 1993, and the amount that H.R. 5055 authorizes to be appropriated.

U.S. COAST GUARD BUDGET INFORMATION

[In millions of dollars]

Appropriation	Appropriated fiscal year 1992	Administration request fiscal year 1993	Authorized by H.R. 5055
Operating expenses (OE).....	¹ 2,476.87	² 2,503	² 2,603
Acquisition, construction and improvements (AC&I).....	³ 390	⁴ 414	⁴ 419.93
Reserve training (RT) ⁵	75	⁶ 74.53	
Research, development, test and evaluation.....	29.15	⁸ 29.9	⁸ 29.9
Alteration of bridges.....	11.1	11.1	12.6
Boat safety ⁷	35	35	
Environmental compliance and restoration.....	21.5	30.5	30.5
Other (including retired pay).....	557.8	619.8	⁸ 519.7
Total.....	¹ 3,596.42	² 3,817.83	² 3,615.63

¹ Figures reflect transfers from the Department of Defense, oil spill liability trust fund; boat safety account; and Desert Shield/Desert Storm supplementals (1992).

² This figure includes transfers from the boat safety account, oil spill liability trust fund and Department of Defense.

³ Includes transfers from the oil spill liability trust fund.

⁴ Includes transfers from Department of Defense and the oil spill liability trust fund.

⁵ Funds for reserve training are permanently authorized by section 894 of title 14 U.S.C.

⁶ Includes transfer from Department of Defense.

⁷ Funds for the boat safety account are authorized by section 9503(c)(A)(ii) of the Internal Revenue Code.

⁸ Retired pay only. The additional \$100,100,000 difference between the amount in H.R. 5055 and the amount requested by the administration is funding for the oil spill liability trust fund, (there is permanent, indefinite budget authority of \$100,000,000 for the oil spill liability trust fund) and \$100,000 for miscellaneous trust funds.

OPERATION AND MAINTENANCE

H.R. 5055 authorizes \$2.603 billion for Operations and Maintenance (OE). This is an increase of \$126.1 million over last year's appropriation. Seventy-two per cent of the increase is a result of built-in changes to the OE Account, such as health care cost and other cost-of-living increases. An additional 13 per cent is requested for the operation of new facilities that were not operating in Fiscal

Year 1992. The remaining 15 per cent is for maintenance and upgrade of assets.

Over the past eight years, Congress has augmented the Coast Guard OE Account by transferring funds from the Department of Defense to support the Coast Guard's national defense readiness mission. For the first time this year, the Administration has requested the transfer of \$203 million from the Department of Defense to the Coast Guard. Of this amount, \$142 million will be transferred to the OE Account.

Thirty-five million dollars is also transferred from the Boat Safety Account of the Aquatic Resources Trust Fund, popularly known as the Wallop-Breaux Trust Fund, to pay for Coast Guard operating expenses related to safe boating. In addition, \$31.9 million is authorized to be transferred from the Oil Spill Liability Trust Fund to defray Coast Guard operating expenses associated with oil spill response and cleanup. H.R. 5055 authorizes all the transfers requested by the Administration.

The major portion of Coast Guard operating expenses are for the operation and maintenance of multipurpose vessels, aircraft, and shore facilities and for military and civilian salaries.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

H.R. 5055 authorizes \$419 million for the Acquisition, Construction, and Improvements (AC&I) Account, which funds major acquisitions, construction, rebuilding, and improvements of vessels, aircraft, information management resources, shore units, and aids-to-navigation. Of this amount, \$18 million is authorized to be transferred from the Department of Defense, and \$37.852 million is authorized to be transferred from the Oil Spill Liability Trust Fund.

AC&I projects are those that have an estimated cost of \$200,000 or more and those projects that involve either new construction or replacement of at least 75 percent of the original facility. Most of the facility improvements financed by this account are multi-purpose in nature and are required by the Coast Guard in the performance of its operational and regulatory missions.

Vessels

H.R. 5055 authorizes appropriations to continue efforts to acquire replacements for seagoing and coastal buoy tenders, 82-foot operational boats, 45- and 46-foot buoy boats, and other small boats. Operational tests and evaluation of five 47-foot motor life boats will begin in this fiscal year. By the end of Fiscal Year 1993, nine of the sixteen 210-foot Medium Endurance Cutters will have completed their major renovations and three will be undergoing renovation. Shipboard Command and Control Systems will continue to be installed on 378-foot High Endurance Cutters. The two Polar class icebreakers will enter the fourth year of a ten year project to restore the operational reliability of these vessels. The icebreaker MACKINAW will begin renovations in order to continue its service on the Great Lakes. Re-engining the CGC YOCONA will significantly extend the life of this 49-year-old Medium Endurance Cutter.

Aircraft

Delivery of the initial 32 HH-60J helicopters funded in prior years will be completed. The acquisition of additional HH-60J's for Operation Bahamas, Turks, Caicos (OPBAT), which started in Fiscal Year 1991 will enter its third year. Acquisition of Night Vision Goggles will continue. Continuation of the Cockpit Voice Recorders/Flight Data Recorders and installation of the Global Positioning System is an important improvement in aircraft operational safety. The Traffic Alert and Collision Avoidance System represents a significant new safety initiative beginning in Fiscal Year 1993. Aireye system upgrades will ensure that national and international pollution response resource are fully capable and ready to meet mission requirements worldwide. The Aireye system is a jet mounted radar capable of detecting the size and severity of an oil spill.

Other equipment

H.R. 5055 authorizes appropriations to continue the following management information system projects: the Marine Safety Network; the Vessel Identification and Documentation System; the System to Automate and Integrate Logistics; the Defense Logistics Modernization Project; the Personnel Management Information System/Joint Uniform Military Pay System; and, the Aviation Maintenance Management Information System. New management information systems initiatives include the Distributed Information System and a management information system for the Coast Guard health services program. To allow the Coast Guard to award a new standard workstation contract, as mandated by the General Services Administration, existing standard workstation software will have to be modified. Major computer hardware improvements will continue at Supply Center Curtis Bay, Maryland.

In Fiscal Year 1993, the San Francisco Vessel Traffic Service (VTS) upgrade will be completed and the New Orleans VTS project will begin. VTS Implementation and Design project funding will ensure timely implementation of the Port Needs Study recommendations. Funds are required to be authorized for Vessel Traffic Services in Port Arthur, Texas, and Los Angeles/Long Beach, California.

More extensive and reliable communication will be possible with the continuation of projects to: install commercial satellite communications equipment aboard cutters; upgrade the VHF-FM communications network in Alaska; procure a second Transportable Communication Center; and, install Global Maritime Distress and Safety System comparable equipment.

The Coast Guard is authorized to establish a Differential Global Positioning System for civilian mariners that will greatly enhance navigational safety.

The Coast Guard is establishing 19 regional oil spill response sites around the country. H.R. 5055 authorizes funds for the acquisition of equipment for two additional response sites in Traverse City, Michigan, and Houston, Texas.

Shore facilities

H.R. 5055 authorizes appropriations for the improvement of the Coast Guard's administrative, operational and personnel support buildings. Shore facilities improvements will be balanced among new construction, renovations, improvements and replacement of existing facilities. The Fiscal Year 1993 authorization recognizes and supports the Commandant's initiative to provide adequate and affordable housing, modern personnel support buildings, and the expansion of overcrowded operational units. Throughout the 1980's, the Coast Guard emphasized upgrading and replacing vessels and aircraft. The Coast Guard is now making considerable efforts to replace many of its dilapidated and obsolescent shoreside facilities. The Committee awaits the Coast Guard's Housing Needs Study that was commissioned last year.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

H.R. 5055 authorizes \$29.9 million for the Coast Guard's Research, Development, Test, and Evaluation program (R&D). Of this amount, \$4 million is to be transferred from the Oil Spill Liability Trust Fund. The R&D program is designed to develop techniques, methods, hardware, and systems which will directly contribute to increasing the productivity and effectiveness of Coast Guard missions.

RETIRED PAY

In Fiscal Year 1993, the number of retired Coast Guard personnel increased by 602 individuals as a result of retirements and attritions. The following tabulation shows the estimated average number of personnel on the rolls for Fiscal Year 1991 compared with estimated numbers for Fiscal Years 1992 and 1993.

AVERAGE NUMBER OF RETIRED PERSONNEL

Category	1991 actual	1992 estimate	1993 estimate
Commissioned officers.....	4,310	4,407	4,502
Warrant officers.....	3,788	3,863	3,958
Enlisted personnel.....	15,743	16,027	16,304
Former lighthouse service personnel.....	45	38	32
Reserve personnel.....	2,193	2,356	2,497
Total.....	26,079	26,691	27,293

ALTERATION OF BRIDGES

The Alteration of Bridges program provides the Federal Government's share of the costs for altering or removing bridges determined to be obstructions to navigation. Generally, bridges altered under this program are old and have insufficient vertical or horizontal clearances that inhibit free navigation on navigable waters of the United States.

H.R. 5055 authorizes \$12.6 million to continue alterations on the CSX-L&N Railroad Birdge over the Pascagoula River, Pascagoula, Mississippi; the Mississippi River Bridge, Hannibal, Missouri; the

Burlington Northern Railroad Birdge in Burlington, Iowa; and to begin alterations on the Sidney Lanier Bridge, Brunswick, Georgia, and the Mississippi River Bridge, Ft. Madison, Iowa.

In addition, H.R. 5055 declares the Florida Avenue Bridge in New Orleans, Louisiana, and the Chelsea River Bridge in Chelsea, Massachusetts, to be unreasonable obstructions to navigation. Of the \$12.6 million authorized for this account, \$1.5 million is authorized for preliminary engineering and design work to replace the Florida Avenue Bridge.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

The Coast Guard Environmental Compliance and Restoration Account provides funding to allow the Coast Guard to carry out its environmental compliance and restoration responsibilities on Coast Guard property. Many of the Coast Guard's air stations and support centers have suffered environmental damage from inadequate handling and storage of petroleum products and other hazardous materials. This bill authorizes \$30.5 million for the restoration of contaminated groundwater and soils and for remediation efforts at hazardous substance disposal sites. The major sites of concern include: Support Center Elizabeth City, North Carolina; Air Station Cape Cod, Massachusetts; support Center Kodiak, Alaska; Air Station Traverse City, Michigan; and OMEGA Station Hawaii.

OIL SPILL LIABILITY TRUST FUND

The Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, authorized collection of a five cent tax on each barrel of oil entering U.S. ports to be deposited into the Oil Spill Liability Trust Fund. Resources from the Oil Spill Liability Trust Fund are used to finance oil pollution prevention and cleanup responsibilities by various Federal agencies. The Fund is used to annully finance up to \$100 million of emergency resources, and all valid claims from injured parties resulting from oil spills in accordance with the Oil Pollution Act of 1990.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING

H.R. 5055 authorizes an end-of-year strength of 39,732 for active duty personnel. Subsection (b) authorizes military training student loads for Fiscal Year 1993 as follows:

<i>Training</i>	<i>Student years</i>
Recruit and special training	2,653
Flight training	110
Professional training	362
Officer acquisition	878

The active duty strength and student training loads provided in this bill are in accordance with the President's request.

OIL SPILL PREVENTION AND CLEANUP

The Oil Pollution Act of 1990 expanded the Coast Guard's responsibilities for the prevention and cleanup of marine oil spills. H.R. 5055 contains a number of provisions that relate to this Coast Guard mission.

Section 105 directs the Secretary of Transportation to expend \$1.78 million from the AC&I account to acquire and preposition oil spill cleanup equipment at Traverse City, Michigan, and Houston, Texas. These cities were not included in a list of 19 major ports selected by the Coast Guard as sites for prepositioned oil spill response equipment. The amount transferred from the Oil Spill Liability Trust Fund to the AC&I account has been increased by \$1.78 million to fund this purchase. The Committee intends these funds to be divided evenly between Houston and Traverse City. Expenditures for prepositioned equipment at each of these ports would be the same as the Coast Guard has budgeted for equipment at the other selected ports.

The Committee wants to ensure that both the Great Lakes and the Houston Ship Channel are adequately prepared to respond to an oil spill. The only site on the Great Lakes currently scheduled to receive Coast Guard oil spill response equipment is Detroit, Michigan. The Coast Guard plans to preposition oil spill response equipment in Galveston, Texas, fifty miles south of Houston.

Section 106 of H.R. 5055 would provide a total of \$2.5 million from the Coast Guard AC&I Account to purchase oil spill training simulators for two state maritime academies. Recent tragic maritime accidents, such as the EXXON VALDEZ, have focused attention on the need for better training of personnel who are responsible for the transportation and handling of petroleum products.

This section directs the Secretary to make available to the Texas Center for Marine Training and Safety at Texas A&M University in Galveston, Texas, the sum of \$1.25 million, for the purchase of a Marine Oil Spill Management Simulator. Currently, there are no simulators located on the Gulf Coast.

The Committee believes it is important that Texas A&M University at Galveston, which is the State Maritime Academy for the entire Gulf Coast region, has a Marine Oil Spill Management Simulator. This valuable technological tool will be used by the school's 200 cadets and by professional merchant mariners who regularly sail the Gulf of Mexico. It is a sound investment and it will help to ensure that the Gulf of Mexico is not victimized by major oil spills in the future.

This section also directs the Secretary to make available \$1.25 million for the purchase of a Marine Oil Spill Management Simulator to be located at the Massachusetts Center for Environmental Protection. The Center is based at the Massachusetts Maritime Academy and is operated jointly with the Woods Hole Oceanographic Institution and Harvard's Division of Applied Sciences. It is a program to educate and train undergraduates and professionals in environmentally sound maritime operations required under OPA 90.

BRIDGES

The Truman-Hobbs Act (33 U.S.C. 511-524) authorizes Federal funding of bridge alterations or reconstruction when a bridge has been declared by the Secretary of Transportation to be an unreasonable obstruction to navigation. The Coast Guard has established procedures to review whether bridges are obstructive.

Section 107 declares that the Florida Avenue Bridge located on the Inner Harbor Navigation Canal in New Orleans, Louisiana, is an unreasonable obstruction to navigation. In 1990, the Coast Guard began to determine whether the Florida Avenue Bridge was an obstruction. At the direction of the Commandant, on March 25, 1992, the Coast Guard held a public hearing to receive comments and acquire further information on the bridge. The Coast Guard is expected to designate the Florida Avenue Bridge an unreasonable obstruction to navigation later this year.

The difficulty in navigating through the bridge structure is documented by the record of marine collisions with the bridge from May 1980 through March 1990. Over 25 major collisions caused damages amounting to over \$1 million dollars in repair costs to the bridge and countless problems for rail and vehicular traffic.

Section 108 declares the Chelsea Street Bridge, which is located in Chelsea, Massachusetts, an unreasonable obstruction to navigation. Built in 1936, its opening is only 96 feet wide, which significantly limits the number of vessels that can use the waterway. As a result of 19 vessel collisions with the bridge, a permanent Safety Zone was established in 1986. This bridge has been at the top of the Coast Guard's Truman-Hobbs priority list for a number of years. The Coast Guard's preliminary report on the bridge is almost complete, and indications are that it would be a primary candidate for Bridge Administration funding.

In the interest of time and safety, and to encourage the immediate appropriation of funding for these alterations, the Committee finds that these bridges are unreasonable obstructions to navigation.

This provision provides not more than \$5.5 million over the next five fiscal years to improve housing and other facilities within Group Hatteras, North Carolina.

Prior to being transferred to the Coast Guard, the Hatteras station was a Navy facility. At that time, 250 Naval personnel maintained the base, now 55 Coast Guard personnel are responsible for maintenance and renovations. AC&I monies are inadequate to maintain the buildings and grounds. As a result, O&E funds must be used to pay for routine maintenance. Once a month, officers, enlisted personnel, civilian employees, spouses, and children mobilize to do projects that should be funded in the budget.

With the funds authorized in H.R. 5055, the Coast Guard would be able to undertake essential repairs to housing units, including modernizing bathrooms and kitchens that have not been upgraded since the 1950's. It would also provide the seed money to begin the construction of additional housing units so that personnel can be moved out of 20-year-old trailers. This money would also be used for the demolition of rundown, hazardous buildings, including a World War I ammunition bunker, and improvements to the channel that would reduce the Coast Guard's search and rescue response time by up to 45 minutes.

BUY AMERICA REQUIREMENT FOR BUOY CHAIN

Second 109 adds a new section 96 to title 14, United States Code, requiring the U.S. Coast Guard to only procure buoy chain manu-

factured in the United States. This provision applies the same buoy chain procurement requirements to the Coast Guard that presently apply to the Navy.

Under current law, only two U.S. buoy chain manufacturers regularly compete for Coast Guard buoy chain contracts because many American companies are no longer able to compete with foreign companies. In Fiscal Year 1990, the Coast Guard purchased only 15.4 percent of its buoy chain from U.S. sources. The remainder was purchased from China and Yugoslavia. In Fiscal Year 1991, 41.5 percent was purchased from those countries, and 58.5 per cent from U.S. sources.

"Buoy chain" is a cable or device that is used to hold in place a floating aid to navigation. Buoy chain is also defined by this section as chain not more than four inches in diameter.

Buoy chain will be considered made in the United States if the combined cost of components manufactured in the United States is greater than the combined cost of components that are manufactured outside the United States.

The Coast Guard anticipates that enactment of this provision would increase its costs 50 to 100 per cent. This would increase the amount of funds needed to purchase buoy chain each year from approximately \$1.5 million to \$3 million.

TRANSFER OF FUNDS FOR STATE BOATING SAFETY PROGRAMS

Section 110 increases funds available for state boating safety grants. These grants are financed through the Boat Safety Account of the Aquatic Resources Trust Fund, popularly known as the Wallop-Breaux Trust Fund, which is funded from excise taxes on fishing tackle and gasoline used by boaters. Currently, \$70 million in gasoline excise taxes is annually transferred from the Trust Fund to the Boat Safety Account and is available for appropriation to the Coast Guard. Half this amount is used for Coast Guard operating expenses and half is used for grants to state safe boating programs. These state grants have been enormously successful in reducing boating accidents and saving lives. The remaining monies in the Trust Fund are transferred to the Sport Fish Restoration Account.

As a result of the recent increases in the motorboat fuel tax, additional funds are flowing into the Trust Fund. Under current law, the additional monies are deposited into the Sport Fish Restoration Account. This provision uses a portion of this new gas tax money to increase funding for state boating safety programs.

Under this section, an additional \$10 million in fiscal year 1993 would be transferred from the Sport Fish Restoration Account to the Coast Guard to be used for state grants. In Fiscal Years 1994 and 1995 an additional \$15 million would be transferred and an additional \$20 million would be transferred each year thereafter.

The Committee believes that there are a number of boating problems that are not being adequately addressed. Additional funding for the following would likely lead to a reduction in boating accidents and an improvement in the marine environment:

Increased boater education;

Additional training and resources to improve investigations of the causes of boating accidents;

The placement of buoys and other aids-to-navigation to assure the safety of our waterways;

Increased training and other resources for state officers charged with detecting the use of alcohol and drugs;

Increased training for state officials about the role of small boats in the drug trade;

Increased resources to prevent boat theft which is a major tool of the drug cartels; and

Statewide and cooperative training of emergency response teams to deal with water-related emergencies, such as hazardous chemical spills.

The Coast Guard recognizes the need for and supports additional funds for state boating safety grants, but is concerned that increased funding for these grants may reduce funding for other Coast Guard programs.

The Committee has addressed the Coast Guard concern by providing that the additional funds will be allocated directly from the Sport Fish Restoration Account of the Aquatic Resources Trust Fund and not pass through the Boat Safety Account. Since the Sport Fish Restoration Account of the Trust Fund is a permanent indefinite appropriation, monies spent from the Fund do not count towards the subcommittee allocations within the Appropriations Committee. While increased spending for the Coast Guard would normally have to be balanced against the need for additional spending for other transportation programs, monies transferred from the Sport Fish Restoration Account of the Trust Fund do not create this problem.

The monies from the Sport Fish Restoration Account would be transferred to the Coast Guard. Funds would be allocated among the states according to the formula contained in section 13103 of title 46, United States Code. The Coast Guard would be entitled to use a small portion, not exceeding two per cent, for administrative costs as provided in section 13106(a)(2) of title 46, United States Code.

The provisions of H.R. 5055 regarding the Sport Fish Restoration Account do not require a "pay as you go" analysis, since the monies from the Account would be automatically disbursed for sport fish restoration if not for the allocation provided in this bill. The allocation of these additional funds for boating safety was supported by the American League of Anglers and Boaters in testimony before the Subcommittee on Fisheries and Wildlife Conservation and the Environment on May 9, 1991.

BOATING SAFETY

Title II of H.R. 5055 addresses matters related to boating safety, such as intoxicated boaters, boating education, the role of the Coast Guard Auxiliary, and Federal-State coordination of safe boating efforts. The Committee finds that increased attention to these matters would lead to a safer boating environment.

Under section 2302(c)(1) of title 46, United States Code, the civil penalty for an individual who operates a vessel under the influence

of alcohol or a dangerous drug is not more than \$1,000. Section 201 amends section 2302(c)(1) to establish a civil penalty of not more than \$5,000 for subsequent operating under the influence violations.

Sections 202 and 203 require the Secretary of Transportation to study and report to this Committee and the Senate Committee on Commerce, Science, and Transportation on the availability of boating education for persons 16 years of age or younger and ways to enlarge the mission of the Coast Guard Auxiliary.

There have been frequent complaints that lack of coordination between state and local boating officials, and the Coast Guard and other Federal agencies has hindered the effectiveness of boating safety and other programs. Section 204 directs the Secretary of Transportation to conduct a demonstration project in the Ninth Coast Guard District to increase coordination and cooperation among the various Federal, State, and local agencies involved in boating.

WAIVER OF VESSEL INSPECTION FEE FOR STATE MARITIME ACADEMIES

On December 18, 1991, under the Omnibus Reconciliation Act of 1990, the Coast Guard published a Notice of Proposed Rulemaking (56 F.R. 6586), which proposed a user fee for the inspection of vessels by the Coast Guard. There is a statutory exemption for public vessels, but this exemption does not extend to vessels operated by the state maritime academies. This section exempts the nine vessels operated by state maritime academies from the Coast Guard inspection fee. Although the Coast Guard has not published a Final Rule establishing the charges for vessel inspections, the Coast Guard estimates annual fees from the inspection of these vessels would generate less than \$50,000 in revenues for the Treasury. The vessels covered by this provision are the *State of Maine*, *Bowdoin*, *Pentagoet*, *Empire State*, *General Philip Schuyler*, *Patriot State*, *Golden Bear*, *Texas Clipper*, and the *M.C. Hill*.

CRUISE SHIP SAFETY

Over the last two decades, the popularity of vacations aboard cruise ships has steadily increased. The Committee has, on numerous occasions, taken action to assure the safety and well-being of cruise ship passengers. The Coast Guard has wide latitude to ensure safety on U.S.-flag cruise ships. The Coast Guard's authority vis-a-vis foreign-flag vessels is circumscribed by international law. The nation in which a foreign-flag vessel is registered has primary responsibility for ensuring safety and investigating accidents on board foreign flag vessels.

The International Convention for the Safety of Life at Sea (SOLAS), to which the United States is a signatory party, establishes safety requirements for vessels and provides for a port state to certify that certificates issued under SOLAS are valid. Chapter I, Regulation 19 of SOLAS, provides that a certificate, if valid, shall be accepted by the port state. However, the port state may reject a SOLAS certificate when "there are clear grounds for believing the condition of the ship or of its equipment does not correspond substantially with the particulars of any of the certificates or that the

ship and its equipment are not in compliance" with certain other SOLAS regulations. Section 3303(a) of title 46, United States Code, provides that a foreign vessel visiting a United States port is "subject only to an inspection to ensure that the condition of the vessel's propulsion equipment and lifesaving equipment are as stated in its current certificate of inspection". To determine whether a vessel is in compliance with SOLAS, the Coast Guard must, and currently does, inspect more than the lifesaving and propulsion equipment. This amendment, therefore, is simply a technical change to conform U.S. law to SOLAS. This amendment is not intended to expand Coast Guard authority beyond that authorized under SOLAS.

Under section 3505 of title 46, United States Code, when the Coast Guard determines that a passenger vessel does not comply with the provisions of SOLAS, it may prevent its departure from a United States port with passengers who have embarked at that port until satisfied that the vessel is in compliance with the standards stated in SOLAS. Under section 3505, the authority to prevent these departures is limited to vessels of more than 100 gross tons, with accommodations for at least 50 passengers. Although the Coast Guard is authorized by section 3303(a) to inspect all foreign vessels (including small foreign passenger vessels), it cannot use section 3505 to ban the departure of small passenger vessels. Similar to the situation above, the Coast Guard uses Chapter I, Regulation 19 of SOLAS instead of section 3505 as its authority to prevent noncomplying passenger vessels from departing from a U.S. port. This amendment to section 3505 would bring U.S. law into conformity with SOLAS.

The Committee recognizes that the changes to Sections 3303(a) and 3505 of title 46, United States Code, would allow the Coast Guard to fully implement inspection requirements under SOLAS. The statutory changes to sections 3303(a) and 3505 are not intended to expand the inspection authority of the Coast Guard beyond current inspection procedures authorized under SOLAS.

TILTROTOR AIRCRAFT TECHNOLOGY

H.R. 5055 requires the Secretary of Transportation to report to Congress on the applications of V-22 Osprey tiltrotor aircraft technology to Coast Guard missions. The V-22 Osprey has the unique ability to take off and land like a helicopter and fly with the efficiency and speed of a fixed-wing aircraft. The Committee is especially interested in the V-22's applications to search and rescue, law enforcement, and oil spill response. The report should include what effects tiltrotor technology would have on Coast Guard manpower and operating costs compared to the costs of conventional aircraft technology.

COAST GUARD ENFORCEMENT AUTHORITY OF TED'S REGULATIONS

On July 24, 1991, the Subcommittee on Coast Guard and Navigation held a hearing on Coast Guard enforcement of fisheries regulations with a focus on turtle excluder devices (TED's) regulations. At the hearing, some witnesses complained that the National Oceanic and Atmospheric Administration Administrative Law Judge re-

fused to grant hearings, took other actions that violated fisheries statutes, and denied due process to fishermen accused of violating the statute. Mr. Tauzin and other Committee Members wrote the Secretary of Commerce on August 1, 1991, urging the Secretary to conduct an internal investigation of fisheries law enforcement. Specifically, the Secretary was asked to determine whether the Department, in its enforcement of the TED's regulations, is violating the U.S. Constitution and the Endangered Species Act (ESA) by denying fishermen rights granted under those laws. Further, the Members sought to make sure that the Department was applying the same policies and procedures in enforcing TED's cases that the Department applies in its enforcement of other fisheries laws.

Section 304 of the bill seeks to address some of the problems that fishermen have been encountering. It requires the Coast Guard and the Department of Commerce to enter into a Memorandum of Agreement regarding fisheries enforcement practices and procedures. The provision is intended to ensure that fisheries enforcement procedures are fair and consistently applied. In addition, the Committee intends that an individual accused of violating a fisheries statute is given the opportunity to appear in person at a hearing.

A principal concern of the Committee is the failure of the Administrative Law Judge to grant an opportunity for a person accused of violating the statute to personally appear to contest the charges. In the past, the Administrative Law Judge has used his discretion to require defendants to demonstrate factual issues in contention before granting a hearing. Accordingly, H.R. 5055 provides that when a statute provides for a hearing, the Memorandum of Agreement shall allow any person accused of a violation to personally appear if a timely request for a hearing is made.

The Committee does not intend to require a hearing under this provision to be a formal adjudicatory hearing, nor does it have to be conducted before an Administrative Law Judge. The purpose of the amendment is to guarantee that when a hearing is granted as a matter of right in the authorizing statute, such as the ESA, then the enforcing agency must provide an opportunity for a person cited for violations to appear before an Administrative Law Judge, a hearing officer, or another appropriate official. The Committee intends that a person cited for violations be allowed to personally present his or her side of the story, including issues relating to the alleged violation and to those extenuating circumstances that properly relate to the imposition or modification of a penalty or fine.

The Memorandum of Agreement should facilitate the appearance of individuals at hearings rather than setting up barriers to these appearances. A request for a hearing should be interpreted as a request for an in-person hearing and not just a request for the Administrative Law Judge to review a record.

H.R. 5055 also provides that the Memorandum of Agreement shall ensure that enforcement procedures are fair and consistently applied.

INVESTIGATION OF PAYMENTS TO CERTAIN SUBCONTRACTORS

In 1987, the Coast Guard contracted with MZP, Inc., a California corporation, to perform construction work at Base Ketchikan, Alaska. The Coast Guard required the contractor to provide a performance bond and a payment bond. The Coast Guard maintains, and the Committee accepts, that these bonds conformed to regulations in place at that time governing construction work for the Federal Government.

MZP subcontracted the work to a number of firms. The Coast Guard did not raise any objection to the quality of the construction work and the Coast Guard paid MZP.

A number of subcontractors have complained to the Committee that MZP did not make full and final payment for services and supplies provided by the subcontractors. MZP has now declared bankruptcy. When the subcontractors sought payment from the sureties listed in the payment bond, they found the sureties did not have sufficient funds or assets to pay the debts that MZP owed to the subcontractors.

The suppliers and subcontractors thus have performed work and incurred expenses for which they were never paid. Conversely, the Coast Guard has paid the contractor for the construction work.

The subcontractors and the Coast Guard agree there is no legal mechanism through which the subcontractors can secure payment. Further, the Coast Guard cannot pay them without violating procurement regulations.

Section 307 establishes a procedure to resolve this matter. Under this provision, the Secretary of Transportation is directed to investigate the adequacy, availability, and financial soundness of the payment bond. While the Coast Guard maintains that the bond satisfied all relevant regulations, the Committee is concerned that the Coast Guard may have failed to ascertain whether the bond was indeed adequate to protect subcontractors of MZP. These subcontractors detrimentally relied on this bond to protect themselves. The Coast Guard had a moral and ethical obligation to thoroughly investigate the bond and the sureties named in the bond to assure that subcontractors relying on this bond for payment were not harmed.

Some subcontractors have asserted that they informed the Coast Guard that MZP was not paying subcontractors. In the event this information is correct, the Coast Guard had actual notice that subcontractors might have to seek compensation under the bond and the Secretary shall consider evidence of this to determine whether the Coast Guard took appropriate action to assure the availability of an adequate bond. In the event the Secretary determines that the Coast Guard failed to follow procedures or failed to fulfill these moral and ethical obligations to assure the availability of a satisfactory bond, he shall, within six months of enactment, determine the amounts MZP owes subcontractors. The bill further requires that not later than two months after determining the amounts owed, the Secretary shall pay the subcontractors from funds authorized to be appropriated by H.R. 5055.

The Coast Guard has questioned whether the claims made by the subcontractors include inappropriate costs such as lost profits, in-

terest, collection fees and lawyers fees. Similarly, the Coast Guard is concerned that certain costs billed by the subcontractors may not have been necessary. For example, the Coast Guard claims that some blasting work was done unnecessarily. The Committee intends that the subcontractors be compensated only for the actual costs of performing services or supplying goods requested by the Coast Guard or MZP under this contract including "change orders" or "other modifications" agreed to by the Coast Guard or MZP.

The Coast Guard may request appropriate legal releases from contractors in exchange for payments authorized by this legislation.

The Committee and the Coast Guard are unaware of any similar cases where there are funds owed to subcontractors by a Coast Guard contractor. This provision shall not be interpreted to create a precedent if similar cases arise and shall create no rights for persons other than subcontractors under this specific Coast Guard contract.

COMMITTEE ACTION

On March 12, 1992, the Subcommittee on Coast Guard and Navigation held a hearing on the Fiscal Year 1993 Coast Guard Budget. Witnesses at that hearing included Admiral J. William Kime, Commandant, U.S. Coast Guard, accompanied by Captain John E. Shkor, and Captain Roy J. Casto; U.S. Coast Guard Master Chief Petty Officer R. Jay Lloyd; and a representative of the Reserve Officers Association of the United States, and the Non-Commissioned Officers Association of the United States of America.

On May 5, 1992, Mr. Tauzin, Chairman Jones, Mr. Studds, Mr. Davis, Mr. Fields, and Mr. Jefferson introduced H.R. 5055. The Subcommittee met in markup session to consider the bill the next day. At the Subcommittee markup, Mr. Gilcrest offered an amendment requiring the Coast Guard to purchase only U.S. manufactured buoy chains. This amendment was adopted by unanimous voice vote and incorporated as section 109. Mr. Tauzin proposed an amendment related to the enforcement of TED's regulations, which was adopted by a voice vote and incorporated as section 304. The bill was ordered reported to the Full Committee by a voice vote.

On June 4, 1992, the Committee on Merchant Marine and fisheries met to consider the bill. The Committee adopted eight amendments and ordered the bill favorably reported by a voice vote.

Chairman Jones offered three amendments. The first was a technical amendment to correct a typographical error in the introduced bill and to change an effective date in section 204. The Committee adopted this amendment by voice vote.

Chairman Jones offered an amendment to section 104 to allow the Coast Guard greater flexibility in undertaking renovations of Group Cape Hatteras facilities. The provision in H.R. 5055, as introduced, mandated that the Coast Guard spend \$1,000,000 a year in each of the next five fiscal years for shore facility improvements at Group Cape Hatteras, North Carolina. The amendment provides that the Secretary shall expend not more than \$5.5 million over

the next five fiscal years for this purpose. The Committee adopted this amendment by voice vote.

Chairman Jones offered an amendment to add a new section providing for the annual transfer of funds to the Coast Guard from the Aquatic Resources Trust Fund in order to increase grants to states for boating safety. The Committee adopted this amendment by voice vote.

Mr. Tauzin and Mr. Studds offered an amendment striking the language in section 304 of the bill, as reported by the Subcommittee, and inserting a new provision. The new provision requires the Coast Guard and the Department of Commerce to enter into a Memorandum of Agreement related to the enforcement of fisheries laws. The Committee adopted this amendment by voice vote.

Mr. Young offered an amendment adding a new section to H.R. 5055 that requires the Coast Guard to establish an aid-to-navigation radar beacon at the Eckholms Islands, near Sitka, Alaska. The Committee adopted this amendment by voice vote.

Mr. Young offered an amendment adding a new section to H.R. 5055 that directs the Secretary of Transportation to determine whether the Coast Guard failed to adequately investigate sureties under a contract to perform work at Base Ketchikan, Alaska and to compensate certain subcontractors who were not compensated. The Committee adopted this amendment by voice vote.

Mr. Fields offered an amendment to section 106 of H.R. 5055. This amendment provided that \$1.25 million will be available for the purchase of an Oil Spill Management Simulator rather than a full-bridge simulator for the Texas Center for Marine Training and Safety at Texas A&M. The Committee adopted this amendment by voice vote.

Mr. Taylor offered an amendment adding a new section requiring the Coast Guard to report to Congress on the applicability of the Driver's Thermal Viewer technology to Coast Guard missions. The Committee adopted this amendment by voice vote.

The Committee agreed to Chairman Jones' unanimous consent request to strike all after the enacting clause and substitute the text of the bill as amended to that point. The Committee then ordered H.R. 5055, as amended, reported to the House of Representatives.

SECTION-BY-SECTION ANALYSIS

Title I—Authorization of Appropriations

SECTION 101. SHORT TITLE

This section states that the Act may be cited as the Coast Guard Authorization Act of 1992.

SECTION 102. AUTHORIZATION

This section authorizes the appropriation of approximately \$3.615 billion to support Coast Guard activities in Fiscal Year 1993.

Subsection (a) authorizes the appropriation of \$2.603 billion for operations and Maintenance. Of this amount, \$142.1 million is to be transferred from the Department of Defense; \$31.876 million is to be derived from the Oil Pollution Trust Fund; and \$35 million is

to be expended from the Boat Safety Account as authorized by section 6 of Public Law 100-448, the Coast Guard Authorization Act of 1988.

Subsection (b) authorizes the appropriation of \$419.03 million for Acquisition, Construction, and Improvements. These funds are for the acquisition, construction, rebuilding, and improvement of aids-to-navigation, shore and offshore facilities, vessels, aircraft and related equipment. Of the amount authorized to be appropriated, \$18 million would be transferred from the Department of Defense, and \$37.852 million would be derived from the Oil Pollution Trust Fund.

Subsection (c) authorizes an appropriation of \$29.9 million for research and development, of which \$4 million would be derived from the Oil Spill Liability Trust Fund.

Subsection (d) authorizes an appropriation of \$519.7 million for retired pay and related benefits.

Subsection (e) authorizes the appropriation of \$12.6 million for alteration of removal of bridges that obstruct navigation over navigable waters of the United States.

Subsection (f) authorizes the appropriation of \$30.5 million for the Environmental Compliance and Restoration Account. This Account is used to clean up and minimize environmental problems at Coast Guard facilities.

SECTION 103. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING

This section authorizes an end-of-year (as of September 30, 1993) strength of 39,732 for the Coast Guard. This does not include members of the Ready Reserve authorized under section 712 of title 14, United States Code.

SECTION 104. SHORE FACILITIES IMPROVEMENTS AT GROUP CAPE HATTERAS

This section provides that during Fiscal Years 1993-1997, the Secretary shall expend not more than \$5.5 million for shore facilities within Group Cape Hatteras.

SECTION 105. PREPOSITIONED OIL SPILL CLEANUP EQUIPMENT

This section directs the Secretary to expend \$1.78 million from the AC&I account to acquire and preposition oil spill response equipment at Traverse City, Michigan, and Houston, Texas.

SECTION 105. OIL SPILL TRAINING SIMULATORS

This section provides that of the amount derived from the Oil Spill Liability Trust Fund for the AC&I Account, the Secretary of Transportation is to make \$2.5 million available to be evenly divided between the Texas Center for Marine Training and Safety at Texas A&M University at Galveston, and the Massachusetts Center for Marine Environmental Protection for the purchase of two Marine Oil Spill Management Training Simulators.

**SECTION 107. DESIGNATION OF FLORIDA AVENUE BRIDGE AS AN
UNREASONABLE OBSTRUCTION TO NAVIGATION**

This section designates the Florida Avenue Bridge in New Orleans, Louisiana, as an unreasonable obstruction to navigation.

**SECTION 108. DESIGNATION OF CHELSEA STREET BRIDGE AS AN
UNREASONABLE OBSTRUCTION TO NAVIGATION**

This section designates the Chelsea Street Bridge in Chelsea, Massachusetts, as an unreasonable obstruction to navigation.

SECTION 109. PROCUREMENT OF BUOY CHAIN

The Coast Guard currently procures buoy chain from a number of sources, including foreign manufacturers. This provision requires the Coast Guard to procure only U.S. manufactured buoy chain.

**SECTION 110. TRANSFER OF AMOUNTS FOR STATE BOATING SAFETY
PROGRAMS**

This section provides for the transfer of funds from the Aquatic Resources Trust Fund to the Coast Guard. These funds will then be disbursed to the States as grants to fund state boating safety programs. In Fiscal Year 1993, \$10 million would be transferred; in Fiscal Years 1994 and 1995, \$15 million would be transferred; and in each fiscal year thereafter \$20 million would be transferred.

Title II—Boating Safety

**SECTION 201. INCREASED PENALTIES FOR OPERATING A VESSEL WHILE
INTOXICATED**

Under section 2302(c)(1) of title 46, United States Code, the civil penalty for an individual who operates a vessel under the influence of alcohol or a dangerous drug is not more than \$1,000. This section increases the civil penalty to not more than \$5,000 for subsequent operating under the influence violations.

SECTION 202. FUTURE BOATERS EDUCATION PROGRAM

This section requires the Secretary of Transportation to submit a plan to the House Committee on Merchant Marine and Fisheries and to the Senate Committee on Commerce, Science, and Transportation to increase the availability of voluntary safe boating education to individuals 16 years of age or younger.

SECTION 203. COAST GUARD AUXILIARY MISSION REPORT

This section requires the Secretary of Transportation to submit a report to the House Committee on Merchant Marine and Fisheries and to the Senate Committee on Commerce, Science, and Transportation on ways to enlarge the mission of the Coast Guard Auxiliary and increase Auxiliary participation in Coast Guard operations.

**SECTION 204. LAW ENFORCEMENT COORDINATION DEMONSTRATION
PROJECT**

This section requires the Secretary of Transportation to conduct a demonstration project this summer in the Ninth Coast Guard

District to increase coordination of enforcement of boating laws and regulations among Federal, State, and local officials

Title III—Miscellaneous

**SECTION 301. STATE MARITIME ACADEMY VESSEL INSPECTION FEE
RELIEF**

This section exempts the vessels operated by state maritime academies from the Coast Guard requirement to pay a fee for the inspection of those vessels used by the schools effective October 1, 1992.

**SECTION 302. AUTHORITY FOR THE COAST GUARD TO INSPECT AND
WITHHOLD THE DOCUMENTS OF CERTAIN FOREIGN PASSENGER VESSELS**

Under current law, a vessel registered in a country that is a party to SOLAS is subject to a Coast Guard inspection to ensure that the vessel's propulsion and lifesaving equipment are as stated in the certificate of registry. Section 302 of H.R. 5055 amends section 3303(a) of title 46, United States Code, to comply with SOLAS.

This section also amends section 3505 of title 46, United States Code to clarify U.S. authority to treat smaller foreign passenger vessels the same as larger foreign passenger vessels for purposes of ensuring that the vessels are in compliance with SOLAS. Current law provides that vessels over 100 gross tons having accommodations for at least 50 passengers may not depart from a U.S. port with passengers embarked at that port if the vessel is not in compliance with SOLAS. The Coast Guard now uses SOLAS authority instead to prevent noncomplying smaller passenger vessels from departing. This section would align domestic law with SOLAS.

**SECTION 303. STUDY OF THE APPLICATION OF TILTROTOR AIRCRAFT
TECHNOLOGY TO COAST GUARD MISSIONS**

This section requires the Secretary of Transportation to report to Congress on the applications of V-22 Osprey tiltrotor aircraft technology to Coast Guard missions.

SECTION 304. ENFORCEMENT AGREEMENTS

This section directs the Coast Guard to enter into a Memorandum of Agreement with the Department of Commerce regarding fisheries enforcement practices and procedures. The memorandum shall provide for the opportunity for an individual to appear in person at a hearing to respond to charges of violations, if requested in a timely manner. The Memorandum shall also provide that all enforcement procedures shall be fair and consistently applied.

**SECTION 305. RADAR BEACON AID-TO-NAVIGATION FOR THE ECKHOLMS
ISLANDS**

This section provides that the Secretary of Transportation shall install a radar beacon aid-to-navigation at the Eckholms Islands, near Sitka, Alaska, within 90 days after enactment of H.R. 5055.

SECTION 306. AUTHORIZING PAYMENT TO CERTAIN SUBCONTRACTORS

This section requires the Secretary of Transportation to determine if subcontractors under Coast Guard contract number DT CG50-87-C-00096 are entitled to additional payments. The Secretary is directed to make this determination within six months of enactment of H.R. 5055, and to apply a stricter standard than contained in the regulations effective at the time the contract was made. The Secretary should determine if the Coast Guard met its moral and ethical obligation to assure the soundness of the payment bond upon which the subcontractors relied. If the Secretary finds additional payments are required he shall pay the sums owed within two months of making his determination.

SECTION 307. STUDY OF THE APPLICATION OF NIGHT VISION AND THERMAL IMAGING TECHNOLOGY TO COAST GUARD MISSIONS

This section requires the Secretary of Transportation to report to Congress within six months of enactment of H.R. 5055 on the application of the Driver's Thermal Viewer technology developed by the Hughes aircraft company to Coast Guard missions such as search and rescue, law enforcement, and environmental protection. The study shall also determine what effect this technology would have on operating costs and manpower.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 5055 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate by the Committee of the costs which would be incurred in carrying out H.R. 5055. However, clause 7(d) provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirements of clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations on the subject of H.R. 5055 have been made by the Committee during the 102nd Congress.

2. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 5055 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from

the Committee on Government Operations on the subject of H.R. 5055.

4. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5055 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 11, 1992.

HON. WALTER B. JONES,
*Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 5055, the Coast Guard Authorization Act of 1991. Enactment of H.R. 5055 would result in direct spending in fiscal years 1993-1995, but any pay-as-you-go effects would be negligible. Because the bill would affect direct spending, we have enclosed the cost estimate required by clause 8 of the House Rule XXI.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 5055.
2. Bill title: Coast Guard Authorization Act of 1992.
3. Bill status: As ordered reported by the House Committee on Merchant Marine and Fisheries on June 4, 1992.
4. Bill purpose: H.R. 5055 would authorize fiscal year 1993 appropriations of about \$3.1 billion to the U.S. Coast Guard (USCG) for discretionary programs, including \$2.6 billion for operating expenses, \$419 million for acquisition and other capital projects, \$30 million for research activities, \$13 million for bridge alterations, and \$31 million for environmental compliance. Of the amounts authorized for operating expenses, \$142 million would be transferred from the Department of Defense (DoD), \$32 million would be derived from the Oil Spill Liability Trust Fund (OSLTF), and \$35 million would be expended from the Boat Safety account of the Aquatic Resources Trust Fund. Of the amounts authorized for capital projects, \$18 million would be transferred from DoD and \$38 million would be derived from the OSLTF. Of the amounts authorized for research activities, \$4 million would be derived from the OSLTF. The bill would also authorize the appropriation of \$520 million in 1993 for retirement pay to eligible personnel.

In addition, the bill would:

Earmark funds for specific projects within overall authorization levels. Specifically, \$1.8 million would be reserved from capital

project authorizations for prepositioned oil spill response equipment at sites in Michigan and Texas. An additional \$2.5 million of such authorizations would be set aside for oil spill management simulators for marine training centers in Texas and Massachusetts. Finally, for each of fiscal years 1993 through 1997, \$5.5 million of any amounts authorized would be earmarked for shore facilities improvements at Cape Hatteras, North Carolina.

Require that all buoy chain purchased by the USCG be manufactured in the United States or be manufactured from components produced in the United States;

Designate the Florida Avenue Bridge in Louisiana and the Chelsea Street Bridge in Massachusetts as unreasonable obstructions to navigation;

Provide that a portion of amounts allocated under the Sport Fish Restoration Act be made available for boat safety grants. This provision would make available \$10 million in 1993, \$15 million in 1994 and 1995 and \$20 million a year thereafter for such grants.

Prohibit the Coast Guard from establishing or collecting fees for the inspection of training ships operated by state maritime academies; and

Mandate various studies and make technical amendments to statutes governing USCG regulatory programs, administrative procedures, and other activities.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1993	1994	1995	1996	1997
Direct spending:					
Estimated budget authority.....	(1)	(1)	(1)	(1)	(1)
Estimated outlays.....	(1)	(1)	(1)	(1)	(1)
Authorizations:					
Authorization level.....	3,095	6	6	6	6
Less: Existing authorizations.....	-109				
Net additional authorizations.....	2,986	6	6	6	6
Estimated outlays.....	2,113	427	344	81	33

¹ Less than \$500,000.

The costs of this bill fall within budget functions 050, 300, and 400.

The \$520 million provided for Coast Guard retirement has not been included in the above table because such pay is an entitlement under current law, requiring no annual authorization.

Basis of estimate: For purposes of this estimate, it is assumed that H.R. 5055 will be enacted by October 1, 1992 and that the full amounts authorized for USCG programs will be appropriated for each fiscal year. Gross authorization levels are those stated in the bill for discretionary accounts, including \$5.5 million earmarked for Cape Hatteras shore facilities under section 104. These amounts have been reduced by \$109 million to reflect the fact that appropriations from the Boat Safety account (\$35 million) and the OSLTF (\$74 million) are already authorized under existing laws. Outlays have been estimated on the basis of historical spending patterns for these programs.

Section 301 would have a small effect on direct spending beginning in fiscal year 1993. This provision would prohibit the USCG from charging fees to inspect training vessels operated by state maritime academies. CBO estimates that under current law the Coast Guard would collect about \$58,000 a year from the state schools beginning in fiscal year 1993. By preventing the agency from collecting these receipts, section 301 would increase direct spending authority and outlays by \$58,000 a year.

Other bill provisions may increase the costs of certain long-term USCG projects carried out under existing laws. While these provisions may require the authorization and/or appropriation of additional funds, CBO is unable to estimate the future funding needs at this time. For example, Section 109 of the bill would prevent the Coast Guard from purchasing buoy chain unless (1) it is manufactured in the United States or (2) substantially all of its components are manufactured in the United States. This provision could increase the cost of acquiring buoy chain by 50-100 percent, or \$1.5 million to \$3 million annually.

Also, sections 107 and 108 would deem the Florida Avenue Bridge in Louisiana and the Chelsea Street Bridge in Massachusetts to be unreasonable obstructions to navigation, thereby making the owners of the two bridges eligible to receive federal cost-sharing funds under the Truman-Hobbs Act (33 U.S.C. 511 et seq.). Under that act, the USCG finances a portion of the costs of altering or removing bridges that are determined to be unreasonable obstructions. While it is possible that the two bridges may be found to qualify for Truman-Hobbs aid in the absence of this bill, such determinations have not yet been made. The federal share of alteration costs is determined for each project on the basis of relative benefits and often exceeds 90 percent. While the contribution may be lower for these projects, CBO expects that the federal government would probably finance a major portion of the estimated \$60-\$65 million cost (assuming appropriation of the necessary amounts).

Other provisions of H.R. 5055 are not expected to have any significant impact on the federal budgets or those of state and local governments.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 specifies pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. CBO estimates that, for the purposes of pay-as-you-go scoring, this bill would result in outlays of about \$58,000 per year over the 1993-1995 period.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Deborah Reis.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE ESTIMATE ¹

The applicable cost estimate of this act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995
Change in outlays	0	0	0	0
Change in receipts	(¹)	(¹)	(¹)	(¹)

¹ Not applicable.

DEPARTMENTAL REPORTS

The Committee received the following letters from the Department of Transportation on matters included in H.R. 5055:

U.S. DEPARTMENT OF TRANSPORTATION,
Washington DC, June 4, 1992.

HON. WALTER B. JONES,
*Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: This is to request that you consider the views of the Department of Transportation concerning H.R. 5055, as marked up by the Coast Guard and Navigation Subcommittee on May 6, 1992, a bill "To authorize appropriations for the Coast Guard for Fiscal Year 1993, and for other purposes."

The "Coast Guard Authorization Act of 1992" consists of three titles addressing the authorization of appropriations (Title I), boating safety (Title II), and miscellaneous provisions (Title III).

More specifically, Title I authorizes the appropriation of \$3,614.73 million for Coast Guard programs in fiscal year 1993 (section 102); authorizes levels of military strength and military training (section 103); authorizes \$1 million per year for five fiscal years for improvements to the shore facilities at Group Cape Hatteras, North Carolina (section 104); authorizes \$1.78 million to purchase additional oil spill response equipment for Traverse City, Michigan, and Houston, Texas (section 105); authorizes \$1 million for full bridge simulators for the Texas State Maritime Program at Texas A&M University, and \$1.25 million for a marine oil spill management simulator for the Massachusetts Center for Marine Environmental Protection (section 106); and designates the Florida Avenue Bridge in New Orleans, Louisiana, and the Chelsea Street Bridge in Chelsea, Massachusetts, as unreasonable obstructions to navigation (sections 107 and 108, respectively).

Title II increase penalties for operating a vessel while intoxicated (section 201); requires the Secretary to submit a plan to increase the availability of safe boating education programs for minors (section 202); requires the Secretary to report on ways to enlarge the

¹ An estimate of H.R. 5055 as ordered reported by the House Committee on Merchant Marine and Fisheries on June 4, 1992. This estimate was transmitted by the Congressional Budget Office on June 11, 1992.

mission of the Coast Guard Auxiliary (section 203); and directs the Secretary to conduct a demonstration project in the Ninth Coast Guard District to increase the coordination of enforcement of boating laws and regulations (section 204).

Title III relieves state maritime academies from having to pay vessel inspection user fees on their training ships (section 301); authorizes the Coast Guard to inspect and withhold the documents of certain foreign passenger vessels in accordance with the International Convention for the Safety of Life at Sea (SOLAS) (section 302); requires the Secretary to study the applicability of tiltrotor technology (V-22 Osprey) to Coast Guard missions (section 303); requires the Coast Guard, when procuring buoy chain, to purchase only chain which is manufactured in the United States (section —); and mandates that the Coast Guard will not be authorized to conduct boardings to enforce the turtle excluder device (TED) regulations until specified conditions are met (section —).

The Department of Transportation objects to numerous provisions in H.R. 5055, in its present form. While we generally agree with the objectives of the legislation, we do not agree that all of the provisions necessarily further those objectives. Attached are section-by-section comments addressing matters of concern to the Department and the Coast Guard. We would be pleased to work with Committee staff to resolve matters in disagreement in an effort to forge a bill that accommodates the interests of all concerned.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

ARTHUR J. ROTHKOPF.

Enclosure.

SECTION-BY-SECTION COMMENTS ON H.R. 5055 THE "COAST GUARD AUTHORIZATION ACT OF 1992"

TITLE I—AUTHORIZATION OF APPROPRIATIONS

Section 102. Authorization of appropriations

The Department generally supports this section. However, the inclusion in the authorization for acquisition, construction, and improvements of amounts to fund shore facilities improvements at Group Cape Hatteras, North Carolina (\$1 million per fiscal year for five years), oil spill response equipment for Traverse City, Michigan, and Houston, Texas (\$1.78 million), full bridge simulators for Texas A&M University (\$1 million), and a marine oil spill management simulator for the Massachusetts Center for Marine Environmental Protection (\$1.25 million) are not consistent with the President's budget request and should be deleted. If these projects are included, the AC&I figure for subsection (b) would be \$419,030,000, not the erroneously stated \$419,930,000 included in this version of the bill. We also object to the additional authorization of \$1.5 million for bridge administration to fund engineering and design work for the Florida Avenue Bridge in New Orleans, Louisiana, and the

Chelsea Street Bridge in Chelsea, Massachusetts, since it is inconsistent with the President's budget request.

Section 103. Authorized levels of military strength and military training

The Department supports this provision.

Section 104. Shore facilities improvements at group Cape Hatteras

The Department opposes this provision because it unnecessarily restricts the Coast Guard's ability to expand funds in the most cost effective manner.

Section 105. Prepositioned oil spill cleanup equipment

The Department opposes this provision because it unnecessarily restricts the Coast Guard's ability to expend funds in the most cost effective manner. Furthermore, the Coast Guard has carefully reviewed these locations in its development of a plan for placing federal equipment at 19 preposition sites around the country. Coast Guard equipment is intended to act only as a "first response" until privately-owned equipment can be deployed. Ample equipment for "first response" purposes already exists in Traverse City and Houston. It is not the intent of the Coast Guard to compete with private industry. Placement of federally-funded equipment at the sites called for in this provision, therefore, would be wasteful of funds that could better be used in other ways to improve pollution response capability.

Section 106. Training simulators

The Department opposes this provision because it unnecessarily restricts the Coast Guard's ability to expend funds in the most cost effective manner. If federal funding of these simulators is desirable, it would appear more appropriate that the funding be provided through the Maritime Administration on a cost-sharing basis with beneficiaries.

Section 107. Designation of the Florida Avenue Bridge as an unreasonable obstruction to navigation

The Department opposes this provision because it prematurely designates this bridge as an unreasonable obstruction to navigation (and hence makes it eligible for certain Federal assistance) without permitting the evaluation procedures already established by law and regulation to be completed. The Coast Guard held a public hearing on the Florida Avenue Bridge on March 25, 1992. The final report is expected to be completed by the end of June 1992. Much of the Coast Guard's effort in the area of bridge administration has been devoted recently to addressing bridge projects that have been declared obstructive by Congress. Consequently, bridges that have a long history of collisions and complaints from mariners cannot be investigated in a timely manner because of the preemption of staff resources by those congressionally mandated projects. The inability to investigate and permit the alteration of bridges that are truly obstructive to navigation contributes to increases in costs to waterborne commerce, and also results in the needless continuation of conditions that may be dangerous to life and property for both land

and water traffic. Although the preliminary investigations for the Florida Avenue Bridge indicate that it most likely will qualify for alteration under the Truman-Hobbs Act, nevertheless, the final investigations for the bridge are not yet complete. Congressional intervention will preempt qualification of the bridge for federal funding on its own merits. Moreover, the legislative circumvention of the established process may prevent the completion of other, possibly more beneficial, projects in a timely manner.

Section 108. Designation of the Chelsea Street Bridge as an unreasonable obstruction to navigation

The Department opposes this provision for the reasons stated in its objection to section 107. The Coast Guard is in the final stages of completing the preliminary report on the Chelsea Street Bridge. Completion of the report is expected by June 1992. Although the preliminary investigations for the Chelsea Street Bridge indicate that it most likely will qualify for alteration under the Truman-Hobbs Act, nevertheless, the final investigations for the bridge are not as yet complete. Congressional intervention will preempt qualification of the bridge on its own merits.

TITLE II—BOATING SAFETY

Section 201. Increased penalties for operating a vessel while intoxicated

The Department does not object to raising the maximum statutory civil penalty to \$5,000 for a subsequent violation. The concept of increasing penalties for operating transportation vehicles while intoxicated is well-established in other legislation that the Department has supported in recent years. The Coast Guard has had, since 1989, a rule that would penalize drunk or drugged boaters with a civil penalty of up to \$1,000 or a criminal fine of up to \$5,000 and one year in jail. This section would not increase the maximum criminal penalty. Given the decline in recreational boating fatalities in recent years (with about half of those deaths believed to be alcohol-related), the existing statutory authority appears to be adequate, and changes in the system of penalties are not necessarily indicated at this time.

Section 202. Future boaters education program

In concept, this provision appears reasonable. The Department generally supports proposals to improve safety awareness among the boating public, younger and older boaters alike. However, we believe that educational requirements should be mandated, if warranted, at the State level. At least 14 States presently have some type of youthful operator certification/course requirements. The Coast Guard Auxiliary has two programs for youths. In 1991, the Auxiliary reached about 236,000 youths (most in one lesson courses), with time spent conducting those classes competing with time available to teach adult courses. Education courses by Coast Guard Auxiliary, Power Squadron, and other volunteers and States reach only an estimated 100,000 adults a year. Both the Auxiliary and the United States Power Squadrons recommend voluntary education because of insufficient resources to provide mandatory edu-

cation. Because the number of qualified volunteers is limited, this requirement could be expected to adversely affect the availability of courses to meet mandatory educational requirements.

Section 203. Coast Guard Auxiliary mission report

The Department does not support arbitrarily upsetting the balance that was established in the 1988 "Report on U.S. Coast Guard Auxiliary," and therefore does not support this provision. That report studied the role of the Auxiliary, particularly as it relates to the activities of for-profit towing vessel operators.

It prescribed a level of activities for the Auxiliary that attempted to preserve the unique talents and dedication of individual Auxiliaries, while at the same time allowing reasonable participation by private towing operators in responding to vessel emergencies. Moreover, greater use of the Auxiliary has been explored in-depth by Coast Guard Flag Officers and staff, and several new and innovative ways to use the Auxiliary have been implemented or are being considered. Auxiliarists are educating commercial fishermen about provisions of the Commercial Fishing Industry Vessel Safety Act of 1988, and are conducting voluntary dockside inspections. The Coast Guard is also exploring how the Auxiliary can do more in the Marine Environmental Protection program area. Training by Marine Safety Offices already is underway, and volunteers are performing harbor patrols, inspecting barge mooring facilities, reporting debris sightings, and conducting other activities to support that program. However, there is a limit to what the Auxiliary can be asked to do. Commensurate training, materials, and other support must be readily available. Cognizance also must be kept of the fact that recreational boating safety (RBS) is the Auxiliary's primary mission. One new RBS initiative is a joint project with WALMART. That firm has opened its stores to Auxiliarists to set up boating safety booths. The Coast Guard expects over 1,000 stores to participate this year.

Section 204. Federal, State, and local coordination demonstration project

The objective of this provision is being accomplished through Federal/State Cooperative Agreements entered into between Coast Guard District Commanders and the appropriate governmental officials in those States within their respective Coast Guard District jurisdictions. The purpose of Federal/State Cooperative Agreements is to define the relationship between States and the Coast Guard in the conduct of recreational boating safety programs, including the mutual enforcement of laws relating to boating safety on waters within the concurrent jurisdiction of States and the Coast Guard. They also provide for coordinated, joint efforts in such matters as search and rescue, issuing permits for regattas and marine parades, boating safety education, investigation of boating accidents, and training. There is also varied local cooperation with States and the Coast Guard. For example, some State/local jurisdictions prosecute so-called "Boating While Intoxicated" (BWI) cases initiated by the Coast Guard. Therefore, the Department does not support this provision.

TITLE III—MISCELLANEOUS

Section 301. State Maritime Academy vessel inspection fee relief

The Department opposes this provision because it is inconsistent with the requirements of the Omnibus Budget Reconciliation Act of 1990 in that it fails to identify an offset for the reduction in receipts that would result from its enactment. Moreover, appropriate exemptions to the provisions of 46 U.S.C. § 2110 are best accommodated through the rulemaking process in the interest of consistent application of the law.

Section 302. Authority for the Coast Guard to inspect and withhold the documents of certain foreign passenger vessels

The Department supports this provision.

Section 303. Study of the Application of Tiltrotor Aircraft Technology to Coast Guard Missions

The Department opposes this requirement. The Department of Defense is on record as objecting to continued execution of the V-22 program because of its costs and the emergence of near-term, less costly alternatives to the tiltrotor aircraft. The V-22 remains a very expensive acquisition with undetermined operating and maintenance costs. Absent a favorable production decision by the Department of Defense, it is unlikely that the V-22 would ever be an affordable option for the Coast Guard to pursue. The Coast Guard continually evaluates equipment requirements for optimal mission prosecution.

Section . Procurement of buoy chain

The Department opposes this section. This provision would act to limit competition, thereby potentially increasing Coast Guard procurement costs for buoy chain by as much as 50% to 100% annually, or approximately \$1.5 million to \$3 million. More importantly, it could restrict the Coast Guard's ability to meet fluctuating requirements in cases of natural disasters, strikes, or manufacturing plant closings. Additionally, the Coast Guard may not be able to obtain sufficient quantities of buoy chain to meet its daily needs, since plants which currently bid on Coast Guard buoy chain contracts typically operate close to capacity. The same concerns apply to the acquisition of any "chain, cable, or other devices" included in the definition of "buoy chain" in this section. The "Buy American" provisions of 41 U.S.C. §§ 10a-10d should sufficiently protect United States manufacturers who may wish to compete in the bidding process for Coast Guard buoy chain orders.

Attached separately to this enclosure, for the information of the Committee in its consideration of this provision, is supplemental material entitled "Information on Coast Guard Buoy Chain Procedure." The attachment discusses the background of buoy chain procurement authority, chain design data, current methods of procurement, sources of supply, and the impact on the Coast Guard if competition is restricted to United States manufacturers. A summary of buoy chain procurements between fiscal years 1985 and 1990 is also included.

Section . Coast Guard enforcement authority

The Department opposes this provision because of the inappropriate precedent it would set in the general scheme of fisheries law and regulations enforcement. Moreover, the Department believes the provision is unenforceable as drafted because it is fundamentally flawed. First, it seeks to amend 14 U.S.C. § 89, the general Coast Guard law enforcement authority statute, rather than seeking to change the underlying law being enforced. Amending the Coast Guard's primary law enforcement authority potentially could invite the enactment of other restrictions that would result in that authority becoming virtually ineffectual. Second, the provision is factually overbroad in that it covers both the Gulf and Atlantic coasts, whereas the Department understands the problem may be with the penalty enforcement process among only Gulf coast shrimpers. Finally, the proposal is legally overbroad. As drafted the proposal would not only preclude Coast Guard enforcement of TEDs regulations against the incidental taking of turtles, but it also would prevent enforcement of other provisions of 50 C.F.R. 227.71 that address the prohibitions against the directed fishing for turtles.

INFORMATION ON COAST GUARD BUOY CHAIN PROCUREMENT

Background

14 USC 81 authorizes the Coast Guard to develop, establish, maintain, and operate aids to navigation in waters subject to U.S. jurisdiction. Aids to navigation buoys delineate channel limits and mark hazards so that commercial and private vessels can safely navigate our nation's waterways. Buoys are kept on station with a buoy chain mooring. Buoy chain is different from ships' anchor chain. It is a low-cost, consumable product that wears out in service and must be replaced frequently. New buoy chain is procured through full and open competition using the competitive solicitation process.

Design

Ships' anchor chain is expensive to manufacture and is intended to last many years in service without need of replacement. Buoy chain, on the other hand, is designed to be a low-cost, expendable product that is simple to manufacture and inexpensive to replace. Its design is different from ships' anchor chain in several respects. First, buoy chain is of the "open link" style; that is, the links do not have the central "studs" that are used to strengthen ships' anchor chain. In addition, buoy chain is made of inexpensive, low-carbon steel, rather than the expensive, heat-treated alloy steel used in ships' anchor chain. Finally, the largest size buoy chain the Coast Guard uses is only 1 $\frac{7}{8}$ " diameter, whereas ships' anchor chain is used in sizes up to 4" diameter.

Buoy chain ranges in size from $\frac{1}{2}$ " to 1 $\frac{7}{8}$ " diameter. Sizes from $\frac{1}{2}$ " to $\frac{7}{8}$ " are considered "small-size." Sizes from 1" to 1 $\frac{7}{8}$ " are "large-size." The distinction is important, since different processes and equipment are used to manufacture large-size and small-size chain. Large-size chain is built using the same type of equipment used to manufacture ships' anchor chain; small-size chain is built

with the same type of equipment used to manufacture tire chains. Large-size and small-size chain are procured separately. Over 80% of the buoy chain used by the Coast Guard is large-size.

Method of procurement—Buoy chain

The Coast Guard is part of the Department of Transportation, and our buoy chain procurements are governed by the applicable sections of the United States Code (USC) and the Federal Acquisition Regulations (FAR). In accordance with 10 USC 2304, buoy chain is procured through full and open competition, using the sealed bid process. All responsible sources are permitted to compete for buoy chain contracts. Buoy chain procurements are also covered by the Buy American Act (41 USC 10) and FAR Part 25, which give preference to U.S. bidders. These regulations require that a factor of 12% (for small businesses) and 6% (for large businesses) be added to the bid prices of foreign suppliers before their bids are evaluated. If a foreign bidder's prices remain lower than those of U.S. bidders after the percentage factors have been added in, the award can be made to the foreign bidder. U.S. bidders are sufficiently protected by these regulations to allow them to compete favorably against foreign suppliers; in fact, U.S. bidders regularly win buoy chain contracts (see enclosure (1)).

Method of procurement—ships' anchor chain

The U.S. Navy and the Coast Guard procure ships' anchor chain through the Ships Parts Control Center (SPCC) and the Defense Industrial Supply Center (DISC), both Department of Defense agencies. The quantities of anchor chain procured by the Navy and the Coast Guard combined are much less than the quantities of buoy chain procured by the Coast Guard. The U.S. Navy's anchor chain procurements are covered by Department of Defense contracting regulations, including the Defense Federal Acquisition Regulations (DFAR). In order to maintain an industrial base for times of war, the Navy is required to buy its anchor chain only from U.S. manufacturers.

Sources of supply

There are only two U.S. manufacturers with the equipment and facilities to build ships' anchor chain. The first is Baldt, of Chester, PA, the other is Lister Bolt of Canada (who recently opened a small subsidiary in Blaine, WA so they could compete against navy contracts). Because large-size buoy chain is built with the same type of equipment as ships' anchor chain, Baldt and Lister are also the only two U.S. companies that can build large-size buoy chain for the Coast Guard. Baldt does not bid against buoy chain contracts because their prices are not competitive (although they won one contract in FY86 by importing Chinese chain). Since FY89, Lister has bid using their Blaine, WA facility, and they have won contracts each year. Prior to FY89, Lister imported Chinese buoy chain.

Much of the Coast Guard's large-size buoy chain is furnished by U.S. companies acting as prime contractors and using overseas suppliers as subcontractors. There are numerous overseas suppliers that can build the full range of buoy chain sizes at extremely low

prices. Currently, most large-size buoy chain comes from factories in the Peoples Republic of China.

Several U.S. manufacturers have the equipment to build small-size buoy chain. However, only one company regularly bids on Coast Guard contracts. This company is Cooper Tools, which bids with their Campbell Chain plant in York, PA. Cooper Tools wins substantial contracts nearly every year; some years they have been the Coast Guard's sole supplier of small-size buoy chain.

Impact if competition were restricted to U.S. suppliers

Federal procurement regulations are designed to promote competition. In complying with these regulations, the Coast Guard has realized a significant cost savings through the keen competition between suppliers, as well as through the economies available from overseas production. The competition process has resulted in a broad pool of high-quality buoy chain manufacturers around the world, thus ensuring that suppliers will be adequate to meet our operational needs now and in the future.

Restricting competition to U.S. suppliers would create a near-monopoly. As discussed above, there are only two manufacturers in the U.S. with the equipment to build large-size chain. Furthermore, the relatively small dollar amount of our yearly chain contractors (as compared to the exorbitant capital costs of equipping and operating a new chain factory) is not sufficient to encourage new manufacturers to enter the market.

Given that there are only two potential U.S. suppliers for large-size chain, it is certain that restricting competition would result in a phenomenal price increase. From our past experiences with these companies, we anticipate that buoy chain prices would immediately increase 50% to 100%. This would increase the amount we spend on buoy chain each year from around \$1.5 million to \$3 million or more. If one of the suppliers chose not to compete, the Coast Guard would be in a sole source situation—at that point, we could expect unlimited price increases.

In addition to drastically increasing chain prices, restricted competition would severely limit the Coast Guard's ability to meet operational requirements. There are no viable substitutes for buoy chain. It is crucial to the Coast Guard's mission that chain be readily available from as many different sources as possible. With only two manufacturers in the U.S.—and the very real possibility that one of them might choose not to compete—the supply of buoy chain could be cut off at any time through plant closings, accidents, strikes, or scheduling conflicts with other customers. Lacking competition, U.S. manufacturers would not have any incentive to make buoy chain a priority.

In summary, restricted competition would have an adverse impact on the Coast Guard's aids to navigation mission. The certainty of substantial price increases would dramatically raise the cost of providing the same level of service to the American public, at a time when taxpayers have demanded that Government reduce spending. In addition, restricted competition would severely hamper the Coast Guard's ability to obtain sufficient quantities of chain to meet operational needs, as there are simply not enough manufacturers in the U.S. to adequately meet our requirements.

There are no compelling reasons to restrict competition. Through the Buy American Act provisions of 41 USC 10, U.S. companies are already provided with an "even playing field" so that they can compete effectively against foreign suppliers.

FISCAL YEAR 1985-90 BUOY CHAIN PROCUREMENTS

Fiscal year:	Total dollars (thousands)	No. shots/ bridles ¹	Contractor	Country of manufacture
1990.....	\$1,046	2,494	Computer Systems.....	China.
	240	554	Fehr Bros.....	Yugoslavia.
	148	804	Cooper Tools.....	United States.
	75	123	Lister Bolt.....	Do.
1989.....	1,325	6,206	Computer Systems.....	China.
	16	27	Fehr Bros.....	Yugoslavia.
	567	932	Lister Bolt.....	United States.
1988.....	1,186	4,637	Computer Systems.....	China.
	288	649	Lister Bolt.....	Do.
	77	263	Hamanaka.....	Do.
	72	595	Cooper Tools.....	United States.
1987.....	175	544	Computer Systems.....	China.
	150	427	Lister Bolt.....	Do.
	75	193	Hamanaka.....	Japan.
	36	159	Washington Chain.....	Do.
	45	254	Cooper Tools.....	United States.
1986.....	746	2,221	Lister Bolt.....	China.
	143	483	Baldt.....	Do.
	169	442	Hamanaka.....	Japan.
	94	269	Fehr Bros.....	Do.
	123	679	Cooper Tools.....	United States.
	54	440	Acco.....	Do.
1985.....	174	636	Lister Bolt.....	China.
	166	459	Hamanaka.....	Japan.
	161	571	Fehr Bros.....	Do.
	35	158	Washington Chain.....	Do.
	154	856	Cooper Tools.....	United States.

¹ Buoy chain is purchased in "shots" (90' lengths) and "bridles" (two lengths of chain connected by a center ring).

U.S. DEPARTMENT OF TRANSPORTATION, Washington DC, June 3, 1992.

HON. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to request that you consider the views of the Department of Transportation concerning an amendment proposed to be offered by Mr. Young during the markup by the House Merchant Marine and Fisheries Committee of H.R. 5055, "For the relief of certain subcontractors (and suppliers) that incurred losses resulting from the avoidable insufficiency of payment and performance bonds furnished in connection with Coast Guard contract DTC50-87-C-00096."

The purpose of the proposed amendment to H.R. 5055 is to provide private relief to certain subcontractors of MZP, Inc., a California corporation, with whom the Coast Guard contracted in 1987 to construct an unaccompanied personnel housing facility at Coast Guard Base Ketchikan, Alaska, to replace a 1942 wooden facility.

The contract was awarded on May 27, 1987, and was substantially complete by September 15, 1988. The Coast Guard made payments to MZP, Inc., the prime contractor, totalling \$1,953,713.99. MZP, filed for bankruptcy in June 1989. The subcontractors and suppliers included in this proposed private relief measure all contend that they have not been paid by MZP, Inc. for work performed for or supplies furnished to MZP, Inc. under the contract.

The Department of Transportation strongly opposes the private relief proposed by this legislation. The objection, in this case, is not to the merits of the relief claimed, regarding which this letter is intended to make no determination, but rather to the forum in which that relief is sought. It would be inappropriate and, we believe, completely unjustified to permit these claimants to obtain any amount they state without a requirement to prove their claims as to entitlement and quantum, as they would be required to do in a judicial proceeding in a suit on the bond.

Coast Guard contracting procedures are based on the Federal Acquisition Regulation (FAR) as implemented by the Transportation Acquisition Regulation and the Coast Guard Acquisition Procedures. The regulations governing the sufficiency of sureties that were in effect when the contract was awarded were properly followed. Performance and payment bonds were provided by MZP, Inc. in accordance with the Miller Act (40 U.S.C. 270a-270f). The Coast Guard followed existing government practices, applying good judgment and sound business practices in the evaluation of bonds and the supporting documentation. Prior to contract award, the Coast Guard contracted other federal agencies that were contracting with MZP, Inc., which submitted bonds backed by the same individual sureties. There was no indication that those agencies were experiencing any problems with the bonds or sureties. At the time, FAR Part 28, governing bonds, did not require liens to be filed or pledges to be obtained against individual surety property. The regulations did not require that title insurance or independent appraisals be obtained, nor were sureties subject to a title search. Therefore, it is reasonable to conclude that there was no failure on the part of the Coast Guard to exercise due diligence in determining the sufficiency of the sureties involved.

Moreover, the Department has no way of knowing whether the subcontractors and suppliers listed in the proposed legislation are actually unpaid, or whether the stated amounts are correct. When the Coast Guard reviewed the presentation of Hardrock Construction Company in response to previous correspondence on this issue, for example, it appeared that over \$140,000.00 of Hardrock's claim (for differing site conditions and lost profit) was of questionable validity. We also note that there are differences in the names and amounts specified for some of the claimants in this provision as compared to its Senate counterpart.

The Coast Guard paid MZP, Inc. the full contract amount for the work performed under this contract. The Coast Guard is restricted from paying MZP, Inc. in excess of the contract's firm fixed price. There is no privity of contract between the Coast Guard and the subcontractors and suppliers of the prime contractor. Therefore, it is the responsibility of the prime contractor (or its sureties), not the Coast Guard, to pay the subcontractors and suppliers for work per-

formed or supplies provided by them on behalf of that prime contractor. Legal recourse for the failure of a prime contractor to pay subcontractors and suppliers lies in a cause of action by those subcontractors and suppliers against their prime contractor (and its sureties) in an appropriate judicial forum.

The Coast Guard is not aware of any other legal liability in this case, since Coast Guard personnel acted properly and in accordance with the applicable Federal acquisition regulations in effect at the time of the contract. Thus, the Coast Guard expects that it would prevail in any legal action on this issue, simply because there is no basis for recovery against the Coast Guard by the named subcontractors and suppliers of MZP, Inc., the prime contractor.

The Department notes that the correct contract number in this matter should read "DTCG50-87-C-00096."

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

ARTHUR J. ROTHKOPF.

THE SECRETARY OF TRANSPORTATION
Washington, DC, April 14, 1992.

HON. THOMAS S. FOLEY,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: This letter transmits proposed legislation, "To clarify inspection and enforcement authority over foreign passenger vessels and align inspection authority with the International Convention for the Safety of Life at Sea, and for other purposes."

This legislative proposal would amend section 3505 of title 46, U.S. Code, to authorize the Coast Guard to prevent the departure of a foreign passenger vessel from a United States port carrying passengers who embarked at that port, if the vessel is not in compliance with the International Convention for the Safety of Life at Sea (SOLAS). Under section 3505, the authority to prevent these departures is limited to vessels of more than 100 gross tons, with accommodations for at least 50 passengers. Although the Coast Guard is authorized by 46 USC 3303(a) to inspect all foreign vessels (including smaller foreign passenger vessels), it cannot use section 3505 to ban departure of smaller passenger vessels.

In addition, this legislative proposal would amend section 3303(a) of title 46, U.S. Code, to expand the scope of the Coast Guard's inspection authority over foreign vessels to cover more than propulsion and lifesaving equipment. It would authorize inspections to verify that the vessel's condition is substantially in compliance with its SOLAS certificate. An example of a broader examination, not authorized under current section 3303(a), would be a review by the Coast Guard of a foreign passenger vessel's fire safety plan.

Enactment of this proposal should result in increased safety on foreign vessels, particularly on smaller foreign passenger vessels.

There are no personnel or budgetary increases associated with this proposal.

The Officer of Management and Budget has advised that there is no objection, from the standpoint of the Administration's program, to the submission of this proposed legislation to Congress.

It is recommended that the proposed legislation be enacted by Congress.

Sincerely,

ANDREW H. CARD, JR.

Enclosures.

A BILL To clarify inspection and enforcement authority over foreign passenger vessels and align inspection authority with the International Convention for the Safety of Life at Sea, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3303(a) of title 46, United States Code, is amended by—

(1) striking "only" immediately after "is subject"; and

(2) immediately after "ensure that" striking "the condition of the vessel's propulsion equipment and lifesaving equipment are" and substituting "its condition is".

Section 2. Section 3505 of title 46, United States Code, is amended by striking "or domestic vessel of more than 100 gross tons having berth or stateroom accommodations for at least 50 passengers" and substituting "vessel".

COMPARATIVE TYPE

Deleted material is in black brackets; new material is italic.

Title 46, United States Code

SEC. 3303. RECIPROCITY FOR FOREIGN VESSELS.

(a) Except as provided in chapter 37 of this title, a foreign vessel of a country having inspection laws and standards similar to those of the United States and that has an unexpired certificate of inspection issued by proper authority of its respective country, is subject **[only]** to an inspection to ensure that **[the condition of the vessel's propulsion equipment and lifesaving equipment are]** *its condition is* as stated in its current certificate of inspection. * * *

* * * * *

SEC. 3505. PREVENTION OF DEPARTURE.

Notwithstanding section 3303(a) of this title, a foreign **[or domestic vessel of more than 100 gross tons having berth or stateroom accommodations for at least 50 passengers]** *vessel* may not depart from a United States port with passengers who are embarked at that port, if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea to which the United States Government is currently a party.

ANALYSIS

Section 1. This section amends section 3303(a) of title 46, U.S. Code, to increase the scope of the Coast Guard's inspection authority over foreign vessels under this provision. Currently, section 3303(a) limits inspections to ensuring that the condition of the foreign vessel's propulsion and lifesaving equipment is as stated on the vessel's certificate of inspection. However, to determine whether a vessel is in compliance with its certificate under the International Convention for the Safety of Life at Sea (SOLAS), more than propulsion and lifesaving equipment must be examined. Foreign vessels subject to 46 USC 3303(a) are also subject to Chapter I, Regulation 19 of SOLAS, as amended. Under SOLAS, where there are clear grounds to believe that the vessel is not substantially in compliance with its certificate, the port state may take action. The Coast Guard verifies foreign vessel compliance through enforcement of SOLAS. This proposal would align domestic law with SOLAS authority. Although no country has contested the inspection of its vessels by the Coast Guard under SOLAS, instead of under 46 USC 3303(a), this amendment would clarify U.S. authority, facilitate enforcement, and should alleviate any future concerns with respect to inspections.

Section 2. This section amends section 3305 of title 46, U.S. Code, to clarify authority to test smaller foreign passenger vessels the same as larger foreign passenger vessels for purposes of ensuring that the vessels are in compliance with SOLAS. Currently, section 3505 provides that vessels over 100 gross tons having accommodations for at least 50 passengers may not depart from a U.S. port with passengers embarked at that port if the vessel is not in compliance with SOLAS. Similar to the situation in the first section of this proposal, the Coast Guard uses Chapter I, Regulation 19 of SOLAS instead of section 3305 as its authority to prevent noncomplying passenger vessels from departing from a U.S. port. As is the case in the first section, the Coast Guard has not been challenged by the owners of these smaller foreign passenger vessels for using SOLAS instead of domestic law.

As a technical matter, this section also strikes the reference to "domestic vessel" in section 3305. The section 3505 authority is unnecessary for U.S. vessels since, under 46 USC 3313, there is sufficient authority over U.S. vessels to enforce compliance with certificates of inspection and prevent departure from U.S. ports.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, March 6, 1992.

HON. THOMAS S. FOLEY,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: This letter transmits proposed legislation, "To authorize appropriations for fiscal year 1993 for the United States Coast Guard."

This proposal provides authorization of funds for necessary expenses of the Coast Guard to conduct and support its missions, as well as for environmental compliance and restoration at Coast

Guard facilities, and authorization for levels of military personnel strength and training for fiscal year 1993.

The Office of Management and Budget has advised that there is no objection, from the standpoint of the Administration's program, to the submission of this proposed legislation to Congress and that the enactment of this proposed legislation would be in accord with the program of the President.

I recommend that the proposed legislation be enacted by Congress.

Sincerely,

ANDREW H. CARD, JR.

Enclosures.

A BILL To authorize appropriations for fiscal year 1993 for the United States Coast Guard

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1992."

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1993, as follows:

(a) For the operation and maintenance of the Coast Guard, \$2,603,000,000, of which \$142,100,000 shall be transferred from the Department of Defense; and of which \$31,876,000 shall be derived from the Oil Spill Liability Trust Fund; and of which \$35,000,000 shall be expended from the Boat Safety Account.

(b) For the acquisition, construction, rebuilding and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$414,000,000, to remain available until expended, of which \$18,000,000 shall be transferred from the Department of Defense; and of which \$33,822,000 shall be derived from the Oil Spill Liability Trust Fund.

(c) For research, development, test, and evaluation, \$29,900,000, to remain available until expended, of which \$4,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(d) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$519,700,000, to remain available until expended.

(e) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, \$11,100,000, to remain available until expended.

(f) For environmental compliance and restoration at Coast Guard facilities, \$30,500,000, to remain available until expended.

SEC. 3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) As of September 30, 1993, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,732. The au-

thorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) For fiscal year 1993, the Coast Guard is authorized average military training student loads as follows:

- (1) For recruit and special training, 2,653 student years.
- (2) For flight training, 110 student years.
- (3) For professional training in military and civilian institutions, 362 student years.
- (4) For officer acquisition, 878 student years.

ANALYSIS

Section 1.—Short title

The bill is entitled the "Coast Guard Authorization Act of 1992."

Section 2.—Authorization of appropriations

This section would authorize funds for fiscal year 1993 in accordance with the following table:

<i>Line</i>	<i>Millions</i>
Operations.....	\$2,603.000
AC&I.....	414.000
RDT&E.....	29.900
Retired Pay.....	519.700
Bridge Alteration.....	11.100
Environmental Compliance.....	30.500

Section 3. Authorized levels of military strength and military training

This section would authorize a Coast Guard end-of-fiscal-year strength of 39,732 active duty military personnel, which does not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code. This section also would authorize average military training student loads as follows:

<i>Training</i>	<i>Student years</i>
Recruit/Special.....	2,653
Flight.....	110
Professional.....	362
Officer.....	878

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

TITLE 14, UNITED STATES CODE

CHAPTER 5—FUNCTIONS AND POWERS

Sec.

81. Aids to navigation authorized.

82. Cooperation with Administrator of the Federal Aviation Administration.

83. Unauthorized aids to maritime navigation; penalty.

- 84. Interference with aids to navigation; penalty.
- 85. Aids to maritime navigation; penalty.
- 86. Marking of obstructions.
- [87. Repealed.]
- 88. Saving life and property.
- 89. Law enforcement.
- 90. Ocean stations.
- 91. Safety of naval vessels.
- 92. Secretary; general powers.
- 93. Commandant; general powers.
- 94. Oceanographic research.
- 95. Civilian agents authorized to carry firearms.
- 96. Procurement of buoy chain.

* * * * *

§ 96. Procurement of buoy chain

(a) *The Coast Guard may not procure buoy chain unless—*

(1) *it is manufactured in the United States; or*

(2) *substantially all of its components are produced or manufactured in the United States.*

(b) *For purposes of subsection (a)(2), substantially all of the components of a buoy chain are deemed to be produced or manufactured in the United States if the aggregate cost of the components that are produced or manufactured in the United States is greater than the aggregate cost of the components that are produced or manufactured outside the United States.*

(c) *In this section—*

(1) *“buoy chain” means any chain, cable, or other device that is—*

(A) *used to hold in place, by attachment to the bottom of a body of water, a floating aid to navigation; and*

(B) *not more than four inches in diameter; and*

(2) *“manufacture” includes cutting, heat treating, quality control, welding (including the forging and shot blasting process), and testing.*

SECTION 4 OF THE ACT OF AUGUST 9, 1950

(16 U.S.C. 777c)

§ 777c. Funds available for expenses of investigations and administration; apportionment of funds among States

So much, not to exceed 6 per centum, of each annual appropriation made in accordance with the provisions of section 777b of this title as the Secretary of the Interior may estimate to be necessary for his expenses in the conduct of necessary investigations, administration, and the execution of this chapter and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year. The Secretary shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 777b of this title as provided in the Coastal Wetlands Planning, Protection and Res-

toration Act: *Provided*, That, notwithstanding the provisions of section 777b of this title, such sums shall remain available to carry out such Act through fiscal year 1999. *Of annual appropriations allocated under section 3, \$10,000,000 for Fiscal year 1993, \$15,000,000 for Fiscal Years 1994 and 1995, and \$20,000,000 for each fiscal year thereafter, shall be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.* The Secretary of the Interior, after making the aforesaid deduction, *distribution, and transfer*, shall apportion the remainder of the appropriation for each fiscal year among the several States in the following manner: 40 per centum in the ratio which the area of each State including coastal and Great Lakes waters (as determined by the Secretary of the Interior) bears to the total area of all the States, and 60 per centum in the ratio which the number of persons holding paid licenses to fish for sport or recreation in the State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the number of such persons in all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than 1 per centum nor more than 5 per centum of the total amount apportioned. Where the apportionment to any State under this section is less than \$4,500 annually, the Secretary of the Interior may allocate not more than \$4,500 of said appropriation to said State to carry out the purposes of this chapter when said State certifies to the Secretary of the Interior that it has set aside not less than \$1,500 from its fish-and-game funds or has made, through its legislature, an appropriation in this amount for said purposes. So much of any sum not allocated under the provisions of this section for any fiscal year is hereby authorized to be made available for expenditure to carry out the purposes of this chapter until the close of the succeeding fiscal year, and if unexpended or unobligated at the end of such year, such sum is hereby authorized to be made available for expenditure by the Secretary of the Interior in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation. The term fiscal year as used in this section shall be a period of twelve consecutive months from October 1 through the succeeding September 30, except that the period for enumeration of persons holding licenses to fish shall be a State's fiscal or license year.

(46 U.S.C. 2110)

§ 2110. Fees

(a)(1) Except as otherwise provided in this title, the Secretary shall establish a fee or charge for a service or thing of value provided by the Secretary under this subtitle, in accordance with section 9701 of title 31.

(2) The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a non-self-propelled tank vessel under part B of this title that is more than \$500 annually.

(3) The Secretary may, by regulation, adjust a fee or charge collected under this subsection to accommodate changes in the cost of

providing a specific service or thing of value, but the adjusted fee or charge may not exceed the total cost of providing the service or thing of value for which the fee or charge is collected, including the cost of collecting the fee or charge.

(4) The Secretary may not collect a fee or charge under this subsection that is in conflict with the international obligations of the United States.

(5) The Secretary may not collect a fee or charge under this subsection for any search or rescue service.

(b)(1) The Secretary shall establish a fee or charge as provided in paragraph (2) of this subsection, and collect it annually in fiscal years 1991, 1992, 1993, 1994, and 1995, from the owner or operator of each recreational vessel that is greater than 16 feet in length.

(2) The fee or charge established under paragraph (1) of this subsection is as follows:

(A) for vessels greater than 16 feet in length but less than 20 feet, not more than \$25;

(B) for vessels of at least 20 feet in length but less than 27 feet, not more than \$35;

(C) for vessels of at least 27 feet in length but less than 40 feet, not more than \$50; and

(D) for vessels of at least 40 feet in length, not more than \$100.

(3) The fee or charge established under this subsection applies only to vessels operated on the navigable waters of the United States where the Coast Guard has a presence.

(4) The fee or charge established under this subsection does not apply to a—

(A) public vessel; or

(B) vessel deemed to be a public vessel under section 827 of title 14.

(5) The Secretary shall provide to each person who pays a fee or charge under this subsection a separate document on which appears, in readily discernible print, only the following statement: "The fees for which this document was provided was established under the Omnibus Budget Reconciliation Act of 1990. Persons paying this fee can expect no increase in the quantity, quality, or variety of services the person receives from the Coast Guard as a result of that payment."

(c) In addition to the collection of fees and charges established under subsections (a) and (b), the Secretary may recovery appropriate collection and enforcement costs associated with delinquent payments of the fees and charges.

(d)(1) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section. A private enterprise or business selected by the Secretary to collect fees or charges—

(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

(B) shall provide appropriate accounting to the Secretary; and

(C) may not institute litigation as part of that collection.

(2) A Federal agency shall account for the agency's costs of collecting the fee or charge under this subsection as a reimbursable expense, and the costs shall be credited to the account from which expended.

(e) A person that violates this section by failing to pay a fee or charge established under this section is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation.

(f) When requested by the Secretary, the Secretary of the Treasury shall deny the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) to a vessel for which a fee or charge established under this section has not been paid until the fee or charge is paid or until a bond is posted for the payment.

(g) The Secretary may exempt a person from paying a fee or charge established under this section if the Secretary determines that it is in the public interest to do so.

(h) Fees and charges collected by the Secretary under this section shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

(i) The collection of a fee or charge under this section does not alter or expand the functions, powers, responsibilities, or liability of the United States under any law for the performance of services or the provision of a thing of value for which a fee or charge is collected under this section.

(j) *Effective October 1, 1992, the Secretary may not establish or collect a fee or charge for the inspection under part B of this subtitle for training ships operated by state maritime academies.*

(46 U.S.C. 2302)

§ 2302. Penalties for negligent operations

(a) A person operating a vessel in a negligent manner that endangers 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.

(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 ~~[\$1,000; or]~~ *\$1,000 for a first violation and not more than \$5,000 for a subsequent violation; or*

* * * * *

(46 U.S.C. 3303)

§ 3303. Reciprocity for foreign vessels

(a) Except as provided in chapter 37 of this title, a foreign vessel of a country having inspection laws and standards similar to those of the United States and that has an unexpired certificate of inspection issued by proper authority of its respective country, is subject **[only]** to an inspection to ensure that **[the condition of the vessel's propulsion equipment and lifesaving equipment are]** *the condition of the vessel is* as stated in its current certificate of inspection. A foreign country is considered to have inspection laws and standards similar to those of the United States when it is a party to an International Convention for Safety of Life at Sea to which the United States Government is currently a party. A foreign certificate of inspection may be accepted as evidence of lawful inspection only when presented by a vessel of a country that has by its laws accorded to vessels of the United States visiting that country the same privileges accorded to vessels of that country visiting the United States.

(b) The Secretary shall collect and pay to the Treasury the same fees for the inspection of foreign vessels carrying passengers from the United States that a foreign country charges vessels of the United States trading to the ports of that country. The Secretary may waive at any time the collection of the fees on notice of the proper authorities of any country concerned that the collection of fees for the inspection of vessels of the United States has been discontinued.

(46 U.S.C. 3505)

§ 3505. Prevention of departure

Notwithstanding section 3303(a) of this title, a foreign **[or domestic vessel of more than 100 gross tons having berth or state-room accommodations for at least 50 passengers]** *vessel* may not depart from a United States port with passengers who are embarked at that port, if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea to which the United States Government is currently a party.

