Case Number: 2016-0152-F

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the Clinton Presidential Library Staff.

Folder Title: Chron File - April 1993 #3 [1]				
Staff Office-Individual: Defense Policy-Bell, Robert				
Original OA/ID Number: 44				
Row: 31	Section: 3	Shelf: 1	Position: 3	Stack: V

Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	[Personally Identifiable Information] [partial] (1 page)	04/15/1993	b(6)
001b. memo	[Personally Identifiable Information] [partial] (1 page)	04/14/1993	b(6)
001c. memo	[Personally Identifiable Information] [partial] (1 page)	04/16/1993	b(6)
001d. memo	[Personally Identifiable Information] [partial] (1 page)	04/16/1993	b(6)
001e. memo	[Personally Identifiable Information] [partial] (1 page)	04/16/1993	b(6)
001f. memo	[Personally Identifiable Information] [partial] (1 page)	04/16/1993	b(6)
002a. photograph	Photocopy. [10 U.S.C. 424] [see also vz3753] (1 page)	01/21/1993	P3/b(3)
002b. letter	Photocopy. To Bill and Hillary Clinton. [10 U.S.C. 424] [See also vz3753] (1 page)	04/18/1993	P3/b(3)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 44

FOLDER TITLE:

Chron File - April 1993 #3 [1]

2016-0152-F
vz4386

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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Bob

Document No. 014004

WHITE HOUSE STAFFING MEMORANDUM

DATE: 04/21/93 **ACTION/CONCURRENCE/COMMENT DUE BY:** 04/23/93

SUBJECT: MILITARY NOMINATIONS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	PASTER	☐	☐
McLARTY	☐	☐	RASCO	☐	☐
GEARAN	☐	☐	RUBIN	☐	☐
PANETTA	☐	☐	SEGAL	☐	☐
EMANUEL	☐	☐	STEPHANOPOULOS	☐	☐
GIBBONS	☐	☐	VARNEY	☐	☐
HALE	☐	☐	WATKINS	☐	☐
HERMAN	☐	☐	WILLIAMS	☐	☐
LAKE	☐	☐	BELL, Bob	☑	☐
LINDSEY	☐	☐	CLERK	☐	☑
MONTOYA	☐	☐		☐	☐
NUSSBAUM	☐	☐		☐	☐

REMARKS:

Do you have any objections to the attached?

RESPONSE:

National Security Council staff concurs in the attached military nominations.

Anthony Lake

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
Ext. 2702

THE WHITE HOUSE

WASHINGTON

93 APR 20 P12:35

April 15, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: ~~JOHN A. GAUGHAN~~
DIRECTOR, WHITE HOUSE MILITARY OFFICE

SUBJECT: Army General Officer Nomination

Forwarded for your approval and signature is the nomination of Lieutenant General Gary E. Luck, United States Army, for appointment to the grade of general and a recommendation for his assignment as Commander in Chief, United Nations Command/Combined Forces Command/Commander, United States Forces Korea.

The Secretary of Defense has attached an evaluation of General Luck's performance in joint duty assignments from the Chairman of the Joint Chiefs of Staff.

This nomination has been staffed by the Acting Secretary of the Army and approved by the Secretary of Defense.

Recommendation

That you approve and sign the attached.

Attachment

Withdrawal/Redaction Marker
Clinton Library

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001a. memo	[Personally Identifiable Information] [partial] (1 page)	04/15/1993	b(6)

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National Security Council
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2016-0152-F
vz4386

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The White House

Washington

To the Senate of the United States:

I nominate:

The following named officer for appointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601(a):

To be General

Lieutenant General Gary E. Luck, (b)(6), United States Army

[001a]

THE WHITE HOUSE

WASHINGTON

April 14, 1993

93 APR 20 P12:35

MEMORANDUM FOR THE PRESIDENT

FROM: ~~JOHN A. GAUGHAN~~
DIRECTOR, WHITE HOUSE MILITARY OFFICE

SUBJECT: Air Force General Officer Nomination

Forwarded for your approval and signature is the nomination of Major General John M. Nowak, United States Air Force, for appointment to the grade of lieutenant general and a recommendation for his assignment as Deputy Chief of Staff, Logistics, Headquarters, United States Air Force.

The Deputy Secretary of Defense has waived the joint duty assignment requirements in the case of General Nowak based on his scientific/technical experience and utilization.

This nomination was staffed by the Acting Secretary of the Air Force and approved by the Deputy Secretary of Defense.

Recommendation

That you approve and sign the attached.

Attachment

Withdrawal/Redaction Marker
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001b. memo	[Personally Identifiable Information] [partial] (1 page)	04/14/1993	b(6)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 44

FOLDER TITLE:

Chron File - April 1993 #3 [1]

2016-0152-F
vz4386

RESTRICTION CODES

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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
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Freedom of Information Act - [5 U.S.C. 552(b)]

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The White House

Washington

To the Senate of the United States:

I nominate:

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be Lieutenant General

Major General John M. Nowak, (b)(6) [001b]
United States Air Force

THE WHITE HOUSE

WASHINGTON

April 16, 1993

93 APR 20 P12: 35

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN ~~R.~~ GAUGHAN
DIRECTOR, WHITE HOUSE MILITARY OFFICE

SUBJECT: Air Force General Officer Nomination

Forwarded for your approval and signature is the nomination of Lieutenant General Thomas R. Ferguson Jr., United States Air Force, for appointment to the grade of lieutenant general on the retired list.

This nomination has been staffed by the Acting Secretary of the Air Force and approved by the Deputy Secretary of Defense.

Recommendation

That you approve and sign the attached.

Attachment

Withdrawal/Redaction Marker
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001c. memo	[Personally Identifiable Information] [partial] (1 page)	04/16/1993	b(6)

COLLECTION:
Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 44

FOLDER TITLE:
Chron File - April 1993 #3 [1]

2016-0152-F
vz4386

The White House

Washington

To the Senate of the United States:

I nominate:

The following named officer for appointment to the grade of Lieutenant General on the retired list pursuant to the provisions to Title 10, United States Code, Section 1370:

To be Lieutenant General

Lieutenant General Thomas R. Ferguson, Jr., (b)(6) [001c]
United States Air Force

THE WHITE HOUSE

WASHINGTON

April 16, 1993

93 APR 20 P12:35

MEMORANDUM FOR THE PRESIDENT

FROM: ~~JOHN A. GAUGHAN~~
DIRECTOR, WHITE HOUSE MILITARY OFFICE

SUBJECT: Navy Flag Officer Nomination

Forwarded for your approval and signature is the nomination of Vice Admiral Edward W. Clexton Jr., United States Navy, for appointment to the grade of vice admiral on the retired list.

This nomination has been staffed by the Acting Secretary of the Navy and approved by the Deputy Secretary of Defense.

Recommendation

That you approve and sign the attached.

Attachment

Withdrawal/Redaction Marker
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001d. memo	[Personally Identifiable Information] [partial] (1 page)	04/16/1993	b(6)

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Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 44

FOLDER TITLE:

Chron File - April 1993 #3 [1]

2016-0152-F
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The White House

Washington

To the Senate of the United States:
I nominate:

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be Vice Admiral

Vice Admiral Edward W. Clexton, Jr., U. S. Navy, (b)(6) [001d]

THE WHITE HOUSE

WASHINGTON

April 16, 1993

93 APR 20 P12:35

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN A. GAUGHAN
DIRECTOR, WHITE HOUSE MILITARY OFFICE

SUBJECT: Navy Flag Officer Nomination

Forwarded for your approval and signature is the nomination of Vice Admiral William A. Dougherty, Jr., United States Navy, for appointment to the grade of vice admiral on the retired list.

This nomination has been staffed by the Acting Secretary of the Navy and approved by the Deputy Secretary of Defense.

Recommendation

That you approve and sign the attached.

Attachment

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001e. memo	[Personally Identifiable Information] [partial] (1 page)	04/16/1993	b(6)

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The White House

Washington

To the Senate of the United States:
I nominate:

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be Vice Admiral

Vice Admiral William A. Dougherty, Jr., U. S. Navy, (b)(6) [001e]

THE WHITE HOUSE

WASHINGTON

April 16, 1993

93 APR 20 P12:35

MEMORANDUM FOR ~~THE PRESIDENT~~

FROM: ~~JOHN A. GAUGHAN~~
DIRECTOR, WHITE HOUSE MILITARY OFFICE

SUBJECT: Army General Officer Nomination

Forwarded for your approval and signature is the nomination of Major General Henry H. Shelton, United States Army, for appointment to the grade of lieutenant general and a recommendation for his assignment as Commanding General, XVIII Airborne Corps.

The Deputy Secretary of Defense has attached an evaluation of General Shelton's performance in joint duty assignments from the Chairman of the Joint Chiefs of Staff.

This nomination has been staffed by the Acting Secretary of the Army and approved by the Deputy Secretary of Defense.

Recommendation

That you approve and sign the attached.

Attachment

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The White House

Washington

To the Senate of the United States:

I nominate:

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601(a):

To be Lieutenant General

Major General Henry H. Shelton, (b)(6), United States Army [001f]

2612

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

April 20, 1993

INFORMATION

MEMORANDUM FOR SAMUEL R. BERGER

THROUGH: ROBERT BELL

FROM: KEITH HAHN KH

SUBJECT: SOCOM Commanders Conference Speech

You are scheduled to address the Special Operations Command (SOCOM) Commanders Conference on Thursday, April 22 at 11:00 a.m. The conference will be held at the Headquarters Conference Center, Building 1535, Andrews Air Force Base. The audience will consist of SOCOM unit commanders from Army, Air Force, Navy and joint units from around the country. General Stiner has asked that you speak for approximately 20 minutes, allowing another 20-30 minutes for questions.

I have talked with both the General's aide and his political advisor about appropriate topics for your presentation. They suggested something along the line of "new emerging military missions as seen by the Clinton Administration." Under Secretary of Defense Wisner will speak the day before, giving a "once around the block" view of security threats in the new international security environment.

At Tab I is a proposed outline for your remarks which focuses on the increasing use of military forces in "non-traditional" activities and how we should go about coordinating our military forces with other U.S. agencies interested in these activities. It draws a parallel between how the Interagency Working Groups coordinate needed skills and resources and how military Joint Force Commanders coordinate the assets from the various Services to meet changing missions.

Attachment
Tab I Proposed Outline

The Multi-agency Approach to National Security

- New global security environment requires a re-engineering of our nation's defenses.
  - Today's U.S. military must now support our national strategy by promoting stability, peace, prosperity and democracy in an era of political fragmentation and social upheaval.
  - We can't be the world's policeman, but the world needs American leadership.
- Our armed forces military are unmatched in their deterrent, crisis response and war-fighting missions. But we must do more by making the best use of these unmatched military capabilities.
  - -- We must continue to fully integrate the capabilities of the individual Services into a cohesive joint military task force.
  - -- We must develop coalition responses to global and regional challenges with our friends and allies.
  - -- We must further improve military support to, and cooperation with, other agencies and departments.

These remarks will focus on the last point -- the military contributions to the multi-agency environment.

- American government promotes consensus-building as the best way to unify our diverse political landscape.
  - -- Consensus is important not only for Congress and the electorate, but also among the various government departments.
  - -- This is sometimes difficult because each agency has one or more unique areas of exclusive jurisdiction or special responsibility. Each agency also has its own internal dynamics and its own core competencies.
- When areas of jurisdiction overlap, the system must promote cooperation. "Tomorrow's policy responses "will almost never fall within the purview of a single department or agency." (Carnegie Report)
  - -- A seat at the inter-agency table is usually determined by whether the issue has an impacting that agency's franchise, or whether the agency has among its core

competencies the skills or resources needed to achieve the policy goal.

- The changing international security environment and new domestic economic realities focus attention on potential contributions by the U.S. armed forces to the full national agenda.

  -- Military's broad range of capabilities allows our national leadership to consider using the military for more than traditional combat roles. This need not dull our military capabilities.

- The political, economic, and military challenges of our new era require the U.S. to look at national security in its totality.

  -- The military is now being tasked to accomplish new missions.

  -- In some primarily military missions, the military is equipped to act alone.

  -- In others it must act in support of, and in concert with, other agencies.

- Interagency coordination is essential. Planned reductions in budgets furthers heightens the need for efficiency.

  -- Interagency cooperation works best in an atmosphere which promotes consensus building and empowers inter-agency groups with the level of decision-making authority needed to implement national policy.

  -- Multi-agency operations will provide the necessary critical mass of resources and capabilities to achieve national goals.

- We must explore ways to strengthen the process, such as:

  -- Innovative joint agency ventures

  -- Focused problem-solving teams

  -- Improved inter-agency operating mechanisms

- The National Security Council and the National Economic Council were adapted by President Clinton to facilitate policy-making by providing specialized forums for extended examination of cross-cutting issues.

- Below this level is the Interagency Working Groups -- somewhat analogous to military joint task forces in the way they integrate the efforts of many organizations. These groups seek to ask the following key questions:

-- What is the objective?

-- Who should participate in establishing the strategy and who will have the lead?

-- What capabilities, functions, and tasks are required to determine and implement the policy on a cost effective basis?

-- How will implementation be evaluated and lessons be applied?

- It is for the President, his advisors and appointed officials to make key policy decisions. However, on national security issues, the military is a key player at all levels of policy formation -- from the IWG to the NSC itself.

- For military officers, both in the field and on headquarters staffs, an understanding of the increased emphasis on inter-agency coordination -- especially when faced with "non-traditional" issues -- will enhance the contributions that U.S. military forces can make to our Nation's security.

2612 Add-On

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

April 22, 1993

INFORMATION

MEMORANDUM FOR SAMUEL R. BERGER

FROM: ROBERT BELL RGB

SUBJECT: Highlights of Defense Budget/Force Levels/Programs

Per your request, the following information is provided in connection with your appearance at the SOCOM Commanders' Conference today.

Defense Budget

FY 1994 Request (Function 050): $264 B (Budget Authority)

-- Decline versus FY 1993 = 5%

-- Reduction from Bush/Cheney baseline = $11.4 B

FY 1994-1998 Request (050): $1.278 trillion (BA)

-- Average annual decline = 3.6%

-- $60 billion in program cuts less than Bush/Cheney baseline, plus $10 billion in Odeen panel adjustments, and $18 billion in pay adjustments due to government-wide freeze in FY 94 and COLA cap in outyears.

Force Structure

Army: Minus two active divisions (14 to 12). This reduction had been planned by Bush/Cheney for FY 95; Clinton budget moves this up one year.

Navy: Net reduction of about 30 ships (443 to 413):

-- Older nuclear cruisers being retired rather than refueling their reactors;

-- Two carriers retired (Saratoga & Forrestal), leaving 12.

Air Force: Taking four wings out of force (28 to 24)

Programs

No major program terminations in FY 94, pending Bottom-Up Review

Major modernization programs:

Army:

- -- Blackhawk helicopter
- -- MLRS rocket system
- -- Bradley Fighting Vehicle upgrades
- -- M1A2 Tank ugrades
- -- Development of Longbow upgrade for Apache helicopter
- -- R&D on Commanche (next generation helo)

Navy:

- -- Three DDG-51 destroyers
- -- Six LHD landing ships
- -- $449 million in FY 94 for "next generation submarine" (could be used for third Seawolf, pending decision in Bottom-Up Review)
- -- AV-8B V/STOL fighter remanufacture
- -- $78 million for V-22 development (FY 92-94 funding totals over $1.4 billion, which is sufficient for six development/test aircraft
- -- Sealift given increased emphasis

Air Force:

- -- F-16 production continued
- -- C-17 (Defense Acquisition Board study due in August)

Strategic Defense Initiative:

- -- $3.8 billion (same as FY 93)
- -- Emphasis on theater missile defense development
- -- Continues R&D on treaty-compliant U.S. ABM option for after FY 2002, but no commitment to deploy

2612 Add-On

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

April 22, 1993

INFORMATION

MEMORANDUM FOR SAMUEL R. BERGER

FROM: ROBERT BELL RGB

SUBJECT: Highlights of Defense Budget/Force Levels/Programs

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- $60 billion in program cuts less than Bush/Cheney baseline, plus $10 billion in Odeen panel adjustments, and $18 billion in pay adjustments due to government-wide freeze in FY 94 and COLA cap in outyears.

Force Structure

Army: Minus two active divisions (14 to 12). This reduction had been planned by Bush/Cheney for FY 95; Clinton budget moves this up one year.

Navy: Net reduction of about 30 ships (443 to 413):

- Older nuclear cruisers being retired rather than refueling their reactors;
- Two carriers retired (Saratoga & Forrestal), leaving 12.

Air Force: Taking four wings out of force (28 to 24)

Programs

No major program terminations in FY 94, pending Bottom-Up Review

Major modernization programs:

Army:

- Blackhawk helicopter
- MLRS rocket system
- Bradley Fighting Vehicle upgrades
- M1A2 Tank ugrades
- Development of Longbow upgrade for Apache helicopter
- R&D on Commanche (next generation helo)

Navy:

- Three DDG-51 destroyers
- Six LHD landing ships
- $449 million in FY 94 for "next generation submarine" (could be used for third Seawolf, pending decision in Bottom-Up Review)
- AV-8B V/STOL fighter remanufacture
- $78 million for V-22 development (FY 92-94 funding totals over $1.4 billion, which is sufficient for six development/test aircraft
- Sealift given increased emphasis

Air Force:

- F-16 production continued
- C-17 (Defense Acquisition Board study due in August)

Strategic Defense Initiative:

- $3.8 billion (same as FY 93)
- Emphasis on theater missile defense development
- Continues R&D on treaty-compliant U.S. ABM option for after FY 2002, but no commitment to deploy

4/22/93

UNCLASSIFIED

FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL

FROM: Bob Bell

PHONE: (202) 395-3330

FAX: 395-1185

TO	FAX	PHONE
Pam Barnett	X-2557	456-2369

NUMBER OF PAGES INCLUDING COVER SHEET 3

SPECIAL INSTRUCTIONS:

UNCLASSIFIED

Withdrawal/Redaction Marker
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002a. photograph	Photocopy. [10 U.S.C. 424] [see also vz3753] (1 page)	01/21/1993	P3/b(3)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 44

FOLDER TITLE:

Chron File - April 1993 #3 [1]

2016-0152-F
vz4386

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawal/Redaction Marker
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002b. letter	Photocopy. To Bill and Hillary Clinton. [10 U.S.C. 424] [See also vz3753] (1 page)	04/18/1993	P3/b(3)

COLLECTION:
Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 44

FOLDER TITLE:
Chron File - April 1993 #3 [1]

2016-0152-F
vz4386

2440

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

April 19, 1993

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ROBERT G. BELL RGB

FROM: STEVEN R. JONES SJ

SUBJECT: Representative Machtley Opposition to Closure of Naval Facility in His District

Representative Machtley has written the President (Tab C) to retain the Naval Education and Training Center (NETC) at Newport, Rhode Island. The Congressman's letter was dated March 10, two days before Secretary Aspin announced his base closure recommendations. The NSC did not receive the letter for action until April 15.

Secretary Aspin recommended that the NETC mission be realigned, terminating the Center's mission to berth ships. Piers, waterfront facilities and related property shall be retained by NETC Newport. The Education and Training Center will remain to satisfy its education and training mission. While about 800 military positions will be lost in this realignment, this will be offset by the addition of approximately 800 civilian positions at NETC and the Naval Undersea Warfare Center (Tab B).

The proposed reply (Tab A) acknowledges Representative Machtley's letter and emphasizes the President's commitment to a fair and open base closure process.

In draft In draft

Concurrences by: Keith Hahn, Jeremy Rosner

RECOMMENDATION

That you send a joint memo with Howard Paster to the President recommending his signature at Tab A.

Attachments
Tab I Memorandum to the President
- Tab A Letter to Representative Machtley
- Tab B Newport Gains/Losses
- Tab C Incoming Correspondence

THE WHITE HOUSE

WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE
HOWARD PASTER

SUBJECT: Representative Machtley Opposition to Closure of Naval Facility in His District

Purpose

To respond to Representative Machtley's appeal to retain the Naval Education and Training Center (NETC) at Newport, Rhode Island.

Background

In his March 12 announcement, Secretary Aspin recommended that the NETC mission be realigned, terminating the Center's mission to berth ships. Piers, waterfront facilities and related property shall be retained by NETC Newport. The Education and Training Center will continue its activities. While NETC Newport will lose about 800 military personnel, this will be offset by the gain of approximately 800 civilian positions at NETC and the Naval Undersea Warfare Center (Tab B).

RECOMMENDATION

That you sign the letter at Tab A.

Attachments
Tab A Letter to Representative Machtley
Tab B Newport Gains/Losses
Tab C Incoming Correspondence

cc: Vice President
Chief of Staff

THE WHITE HOUSE

WASHINGTON

Dear Representative Machtley:

Thank you for you letter regarding the base closure process and the Naval Education and Training Center (NETC) at Newport.

There will be many difficult choices ahead as we update the U.S. force structure and size it to reflect the new international security environment, while promoting our overall long-term economic objectives. I understand that Secretary Aspin's recommendations include ending the Center's mission to berth ships, but that the Education and Training Center will continue its important activities. Hopefully the realignment and gain in civilian positions will help offset the military reductions.

As you know, the Defense Base Closure and Realignment Commission is conducting a comprehensive, nonpartisan and open review of each DoD recommendation. You should provide the Commission any information regarding the NETC you feel warrants additional review.

When I receive the Commission's recommendations on July 1, I can assure you that I will hold it accountable to its charter before forwarding the base realignment and closing list to Congress. For those communities that are adversely affected by these actions, my Administration is committed to helping them speed their transition to other productive activities.

Sincerely,

The Honorable Ronald K. Machtley
House of Representatives
Washington, D.C. 20515

Preliminary BRAC 93 Closure and Realignment Recommendation Impacts by State

(Military Includes average student load: civilian includes BOS contractor personnel)

State / Installation	Action	Out Mil	Out Civ	In Mil	In Civ	Net Gain/(Loss) Mil	Net Gain/(Loss) Civ
Pennsylvania							
Letterkenny Army Depot	Realign	2	1,944	0	0	(2)	(1,944)
Letterkenny Army Depot	Redirect	0	0	15	362	15	362
New Cumberland Army Depot	Receive	0	0	60	22	60	22
Tobyhanna Army Depot	Receive	0	0	69	619	69	619
Defense Clothing Factory Philadelphia	Close	2	1,235	0	0	(2)	(1,235)
Defense Contract Mgt Dist Mid Atlantic	Disestablish	3	231	0	0	(3)	(231)
Defense Depot Letterkenny	Disestablish	0	400	0	0	0	(400)
Defense Depot Tobyhanna	Receive	0	0	0	169	0	169
Defense Distribution Region East	Receive	0	0	67	4,176	67	4,176
Defense Industrial Supply Center	Relocate	26	1,846	0	0	(26)	(1,846)
Defense Personnel Support Center	Close	78	3,878	0	0	(78)	(3,878)
AIPC Chambersburg (DISA)	Receive	0	0	0	139	0	139
SPCC Mechanicsburg (DISA)	Receive	0	0	0	177	0	177
ASO Philadelphia (DISA)	Disestablish	0	136	0	0	0	(136)
IPC Philadelphia (DISA)	Disestablish	0	143	0	0	0	(143)
Naval Air Station Willow Grove	Receive	0	311	157	1	157	(310)
Naval Aviation Supply Office	Close	65	2,351	0	0	(65)	(2,351)
Navy Ships Parts Control Center	Receive	2	10	124	1,913	122	1,903
Naval Reserve Center Altoona	Close	7	0	0	0	(7)	0
NSWC Philadelphia	Receive	0	0	0	200	0	200
Naval Shipyard Philadelphia (PERA)	Disestablish	4	187	0	0	(4)	(187)
	Total	189	12,672	492	7,778	303	(4,894)
Rhode Island							
Naval Educ &Tng Center	Realign	830	3	20	305	(810)	302
Naval Undersea Warfare Center	Receive	0	0	2	504	2	504
	Total	830	3	22	809	(808)	806
South Carolina							
Fort Jackson	Receive	0	0	293	52	293	52
Defense Depot Charleston	Disestablish	5	202	0	0	(5)	(202)
NSC Charleston (DISA)	Disestablish	0	77	0	0	0	(77)
Charleston AFB (JCSE)	Redirect	253	37	0	0	(253)	(37)
Shaw AFB	Receive	0	0	258	5	258	5
Charleston Naval Shipyard	Close	74	4,837	0	0	(74)	(4,837)
MCAS Beaufort	Receive	0	0	111	0	111	0
Naval Hospital Beaufort	Receive	0	0	683	119	683	119
Naval Hospital Charleston	Close	682	647	0	0	(682)	(647)
Naval Station Charleston	Close	8,634	1,194	0	0	(8,634)	(1,194)
Naval Supply Center Charleston	Disestablish	26	408	0	0	(26)	(408)
NCCOSC Charleston	Close	3	1,885	0	0	(3)	(1,885)
	Total	9,677	9,287	1,345	176	(8,332)	(9,111)
South Dakota							
Ellsworth AFB	Receive	263	11	503	10	240	(1)
	Total	263	11	503	10	240	(1)

These figures represent the impact of BRAC 93 recommendations only. They do not include the impact of any other initiative outside of the BRAC 93 process

3/11/93

Naval Education and Training Center, Newport, Rhode Island

Recommendation: Realign the Naval Education and Training Center (NETC) Newport and terminate the Center's mission to berth ships. Relocate the ships to Naval Station Mayport, Florida and Naval Station Norfolk, Virginia. Piers, waterfront facilities and related property shall be retained by NETC Newport. The Education and Training Center will remain to satisfy its education and training mission.

Justification: The piers and maintenance activity associated with NETC Newport are excess to the capacity required to support the DoD Force Structure Plan. A comprehensive analysis of naval station berthing capacity was performed with a goal of reducing excess capacity to the maximum extent possible while maintaining the overall military value of the remaining naval stations. To provide berthing to support the projected force structure, the resulting mix of naval stations was configured to satisfy specific mission requirements, including: 100 percent aircraft carrier berthing in each fleet; ammunition ships at ESQD-approved berthing; one SSN/SSBN unique base complex per fleet; and maintenance of the Norfolk and San Diego fleet concentrations. NETC Newport currently berths five ships which can be absorbed at other homeports with a higher military value. This realignment, combined with other recommended closures and realignments in the Atlantic Fleet, results in the maximum reduction of excess capacity while increasing the average military value of the remaining Atlantic Fleet bases.

Return On Investment: Total estimated one-time costs for this realignment are $23.5 million. Annual recurring savings are $4.3 million with a return on investment in two years. The Net Present Value of costs and savings over a twenty year period is a savings of $20.3 million.

Impacts: The realignment of NETC Newport will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 3.0 percent of the local employment base in Newport County, assuming no economic recovery. There is no known community infrastructure impact at any receiving location. Realignment of NETC Newport will eliminate sources of pollution and remove operational and future developmental constraints such as explosive safety arcs and electromagnetic radiation hazard areas. There are no significant environmental impacts at either Naval Station Mayport or Naval Station Norfolk.

RONALD K. MACHTLEY
1st District, Rhode Island

COMMITTEE ON ARMED SERVICES
COMMITTEE ON SMALL BUSINESS
COMMITTEE ON GOVERNMENT OPERATIONS
SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

CO-CHAIR, NEW ENGLAND ENERGY CAUCUS
ENVIRONMENTAL AND ENERGY STUDY CONFERENCE
CONGRESSIONAL HUMAN RIGHTS CAUCUS
CONGRESSIONAL TEXTILE CAUCUS
CONGRESSIONAL CAUCUS ON WOMEN'S ISSUES
CONGRESSIONAL NOTCH COALITION

209537

Congress of the United States
House of Representatives
Washington, DC 20515-3901

WASHINGTON OFFICE:
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WASHINGTON, DC 20515-3901
(202) 225-4911

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127 SOCIAL STREET
ROOM 172
WOONSOCKET, RI 02895
(401) 762-4052

320 THAMES STREET
ROOM 267
NEWPORT, RI 02840
(401) 848-7920

March 10, 1993

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I am writing to make a final appeal to retain the Naval Education and Training Center (NETC), Newport, Rhode Island during this year's round of military base closures.

No one can argue that your Administration faces a daunting task in reducing the defense budget by an additional $88 billion over the next four years. Part of this spending reduction must, of course, include closing and downgrading obsolete, unneeded military bases throughout the nation.

However, I am convinced that NETC's existing facilities can and should continue to cost-effectively serve the Navy for many years to come. Since its infancy during the Revolutionary War, the U.S. Navy has been an important part of Narragansett Bay and Aquidneck Island. For personnel stationed there, Newport is a premier location, boasting unmatched facilities and resources, in addition to a most welcoming local community. What's more, Rhode Island's economic climate fits the Navy's needs in every way.

For surface ships, NETC provides a deep draft harbor, well-tested over many years of service and a variety of homeported ships. In fact, there is currently space available for additional ships, should the Navy seek to consolidate resources into Newport.

In addition, NETC's myriad schools and training commands have successfully provided the Navy with the highly qualified, professional officers corps that is so critical to an effective military force. A long and difficult relocation of these fine institutions would undoubtedly detract from their effectiveness and undermine our national security.

Finally, during the past several years, some $25 million in infrastructure spending has been allocated to NETC in the form of housing, laboratory, and recreational construction projects. It would be fully unwarranted were scarce federal resources to be wasted, and these brand new facilities left idle. These new buildings provide NETC personnel a greater quality of life, which is such an overlooked but important component of our national security.

For all of these reasons, I urge you to retain NETC and its valuable facilities in next week's base closure recommendations.

Sincerely,

Ron

Ron Machtley
Member of Congress

RKM:jsc

2440

ID# 009537

THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

ND009

INCOMING

DATE RECEIVED: MARCH 26, 1993

NAME OF CORRESPONDENT: THE HONORABLE RONALD K. MACHTLEY

SUBJECT: DISCUSSES FINAL APPEAL MADE TO RETAIN THE NAVAL EDUCATION AND TRAINING CENTER (NETC), NEWPORT, RHOSDE ISLAND DURING THIS YEAR'S ROUND OF MILITARY BASE CLOSURES

ROUTE TO: OFFICE/AGENCY (STAFF NAME)	ACTION: ACT CODE	ACTION: DATE YY/MM/DD	DISPOSITION: TYPE RESP	DISPOSITION: C D	DISPOSITION: COMPLETED YY/MM/DD
HOWARD PASTER	ORG	93/03/26	NAN	C	93/4/7
REFERRAL NOTE:					
		_/_/_			_/_/_
REFERRAL NOTE:					
NSC - William Itoh	A	93/04/09			_/_/_
REFERRAL NOTE:					
		_/_/_			_/_/_
REFERRAL NOTE:					
		_/_/_			_/_/_
REFERRAL NOTE:					

CU

COMMENTS:

ADDITIONAL CORRESPONDENTS: MEDIA:L INDIVIDUAL CODES: 1240

__ MAIL USER CODES: (A)R RI (B)__________ (C)__________

ACTION CODES:	DISPOSITION	OUTGOING CORRESPONDENCE:
A-APPROPRIATE ACTION	A-ANSWERED	TYPE RESP=INITIALS OF SIGNER CODE = A
C-COMMENT/RECOM	B-NON-SPEC-REFERRAL	COMPLETED = DATE OF OUTGOING
D-DRAFT RESPONSE	C-COMPLETED	
F-FURNISH FACT SHEET	S-SUSPENDED	
I-INFO COPY/NO ACT NEC		
R-DIRECT REPLY W/COPY		
S-FOR-SIGNATURE		
X-INTERIM REPLY		

REFER QUESTIONS AND ROUTING UPDATES TO CENTRAL REFERENCE (ROOM 75,OEOB) EXT-2590
KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO RECORDS MANAGEMENT.

SCANNED

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

April 19, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL RGB

FROM: KEITH HAHN KH

SUBJECT: Transportation Draft Bill, Marine Safety Act of 1993

The draft Marine Safety Act of 1993 submitted by Transportation contains six marine safety related titles. These titles are meant either to save resources or to allow the Coast Guard to focus its resources more effectively.

By no longer inspecting unmanned seagoing barges not carrying hazardous materials as cargo, the Coast Guard can cut back three full-time employees. By shifting the maintenance of certificates of discharge and articles for seamen to shipping companies, the Coaster Guard could initially save the approximately $128,000. The clarification of the definitions of passenger and passenger vessels will enhance the enforcement of passenger safety laws. Increased maximum civil penalties for documentation violations and enhanced seizure authority will provide savings, but would improve the Coast Guard's ability to enforce documentation laws. Finally, transferring civil penalty assessment authority for violations of the Outer Continental Shelf Lands Act should improve the enforcement of safety regulations.

One title will require additional resources -- the requirement that fishing industry vessels operators be licensed. Initially, three additional people will be needed to approve training courses and an additional 18 people will be needed to issue licenses. The Coast Guard contends that the approximately $1 million annual cost-will be offset by improved safety, thus requiring fewer search and rescue cases.

Concurrence by: Jeremy Rosner

RECOMMENDATION

That you sign the memorandum at Tab I concurring in the draft bill.

Attachments
Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR JAMES J. JUKES

FROM: WILLIAM H. ITOH

SUBJECT: Transportation Draft Bill, Marine Safety Act of 1993

The National Security Council staff concurs in the draft Transportation bill.

2548

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

April 15, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #D-149
DRAFT #237

TO: Legislative Liaison Officer -

DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325
INTERIOR - Ralph Hill - (202)208-6706 - 329
JUSTICE - Faith Burton - (202)514-2141 - 217
STATE - Matt Winslow - (202)647-4463 - 225
TREASURY - Richard S. Carro - (202)622-1146 - 228
EPA - Thomas C. Roberts - (202)260-5414 - 326
GSA - William R. Ratchford - (202)501-0563 - 237
NEC - Elizabeth Lindemuth - (202)456-6630 - 429
NSC - William H. Itoh - (202)395-3723 - 249
COMMERCE - Michael A. Levitt - (202)482-3086 - 324
CEA - Francine Obermiller - (202)395-5036 - 242

FROM: JAMES J. JUKES (for)
Assistant Director for Legislative Reference

OMB CONTACT: Jeffrey WEINBERG (395-3457)
Secretary's line (for simple responses): 395-3454

SUBJECT: TRANSPORTATION Draft Bill Marine Safety Act of 1993

DEADLINE: NOON April 19, 1993

COMMENTS: The Department of Transportation has requested expedited clearance so that the bill will be ready before a hearing on April 21st.

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
Ken Schwartz
Roger Adkins
Chris Bertram
Meg DiBari
Bruce Beard
Ed Clarke
Bill McQuaid
Bob Damus
Carol Rasco

LRM #D-149

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is **simple** (e.g., concur/no comment) we prefer that you respond by **faxing** us this response sheet. If the response is **simple** and you prefer to call, please **call the branch-wide line** shown below (NOT the analyst's line) to leave a message with a secretary.

You may **also respond** by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please **include** the LRM number shown above, and the **subject** shown below.

TO: Jeffrey WEINBERG
Office of Management and Budget
Fax Number: (202) 395-3109
Analyst/Attorney's Direct Number: (202) 395-3457
Branch-Wide Line (to reach secretary): (202) 395-3454

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

SUBJECT: TRANSPORTATION Draft Bill Marine Safety Act of 1993

The following is the response of our agency to your request for views on the above-captioned subject:

_______ Concur

_______ No objection

_______ No comment

_______ See proposed edits on pages _______________

_______ Other: _______________________________

_______ FAX RETURN of _____ pages, attached to this response sheet

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

The Honorable Al Gore
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

This letter transmits proposed legislation

"To revise, clarify, and improve certain marine safety laws of the United States, and for other purposes."

This legislative proposal, entitled the "Marine Safety Act of 1993," is a collection of six marine safety related titles which, when enacted, will improve the Coast Guard's ability to oversee its marine safety program.

Title I of this proposal amends the definitions of passenger, passenger vessel, small passenger vessel, and uninspected passenger vessel in 46 U.S.C. 2101. In addition, it brings charters, including demise/bareboat charters, under the passenger vessel safety laws when there are more than twelve passengers on board the vessel. Under current law, a demise/bareboat charter may have an unlimited number of passengers on board and still not be considered a passenger vessel. This has created safety and enforcement problems that the Department intends to correct by this title.

Title II of this proposal increases the maximum civil penalty for violations of U.S. documentation laws from $500 to $25,000. It also adds seizure authority when the master of a documented vessel is not a citizen. Finally, it reorganizes the seizure provisions in chapter 121 of title 46 U.S. Code, to combine all the violations of chapter 121 for which seizure and forfeiture are currently authorized into section 12122, the penalty section for that chapter.

Title III of this proposal exempts unmanned seagoing barges that do not carry hazardous materials from the inspection requirements in chapter 33 of title 46 U.S. Code. Virtually all seagoing barges are surveyed for load lines as provided in chapter 51 of title 46 U.S. Code. We consider this survey to be a sufficient safety check for these unmanned seagoing barges.

Title IV of this proposal deletes all references to "shipping commissioners" in title 46, U.S. Code, and requires shipping companies to maintain shipping agreements and other seamen's records. At present, the Coast Guard maintains these records. We suggest this change because there have been no shipping commissioners for over 15 years. Fiscal year 1978 appropriations specifically directed that no funds be expended to carry out shipping commissioner duties, and funds have not been reinstated since.

Title V of this proposal requires that the operators of documented commercial fishing industry vessels (i.e., fishing, fish processing, and fish tender vessels) be licensed. Under current law, only inspected fishing industry vessels and vessels at least 200 gross tons operating on the high seas are required to have licensed operators. This title will add fishing industry vessels under 200 gross tons operating on any waters, and fishing industry vessels at least 200 gross tons operating only on internal waters, to the category of vessels that are required to have a licensed operator. (The Officer's Competency Certificates Convention of 1936 already requires documented fishing industry vessels operating on the high seas (seaward of the Boundary Line) of at least 200 gross tons to be operated by a licensed individual.) Commercial fishing is an extremely dangerous endeavor, and we consider the skill of the vessel operator to be a primary factor in improving the current safety record. On the average, nearly 100 lives and 250 vessels are lost annually in the commercial fishing industry. Over 50,000 additional individuals will be required to be licensed. To minimize the burden on them, as well as on the Coast Guard's licensing resources, the Department will authorize the license applicants to be certified by private training institutions. Eligibility for a license will depend upon meeting existing statutory requirements such as experience, citizenship, and health, and on the applicant making the information on him or her in the National Driver Register available and being tested for dangerous drugs. Once the applicant has received certification, the Coast Guard will issue the license.

Title VI of this proposal transfers the authority to assess civil penalties for violations of Coast Guard issued regulations under the Outer Continental Shelf Lands Act (OCSLA) from the Department of the Interior to the department in which the Coast Guard is operating. It also removes the requirement that a reasonable period to correct deficiencies be provided before a civil penalty may be assessed for violations of regulations.

Enactment of some of these titles will save resources while others will allow the Coast Guard to focus its resources more effectively, but without measurable savings. For example, by no longer inspecting unmanned seagoing barges not carrying hazardous materials as cargo, the Coast Guard will save approximately the equivalent of three full-time employees per year. In addition, and by shifting the maintenance of certificates of discharge and articles for seamen to shipping companies, the Coast Guard will initially save the annual expense of 6 contract employees, or approximately $128,000; however, the Coast Guard will have to maintain and provide information on existing certificates and articles for 60 years. The clarification of the definitions of passenger and passenger vessels will enhance the enforcement of passenger safety laws. Increased maximum civil penalties for documentation violations and enhanced seizure authority will not affect resources but, in the long term, should improve the Coast Guard's ability to enforce documentation laws and thereby provide support for legitimate United States vessels. In like manner, transferring civil penalty assessment authority for violations of OCSLA to the Coast Guard should improve the enforcement of safety regulations on the Outer Continental Shelf facilities, but will have no measurable resource implications.

Title V of this proposal, which requires fishing industry vessel operators to be licensed, will require additional resources in the Coast Guard's merchant vessel personnel licensing program. Initially, three additional personnel to approve training courses and 18 additional licensing officials to issue the approximately 50,000 licenses will be needed, at an annual cost of approximately $1 million. Future annual recurring resource needs would be similar, but the improved safety will lead to savings. The Coast Guard expends significant federal funds annually responding to search and rescue (SAR) cases involving commercial fishing industry vessels. Compared to recreational vessels, fishing industry SAR cases tend to be more serious in nature, require more resources, and require more than twice the time to complete.

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.

I recommend that the proposed legislation be enacted by Congress.

Sincerely,

Federico Peña

3 Enclosures
Draft Bill
Comparative Type
Section by Section Analysis

A BILL

To revise, clarify, and improve certain marine safety laws of the United States, and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Marine Safety Act of 1993."

TITLE I. -- PASSENGER DEFINITIONS

SECTION 101. Section 2101(21) of title 46, U.S. Code, is amended to read as follows:

"(21) 'passenger'-

(A) means an individual carried on the vessel except-

(i) the owner or representative of the owner or, in the case of a charter, the charterer or representative of the charterer;

(ii) the master; or

(iii) a member of the crew engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for on board services.

(B) on an offshore supply vessel, means an individual carried on the vessel except-

(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

(ii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

(iii) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

(iv) an individual employed in a phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel.

(C) on a fishing vessel, fish processing vessel, or fish tender vessel, means an individual carried on the vessel except-

(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

(ii) a managing operator;

(iii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner; or

(iv) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer.

(D) on a sailing school vessel, means an individual carried on the vessel except-

(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

(ii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

(iii) an employee of the demise charterer of the vessel engaged in the business of the demise charterer; or

(iv) a sailing school instructor or sailing school student."

SEC.102. Section 2101(22) of title 46, U.S. Code, is amended to read as follows:

"(22) 'passenger vessel' means a vessel of at least 100 gross tons-

(A) carrying at least one passenger for hire;

(B) which is a charter with the crew provided or specified by the owner or the owner's representative and carrying at least one passenger; or

(C) which is a charter with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers."

SEC.103. Section 2101(35) of title 46, U.S. Code, is amended to read as follows:

"(35) 'small passenger vessel' means a vessel of less than 100 gross tons-

(A) carrying more than six passengers, including at least one passenger for hire;

(B) which is a charter with the crew provided or specified by the owner or the owner's representative and carrying more than six passengers;

(C) which is a charter with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers; or

(D) which is a submersible vessel carrying at least one passenger for hire."

SEC.104. Section 2101(42) of title 46, U.S. Code, is amended by inserting ", including at least one passenger for hire, or which is a charter with the crew provided or specified by the owner or the owner's representative and carrying not more than six passengers" immediately after "passengers" and before the period at the end.

SEC.105. Section 2101 of title 46, U.S. Code, is amended by inserting between paragraphs (21) and (22) a new paragraph (21a) to read as follows:

"(21a) 'passenger for hire' means a passenger for whom consideration is contributed, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel, as a condition of carriage on the vessel.".

SEC.106. Section 2101 of title 46, U.S. Code, is amended by inserting between paragraphs (5) and (6) a new paragraph (5a) to read as follows:

"(5a) 'consideration' means an economic benefit, inducement, right, or profit including but not limited to pecuniary payment accruing to an individual, person, or entity, but not including a voluntary donation of food, beverage, or other item which is of a nominal value considering the circumstances.".

SEC.107. Section 2101(19) of title 46, U.S. Code, is amended by inserting "individuals in addition to the crew," immediately after "supplies," and by striking everything after "resources" to the period at the end.

SEC.108. Section 2101(30) of title 46, U.S. Code, is amended in subparagraph (B) by striking "at least 6" and substituting "more than 6" in its place.

SEC.109. Section 2101 of title 46, U.S. Code, is amended by inserting between paragraphs (37) and (38) a new paragraph (37a) to read as follows:

"(37a) 'submersible vessel' means a vessel which is capable of operating below the surface of the water.".

TITLE II. --PENALTIES FOR DOCUMENTATION LAW VIOLATIONS

SEC.201. Section 12110(c) of title 46, U.S. Code, is amended to read as follows:

"A vessel with only a recreational endorsement may not be operated other than for pleasure."

SEC.202.

(a) Section 12122(a) of title 46, U.S. Code, is amended by striking "$500" and substituting in its place, "$25,000."

(b) Section 12122(b) of title 46, U.S. Code, is amended to read as follows:

"(b) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government-

(1) when the owner of a vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or makes a false statement or representation about the documentation or when applying for documentation of the vessel;

(2) when a certificate of documentation is knowingly and fraudulently used for a vessel;

(3) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

(4) when a vessel is employed in a trade without an appropriate trade endorsement;

(5) when a documented vessel with only a recreational endorsement is operated other than for pleasure; or

(6) when a documented vessel is placed under the command of a person not a citizen of the United States.".

(c) Section 12122(c) of title 46, U.S. Code, is repealed.

TITLE III -- UNMANNED SEAGOING BARGES

SEC.301. Section 3302 of title 46, U.S. Code, is amended by adding a new subsection (m) to read as follows:

"(m) A seagoing barge that is unmanned and does not carry hazardous materials as cargo, nor flammable or combustible liquid, including oil, in bulk, is not subject to inspection under section 3301(6) of this title.".

TITLE IV. -- SEAMAN'S EMPLOYMENT AND DISCHARGE

SEC. 401. Section 10301 of title 46, U.S. Code is amended to read as follows:

"§ 10301. Application

"(a) Except as otherwise provided, this chapter applies to a vessel of the United States of 100 gross tons or greater, except --

"(1) a vessel on which the seamen are entitled by custom or agreement to share in the profit or result of the voyage;

"(2) a recreational vessel;

"(3) a vessel operated exclusively on the navigable waters of the United States;

"(4) a vessel operated on the Great Lakes, except a vessel on an international voyage;

"(5) a public vessel of the United States, unless the vessel holds a certificate of inspection issued by the Secretary;

"(6) a vessel making a voyage between a port and a port in the same state or an adjoining state; or

"(7) a vessel that is laid up and not in operation.

"(b) Sections 10313, 10314, 10315, and 10316 of this title apply to a foreign vessel when the vessel is at a place subject to the jurisdiction of the United States.".

SEC.402. Section 10302 is amended -

(a) by amending subsection (a) to read as follows:

"(a) The owner, charterer, managing operator, master, or individual in charge shall make a shipping agreement in writing with each seaman before the seaman commences employment.".

(b) by adding new subsections (c) and (d) to read as follows:

"(c) Each shipping agreement must be signed by the master or individual in charge or a representative of the owner, charterer, or managing operator and each seaman employed.

"(d) The owner, charterer, managing operator, master, or individual in charge shall maintain the shipping agreement and make the shipping agreement available to the seaman.".

SEC.403. Section 10303 is amended by striking subsection (c).

SEC.404. Sections 10304 and 10305 are repealed.

SEC.405. Section 10306 is amended by striking "shipping commissioner" and substituting "master or individual in charge" in its place.

SEC.406. Section 10307 is amended by striking the last sentence.

SEC.407. Section 10308 is amended by striking the designation "(a)" and by striking subsection (b).

SEC.408. Section 10309 is amended by striking the designation "(a)" and by striking subsections (b) and (c).

SEC.409. Section 10310 is amended by striking "or a shipping commissioner" from the first sentence and by striking the last sentence.

SEC.410. Section 10311 is amended -

(a) in subsection (a), by striking "shipping commissioner" and substituting "master or individual in charge";

(b) in subsection (b), by striking the last sentence and substituting "The certificate shall be signed by the master and the seaman.";

(c) in subsection (d)(1), by striking "Secretary" and substituting "owner, charterer, managing operator, master, or individual in charge";

(d) in subsection (d)(2), by striking "at a cost prescribed by regulation" and inserting "at the request of the seaman"; and

(e) by striking subsection (e).

SEC.411. Section 10312 is amended to read as follows:

"Sec. 10312. Settlements on discharge

"When discharge and settlement are completed, the master or owner and each seaman shall sign the agreement required by section 10302 of this title.".

SEC.412. Section 10313 is amended-

(a) in subsection (b), by striking the last sentence;

(b) in subsection (e), by striking the last two sentences; and

(c) by striking subsections (h) and (i).

SEC.413. Section 10314 is amended -

(a) in subsection (a)(2), by striking the first sentence;

(b) by revising subsection (b) to read as follows:

"(b) No person may demand or receive remuneration from a seaman or individual seeking employment as a seaman for providing the seaman or individual with employment."; and

(c) by striking subsections (c) and (e).

SEC.414. Section 10315 is amended -

(a) in subsection (b), by striking the first two sentences and substituting "An allotment is valid only if made in writing.";

(b) in subsection (c), by striking the last sentence and substituting "No person may falsely claim qualification as an allottee under this section."; and

(c) by striking subsection (e).

SEC.415. Section 10320 is amended to read as follows:

"The Secretary shall prescribe regulations requiring shipping companies to maintain records of seamen on matters of engagement, discharge, and service. The shipping companies shall make these records available to the seaman and the Coast Guard on request.".

SEC.416. Section 10321 is amended to read as follows:

"(a) A person violating any provision of this chapter or a regulation issued under this chapter is liable to the United States Government for a civil penalty of not more than $5,000.".

"(b) The vessel is liable in rem for any penalty assessed under this section.".

SEC.417. The analysis to Chapter 103 is amended as follows:

(a) The catchline to Chapter 103 is amended to read "SEAMEN'S EMPLOYMENT AND DISCHARGE".

(b) The catchline to sec. 10304. is amended to read "10304. Repealed.".

(c) The catchline to sec. 10305. is amended to read "10305. Repealed.".

SEC.418. Chapter 105 is repealed.

SEC.419. The analysis to subtitle II of title 46, U.S. Code, is amended at PART G as follows:

(a) The catchline to chapter 103 is amended to read "103. Seamen's employment and discharge.".

(b) The catchline to chapter 105 is amended to read "105. Repealed.".

SEC.420. Chapter 106 is amended by-

(a) adding a new section at the end to read as follows:

"Sec.10604. Penalties

"(a) A person violating any provision of this chapter or a regulation issued under this chapter is liable to the United States Government for a civil penalty of not more than $5,000.

"(b) The vessel is liable in rem for any penalty assessed under this section.";

(b) adding at the end of the analysis to Chapter 106 the following:

"10604. Penalties.".

SEC.421. Section 2113 is amended by striking "part B or F of this subtitle" and substituting "part B, F, or G of this subtitle.".

SEC.422.

(a) Section 10102 is repealed.

(b) The analysis to chapter 101 is amended at the catchline to sec. 10102 to read "10102. Repealed.".

SEC.423. Section 10103(a) is amended by striking "without a shipping commissioner being present" and after "shall submit reports" by inserting "to the shipping company".

SEC.424. Section 10701(a)(1) is amended by striking "(except a port in Canada, Mexico, and the West Indies)".

SEC.425.

(a) Section 10703(a) is amended by striking "by regulations prescribed by the Secretary" and substituting "in section 10706 of this title.".

(b) Section 10703(b) is amended by striking "as prescribed by regulations" and substituting "to a district court of the United States.".

(c) Section 10703(c) is amended by striking "subsection (a) of this section" and substituting "section 10706 of this title.".

SEC.426. Section 10706 is amended by striking at the end "as provided by regulations prescribed by the Secretary" and inserting "to a district court within one week of the seaman's death. If the seaman's death occurs at sea, such money, property, or wages shall be delivered to a district court or a consular officer within one week of the vessel's arrival at the first port call after the seaman's death.".

SEC.427.

(a) Section 10707 is repealed.

(b) In the analysis to chapter 107, amend the catchline to section 10707 to read "10707. Repealed.".

SEC.428.

(a) Section 11505(a) is amended by striking the last sentence and substituting "The balance shall be transferred to the appropriate district court of the United States when the voyage is completed.".

(b) Section 11505(b) is amended by striking the first sentence.

SEC.429. Conforming Amendments

(a) In section 10702(b) strike "a shipping commissioner" and insert "the consular officer or court clerk.".

(b) In section 10902(b) --

(1) insert "Secretary," following the words "The complaint may be made to the" in paragraph (1);

(2) strike "Coast Guard shipping commissioner," in paragraph (1); and

(3) strike "The officer, commissioner," and insert "The Secretary, officer," in paragraph (2) and (3).

TITLE V. -- FISHING INDUSTRY VESSEL SAFETY

SEC.501. Chapter 89 of title 46, U.S. Code, is amended by adding a new section 8904a to read as follows:

"8904a. Uninspected fishing industry vessels

A documented uninspected fishing vessel, fish processing vessel, or fish tender vessel shall be operated by an individual licensed by the Secretary to operate that type of vessel under prescribed regulations.".

SEC.502. The analysis for chapter 89 of title 46, U.S. Code, is amended by inserting after the catchline for "8904. Towing vessels." the following new item:

"8904a. Uninspected fishing industry vessels.".

SEC.503. Section 4508(e)(1) of title 46, U.S. Code is amended by striking "1994." and inserting in its place "1999.".

TITLE VI. -- OUTER CONTINENTAL SHELF CIVIL PENALTIES

SEC.601. Section 24(b) of the Outer Continental Shelf Lands Act, as added by section 208 of the Outer Continental Shelf Lands Act Amendments of 1978, Pub.L. 95-372 (located at 43 U.S.C. 1350(b)), and as amended by section 8201 of the Oil Pollution Act of 1990, Pub.L. 101-380, is further amended-

(a) In paragraph (1) by deleting "paragraph (2)," and substituting "paragraphs (2) and (3),";

(b) By adding a new paragraph (3) to read as follows:

"(3)(A) If a person fails to comply with or violates a regulation issued under this Act by the Secretary of the department in which the Coast Guard is operating, that person is liable, without regard to the requirement of the expiration of a period allowed for corrective action, to the United States Government for a civil penalty of not more than the amount provided in paragraph (1) for each day of the continuance of that failure or violation.

"(B) The Secretary of the department in which the Coast Guard is operating is authorized to assess the amount of the civil penalty for which a person is liable for failure to comply with or for violating a regulation issued under this Act by the Secretary of the department in which the Coast Guard is operating. The assessment of the civil penalty shall be by written notice and after an opportunity for a hearing.

"(C) In determining the amount of the penalty, the Secretary of the department in which the Coast Guard is operating shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

"(D) The Secretary of the department in which the Coast Guard is operating may compromise, modify, or remit, with or without consideration, a civil penalty under this Act until referring the assessment to the Attorney General.

"(E) If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary of the department in which the Coast Guard is operating may refer the matter to the Attorney General for collection in an appropriate district court of the United States.".

COMPARATIVE TYPE

(Deleted language is in brackets; new language is underlined.)

Title 46, United States Code

§ 2101. General definitions

In this subtitle-

*****
<u>(5a) "consideration" means an economic benefit, inducement, right, or profit including but not limited to pecuniary payment accruing to an individual, person, or entity, but not including a voluntary donation of food, beverage, or other item which is of a nominal value considering the circumstances.</u>

*****
(19) "offshore supply vessel" means a motor vessel of more than 15 gross tons but less than 500 gross tons that regularly carries goods, supplies, <u>individuals in addition to the crew,</u> or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources [and is not a small passenger vessel].

*****

[(21) "passenger"-

(A) on a passenger vessel, means an individual carried on the vessel except-
(i) the master; or
(ii) a crewmember or other individual engaged in the business of the vessel who has not contributed consideration for carriage on board the vessel.

(B) on a small passenger vessel means an individual carried on the vessel except-
(i) the owner or representative of the owner;
(ii) the master or crewmember engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for services;
(iii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;
(iv) an employee of the demise charterer of the vessel engaged in the business of the demise charterer;
(v) a guest on board a vessel being operated only for pleasure who has not contributed consideration for carriage on board; or
(vi) an individual on board a towing vessel of at least 50 gross tons who has not contributed consideration for carriage on board.

(C) on an offshore supply vessel, means an individual carried on the vessel except-

(i) the owner;

(ii) a representative of the owner;

(iii) the master;

(iv) a crewmember engaged in the business of the vessel who has not contributed consideration for carriage on board and who is paid for services on board;

(v) an employee of the owner, or of a subcontractor to the owner engaged in the business of the owner;

(vi) a charterer of the vessel;

(vii) a person with the same relationship to a charterer as a person in subclause (ii) or (v) of the subclause has to an owner;

(viii) a person employed in a phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel; or

(ix) a guest who has not contributed consideration for carriage on board.

(D) on an uninspected passenger vessel, means an individual carried on the vessel except-

(i) the owner or representative of the owner;

(ii) the managing operator;

(iii) a crewmember engaged in the business of the vessel who has not contributed consideration for carriage on board and who is paid for services on board; or

(iv) a guest on board a vessel that is being operated only for pleasure who has not contributed consideration for carriage on board.

(E) on a fishing, fish processing, or fish tender vessel, means an individual transported on the vessel except-

(i) the owner;

(ii) a representative of the owner;

(iii) the managing operator;

(iv) the master;

(v) a crewmember engaged in the business of the vessel who has not contributed consideration for transportation on board and who is paid for services on board;

(vi) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

(vii) a charterer of the vessel;

(viii) a person with the same relationship to a charterer as a person in subclause (ii) or (vi) of this subclause has to an owner; or

(ix) a guest who has not contributed consideration for transportation on board.

(F) on a sailing school vessel, means an individual carried on the vessel except-

(i) the owner or representatives of the owner;
(ii) the master or a crewmember engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for services;
(iii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;
(iv) an employee of the demise charterer of the vessel engaged in the business of the demise charterer;
(v) a guest on board the vessel who has not contributed consideration for carriage on board; or
(vi) a sailing school instructor or sailing school student.]

<u>(21) "passenger"-</u>

<u>(A) means an individual carried on the vessel except-</u>
<u>(i) the owner or representative of the owner or, in the case of a charter, the charterer or representative of the charterer;</u>
<u>(ii) the master; or</u>
<u>(iii) a member of the crew engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for on board services.</u>

<u>(B) on an offshore supply vessel, means an individual carried on the vessel except-</u>
<u>(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;</u>
<u>(ii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;</u>
<u>(iii) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or</u>
<u>(iv) an individual employed in a phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel.</u>

<u>(C) on a fishing vessel, fish processing vessel, or fish tender vessel, means an individual carried on the vessel except-</u>
<u>(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;</u>
<u>(ii) a managing operator;</u>
<u>(iii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner; or</u>
<u>(iv) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer.</u>

<u>(D) on a sailing school vessel, means an individual carried on the vessel except-</u>

<u>(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;</u>

<u>(ii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;</u>

<u>(iii) an employee of the demise charterer of the vessel engaged in the business of the demise charterer; or</u>

<u>(iv) a sailing school instructor or sailing school student.</u>

<u>(21a) "passenger for hire" means a passenger for whom consideration is contributed, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel, as a condition of carriage on the vessel.</u>

[(22) "passenger vessel" means a vessel of at least 100 gross tons carrying at least one passenger for hire.]

<u>(22) "passenger vessel" means a vessel of at least 100 gross tons-</u>

<u>(A) carrying at least one passenger for hire;</u>

<u>(B) which is a charter with the crew provided or specified by the owner or the owner's representative and carrying at least one passenger; or</u>

<u>(C) which is a charter with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers.</u>

*****

(30) "sailing school vessel" means a vessel-

(A) that is less than 500 gross tons;

(B) carrying [at least] <u>more than</u> 6 individuals who are sailing school instructors or sailing school students;

(C) principally equipped for propulsion by sail, even if the vessel has an auxiliary means of propulsion; and

(D) owned or demise chartered, and operated by an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of that Code, or by a State or political subdivision of a State, during times that the vessel is operated by the organization, State, or political subdivision only for sailing instruction.

*****

[(35) "small passenger vessel" means a vessel of less than 100 gross tons carrying more than 6 passengers (as defined in clause (21)(B) and (C) of this section).]

(35) "small passenger vessel" means a vessel of less than 100 gross tons-

(A) carrying more than 6 passengers, including at least one passenger for hire;

(B) which is a charter with the crew provided or specified by the owner or the owner's representative and carrying more than 6 passengers;

(C) which is a charter with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers; or

(D) which is a submersible vessel carrying at least one passenger for hire.

*****

(37a) "submersible vessel" means a vessel which is capable of operating below the surface of the water.

*****

(42) "uninspected passenger vessel" means an uninspected vessel carrying not more than 6 passengers, including at least one passenger for hire, or which is a charter with the crew provided or specified by the owner or the owner's representative and carrying not more than six passengers.

***

§ 2113. Authority to exempt certain vessels

If the Secretary decides that the application of a provision of [part B or F of this subtitle] part B, F,or G of the subtitle is not necessary in performing the mission of a vessel engaged in excursions or an oceanographic research vessel, the Secretary by regulation may --

(1) for an excursion vessel, issue a special permit specifying the conditions of operation and equipment; and

(2) exempt the oceanographic research vessel from that provision under conditions the Secretary may specify.

§ 3302. Exemptions

***

(m) A seagoing barge that is unmanned and does not carry hazardous materials as cargo, nor flammable or combustible liquid, including oil, in bulk, is not subject to inspection under section 3301(6) of this title.

§4508. Commercial Fishing Industry Vessel Advisory Committee

***

(e)(1) The Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) applies to the Committee, except that the Committee terminates on September 30, [1994] 1999.

***

§8904a. Uninspected fishing industry vessels

A documented uninspected fishing vessel, fish processing vessel, or fish tender vessel shall be operated by an individual licensed by the Secretary to operate that type of vessel under prescribed regulations.

[§ 10102. Designations and duties of shipping commissioners

(a) The Secretary shall designate officers, employees, and members of the Coast Guard to act as shipping commissioners under this part. The Secretary may designate officers and employees of the Customs Service as shipping commissioners.

(b) The general duties of shipping commissioners are to supervise the engagement and discharge of seamen.

(c) The owner, charterer, managing operator, agent, or master of the vessel shall perform the duties of shipping commissioner when a shipping commissioner is not available.]

§ 10103. Reports

(a) A master of a vessel to which section 8701(a) of this title applies, who engages or discharges a seaman [without a shipping commissioner being present], shall submit reports <u>to the shipping company</u> in the form, content, and manner of filing as prescribed by regulation, to ensure compliance with laws related to manning and the engagement and discharge of seamen.

(b) This section does not apply to a ferry or towing vessel operated in connection with a ferry operation, employed only in trades other than with foreign ports, lakes, bays, sounds, bayous, canals, or harbors.

§ 10301. Application

[(a) Except as otherwise specifically provided, this chapter applies to a vessel of the United States --

(1) on a voyage between a port in the United States and a port in a foreign country (except a port in Canada, Mexico, or the West Indies); or

(2) of at least 75 gross tons on a voyage between a port of the United States on the Atlantic Ocean and a port of the United States on the Pacific Ocean.

(b) This chapter does not apply to a vessel on which the seamen are entitled by custom or agreement to share in the profit or result of a voyage.

(c) Unless otherwise provided, this chapter does not apply to a foreign vessel.]

<u>(a) Except as otherwise provided, this chapter applies to a vessel of the United States of 100 gross tons or greater, except --</u>

<u>(1) a vessel on which the seamen are entitled by custom or agreement to share in the profit or result of the voyage;</u>

<u>(2) a recreational vessel;</u>

<u>(3) a vessel operated exclusively on the navigable waters of the United States;</u>

<u>(4) a vessel operated on the Great Lakes, except a vessel on an international voyage;</u>

<u>(5) a public vessel of the United States, unless the vessel holds a certificate of inspection issued by the Secretary;</u>

(6) a vessel making a voyage between a port and a port in the same state or an adjoining state; or

(7) a vessel that is laid up and not in operation.

(b) Sections 10313, 10314, 10315, and 10316 of this title apply to a foreign vessel when the vessel is at a place subject to the jurisdiction of the United States.

§ 10302. Shipping articles agreements

[(a) Before proceeding on a voyage, the master of a vessel to which this chapter applies shall make a shipping articles agreement in writing with each seaman in the crew.]

(a) The owner, charterer, managing operator, master, or individual in charge shall make a shipping agreement in writing with each seaman before the seaman commences employment.

(b) The agreement shall contain the following:

(1) The nature, and, as far as practicable, the duration of the intended voyage, and the port or country in which the voyage is to end.

(2) the number and description of the crew and the capacity in which each seaman is to be engaged.

(3) the time at which each seaman is to be on board to begin work.

(4) the amount of wages each seaman is to receive.

(5) regulations about conduct on board, and information on fines, short allowance of provisions, and other punishment for misconduct provided by law.

(6) a scale of the provisions that are to be provided each seaman.

(7) any stipulation in reference to advances and allotments of wages.

(8) other matters not contrary to law.

(c) Each shipping agreement must be signed by the master or individual in charge or a representative of the owner, charterer, or managing operator and each seaman employed.

(d) The owner, charterer, managing operator, master, or individual in charge shall maintain the shipping agreement and make the shipping agreement available to the seaman.

§ 10303. Provisions

(a) A seaman shall be served at least 3 meals a day that total at least 3,100 calories, including adequate water and adequate protein, vitamins, and minerals in accordance with the United States Recommended Daily Allowances.

(b) The text of subsection (a) of this section shall be included in the agreement required by section 10302 of this title. A copy of the text also shall be posted in a conspicuous place in the galley and forecastle of each vessel.

[(c) This section does not apply to a fishing or whaling vessel or a yacht.]

[§ 10304. Form of agreement

The form of agreement required by section of 10302 of this title shall be in substance as follows:

United States of America

(Date and place of first signature of agreement):

It is agreed between the master and seamen of the ______________, of which ____________________________ is at present master, or whoever shall go for master, now bound from the port of ________________ to __________________ (here the voyage is to be described, and the places named at which the vessel is to touch, or if that cannot be done, the general nature and probable length of the voyage is to be stated).

The seamen agree to conduct themselves in an orderly, faithful honest, and sober manner, and to be at all times diligent in their respective duties, and to be obedient to the lawful commands of the master, or of an individual who lawfully succeeds the master, and of their superior officers in everything related to the vessel, and the stores and cargo of the vessel, whether on board, in boats, or on shore. In consideration of this service by the seamen to be performed, the master agrees to pay the crew, as wages, the amounts beside their names respectively expressed, and to supply them with provisions according to the annexed scale.

It is agreed that any embezzlement, or willful or negligent destruction of any part of the vessel's cargo or stores, shall be made good to the owner out of the wages of the person guilty of the embezzlement or destruction.

If an individual holds himself or herself out as qualified for a duty which the individual proves incompetent to perform, the individual's wages shall be reduced in proportion to the incompetency.

It also is agreed that if a seaman considers himself or herself to be aggrieved by any breach of this agreement or otherwise, the seaman shall present the complaint to the master or officer in charge of the vessel, in a quiet and orderly manner, who shall take steps that the case requires.

It also is agreed that (here any other stipulations may be inserted to which the parties agree, and that are not contrary to law).

In witness whereof, the parties have subscribed their names to this agreement, on the dates beside their respective signatures.

Signed by ______________________________, master, on the ______________ day of ______________, nineteen hundred and ____.

Signature of seaman	Time of service:
Birthplace	Months
Age	Days
Height:	Hospital money
Feet	Whole wages
Inches	Wages due
Description:	Place and time of entry
Complexion	Time at which seamen is to be on board
Hair	In what capacity
Wages each month	Shipping commissioner's signature or initials
Wages each voyage	
Advance wages	Allotment payable to
Amount of monthly allotment	Conduct qualifications

Note. In the place for signature and descriptions of individuals engaged after the first departure of the vessel, the entries are to be made as above, except that the signature of the consul or vice consul, customs officer, or witness before whom the individual is engaged, is to entered.]

[§ 10305. Manner of signing agreement

(a) The agreement required by section 10302 of this title shall be signed --

(1) first by the master and dated at that time, after which each seaman shall sign; and

(2) in the presence of a shipping commissioner

(b) When the crew is first engaged, the agreement shall be signed in duplicate. One of the copies shall be retained by the shipping commissioner. The other copy shall contain space for the description and signatures of seamen engaged subsequent to the first making the agreement, and shall be delivered to the master.

(c) An agreement signed before a shipping commissioner shall be acknowledged and signed by the commissioner on the agreement in the manner and form prescribed by regulation. The acknowledgment and certification shall include a statement by the commissioner that the seaman --

(1) has read the agreements;

(2) is acquainted with and understands its conditions; and

(3) has signed it freely and voluntarily when sober.]

§ 10306. Exhibiting merchant mariners' documents

Before signing the agreement required by section 10302 of this title, each individual required by section 8701 of this title to have a merchant mariner's document shall exhibit to the [shipping commissioner] master or individual in charge a document issued to the individual, appropriately endorsed for the capacity in which the individual is to serve.

§ 10307. Posting agreements

At the beginning of a voyage, the master shall have a legible copy of the agreement required by section 10302 of this title, omitting signatures, exhibited in a part of the vessel accessible to the crew. [A master violating this section is liable to the United States Government for a civil penalty of $100.]

§ 10308. Foreign engagements

[(a)] When a seaman is engaged outside the United States, the agreement required by section 10302 of this title shall be signed in the presence of a consular officer. If a consular officer is not available at the port of engagement, the seaman may be engaged and the agreement shall be signed in the next port at which a consular officer is available.

[(b) A master engaging a seaman in violation of this section is liable to the United States Government for a civil penalty of $100. The vessel also is liable in rem for the penalty.]

§ 10309. Engaging seamen to replace those lost by desertion or casualty

[(a)] If a desertion or casualty results in the loss of at least one seaman, the master shall engage, if obtainable, a number equal to the number of seamen of whose services the master has been deprived. The new seaman must have at least the same grade or rating as the seaman whose place the new seaman fills. The master shall report the loss and replacement to a consular office at the first port at which the master arrives.

[(b) The master is liable to the United States Government for a civil penalty of $200 for each report not made. The vessel also is liable in rem for the penalty.]

[(c) This section does not apply to a fishing or whaling vessel or a yacht.]

§ 10310. Discharge

A master shall deliver to a seaman [or a shipping commissioner] a full and true account of the seaman's wages and all deductions at least 48 hours before paying off or discharging the seaman. [A master failing to deliver the account is liable to the United States Government for a civil penalty of $50.]

§ 10311. Certificates of discharge

(a) On discharging a seaman and paying the seaman's wages, the [shipping commissioner] <u>master or individual in charge</u> shall provide the seaman with a certificate of discharge. The form of the certificate shall be prescribed by regulation. It shall contain --

(1) the name of the seaman;

(2) the citizenship or nationality of the seaman;

(3) the number of the seaman's merchant mariner's document;

(4) the name and official number of the vessel;

(5) the nature of the voyage (foreign, intercoastal; or coastwise);

(6) the propulsion class of the vessel;

(7) the date and place of engagement;

(8) the date and place of discharge; and

(9) the seaman's capacity on the voyage.

(b) The certificate of discharge may not contain a reference about the character or ability of the seaman. [The certificate shall be signed by the master, the seaman, and the shipping commissioner as witness.] <u>The certificate shall be signed by the master and the seaman.</u>

(c) A certificate of discharge may not be issued if the seaman holds a continuous discharge book. The entries shall be made in the discharge book in the same manner as the entries required by subsection (a) of this section.

(d)(1) A record of each discharge shall be maintained by the [Secretary] <u>owner, charterer, managing operator, master, or individual in charge</u> in the manner and location prescribed by regulation. The records may not be open for general or public use or inspection.

(2) A duplicate of a record of discharge shall be issued to a seaman [at a cost prescribed by regulation] <u>at the request of the seaman</u>.

[(e) This section does not apply to a fishing or whaling vessel or a yacht.]

§ 10312. Settlements on discharge

[(a) When discharge and settlement are completed, the master or owner and each seaman shall sign the agreement required by section 10302 of this title in the presence of a shipping commissioner. The commissioner shall sign the agreement and retain a copy. When signed, it shall serve as a mutual release of all claims for wages for the voyage.

(b) In a dispute about wages or deductions, if the parties agree in writing to submit the dispute to a shipping commissioner, the award made by the commissioner is conclusive in any subsequent legal proceeding. A document signed and sealed by a shipping commissioner purporting to be the award is prima facie evidence of the award.

(c) In a proceeding before a shipping commissioner related to the wages, claims, or discharge or a seaman, the shipping commissioner may call on the owner, charterer, managing operator, agent, master, or a seaman to produce logbooks or other documents about a matter in question, and may summon before the commissioner and examine any person on the matter. An owner, charterer, managing operator, agent, master, or seaman failing on summons to produce a document in the possession or control of the owner, charterer, managing operator, agent, master or seaman, or to give evidence, without reasonable cause, is liable to the United States Government for a civil penalty of $100. On application of the shipping commissioner, the owner, charterer, managing operator, agent, master, or seaman may be punished by a district court of the United States as in other cases of contempt of court.

(d) On request, a certified copy of an agreement may be provided to a party to the agreement and is admissible in evidence with the effect of the original in a subsequent proceeding.

(e) When a seaman has been discharged before a shipping commissioner, only the agreement is evidence of the release or satisfaction of any claim.

(f) If a discharge is made under this section, the shipping commissioner, at the request of the master, shall provide the master with a signed statement of the total amount of wages paid. Between the master and the employer, the statement shall be received as evidence that the master has made the payments as stated.]

<u>When discharge and settlement are completed, the master or owner and each seaman shall sign the agreement required by section 10302 of this title.</u>

§ 10313. Wages

(a) A seaman's entitlement to wages and provisions begins when the seaman begins work or when specified in the agreement required by section 10302 of this title for the seaman to begin work or be present on board, whichever is earlier.

(b) Wages are not dependent on the earning of freight by the vessel. When the loss or wreck of the vessel ends the service of a seaman before the end of the period contemplated in the agreement, the seaman is entitled to wages for the period of time actually served. The seaman shall be deemed a destitute seaman under section 11104 of this title. [This subsection applies to a fishing or whaling vessel but not a yacht.]

(c) When a seaman who has signed an agreement is discharged improperly before the beginning of the voyage or before one month's wages are earned, without the seaman's consent and without the seaman's fault justifying discharge, the seaman is entitled to receive from the master or owner, in addition to wages earned, one month's wages as compensation.

(d) A seaman is not entitled to wages for a period during which the seaman --

(1) unlawfully failed to work when required, after the time fixed by the agreement for the seaman to begin work; or

(2) lawfully was imprisoned for an offense, unless a court hearing the case otherwise directs.

(e) After the beginning of the voyage, a seaman is entitled to receive from the master, on demand, one-half of the balance of wages earned and unpaid at each port at which the vessel loads or delivers cargo during the voyage. A demand may not be made before the expiration of 5 days from the beginning of the voyage, not more than once in 5 days, and not more that once in the same port on the same entry. If a master does not comply with this subsection, the seaman is released from the agreement and is entitled to payment of all wages earned. [Notwithstanding a release signed by a seaman under section 10312 of this title, a court having jurisdiction may set aside, for good cause shown, the release and take action that justice requires. This subsection does not apply to a fishing or whaling vessel or a yacht.]

(f) At the end of a voyage, the master shall pay each seaman the balance of wages due the seaman within 24 hours after the cargo has been discharged or within 4 days after the seaman is discharged, whichever is earlier. When a seaman is discharged and final payment of wages is delayed for the period permitted by this subsection, the seaman is entitled at the time of discharge to one-third of the wages due the seaman.

(g) When payment is not made as provided under subsection (f) of this section without sufficient cause, the master or owner shall pay to the seaman 2 days' wages for each day payment is delayed.

[(h) Subsections (f) and (g) of this section do not apply to a fishing or whaling vessel or a yacht.]

[(i) This section applies to a seaman on a foreign vessel when in a harbor of the United States. The courts are available to the seaman for the enforcement of this section.]

§ 10314. Advances

(a)(1) A person may not --

(A) pay a seaman wages in advance of the time when the seaman has earned the wages;

(B) pay advance wages of the seaman to another person; or

(C) make to another person an order, note, or other evidence of indebtedness of the wages, or pay another person, for the engagement of seamen when payment is deducted or to be deducted from the seaman's wage.

(2) [A person violating this subsection is liable to the United States Government for a civil penalty of not more than $500.] A payment made in violation of this subsection does not relieve the vessel or the master from the duty to pay all wages after they have been earned.

[(b) A person demanding or receiving from a seaman or an individual seeking employment as a seaman, remuneration for providing the seaman or individual with employment, is liable to the Government for a civil penalty of not more than $500.]

<u>(b) No person may demand or receive remuneration from a seaman or individual seeking employment as a seaman for providing the seaman or individual with employment.</u>

[(c) This section applies to a foreign vessel when in waters of the United States. An owner, charterer, managing operator, agent, or master of a foreign vessel violating this section is liable to the Government for the same penalty as an owner, charterer, managing operator, agent, or master of a vessel of the United States for the same violation.]

(d) The owner, charterer, managing operator, agent, or master of a vessel seeking clearance from a port of the United States shall present the agreement required by section 10302 of this title at the office of clearance. Clearance may be granted to a vessel only if this section has been complied with.

[(e) This section does not apply to a fishing or whaling vessel or a yacht.]

§ 10315. Allotments

(a) Under prescribed regulations, a seaman may stipulate as follows in the agreement required by section 10302 of this title for an allotment of any part of the wages the seaman may earn:

(1) to the seaman's grandparents, parents, spouse, sister, brother, or children;

(2) to an agency designated by the Secretary of the Treasury to handle applications for United States savings bonds, to purchase bonds for the seaman; and

(3) for deposits to be made in an account for savings or investment opened by the seaman and maintained in the seaman's name at a savings bank or a savings institution in which the accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(b) [An allotment is valid only if made in writing and signed and approved by a shipping commissioner. The shipping commissioner shall examine allotments and the parties to them to enforce compliance with the law.] <u>An allotment is valid only if made in writing.</u> Stipulations for allotments made at the beginning of a voyage shall be included in the agreement and shall state the amounts and times of payment and the person to whom payments are to be made.

(c) Only an allotment complying with this section is lawful. [A person falsely claiming qualification as an allottee under this section is liable to the United States Government for a civil penalty of not more than $500.] <u>No person may falsely claim qualification as an allottee under this section.</u>

(d) The owner, charterer, managing operator, agent, or master of a vessel seeking clearance from a port of the United States shall present the agreement at the office of clearance. Clearance may be granted to a vessel only if this section has been complied with.

[(e) This section applies to a foreign vessel when in waters of the United States. An owner, charterer, managing operator, agent, or master of a foreign vessel violating this section is liable to the Government for the same penalty as an owner, charterer, managing operator, agent, or master of a vessel of the United States for the same violation.]

§ 10316. **Trusts**

Sections 10314 and 10315 of this title do not prevent an employer from making deductions from the wages of a seaman, with the written consent of the seaman, if --

(1) the deductions are paid into a trust fund established only for the benefit of seamen employed by that employer, and the families and dependents of those seamen (or of those seamen, families, and dependents jointly with other seamen employed by other employers, and the families and dependents of the other seamen); and

(2) the payments are held in trust to provide, from principal or interest, or both, any of the following benefits for those seamen and their families and dependents:

(A) medical or hospital care, or both.

(B) pensions on retirement or death of the seaman.

(C) life insurance.

(D) unemployment benefits.

(E) compensation for illness or injuries resulting from occupational activity.

(F) sickness, accident, and disability compensation.

(G) purchasing insurance to provide any of the benefits specified in this section.

§ 10317. Loss of lien and right to wages.

A master or seaman by any agreement other than one provided for in this chapter may not forfeit the master's or seaman's lien on the vessel or be deprived of a remedy to which the master or seaman otherwise would be entitled for the recovery of wages. A stipulation in an agreement inconsistent with this chapter, or a stipulation by which a seaman consents to abandon a right to wages if the vessel is lost, or to abandon a right the seaman may have or obtain in the nature of salvage, is void.

§ 10318. Wages on discharge in foreign ports.

(a) When a master or seaman applies to a consular officer for the discharge of the seaman, the consular officer shall require the master to pay the seaman's wages if it appears the seaman has carried out the agreement required by section 10302 of this title or otherwise is entitled to be discharged. Then the consular officer shall discharge the seaman. A consular officer shall require the payment of extra wages only as provided in this section or in chapter 109 of this title.

(b) When discharging a seaman, a consular officer who fails to require the payment of the wages due a seaman at the time, and of the extra wages due under subsection (a) of this section, is accountable to the United States Government for the total amount.

(c) A seaman discharged under this section with the consent of the seaman is entitled to wages up to the time of discharge, but not for any additional period.

(d) If the seaman is discharged involuntarily, and it appears that the discharge was not because of neglect of duty, incompetency, or injury incurred on the vessel, the master shall provide the seaman with employment on a vessel agreed to by the seaman or shall provide the seaman with one month's extra wages.

(e) Expenses for the maintenance and return of an ill or injured seaman to the United States shall be paid by the Secretary of State. If a seaman is incapacitated by illness or injury and prompt discharge is necessary, but a personal appearance of the master before a consular officer is impracticable, the master may provide transportation to the seaman to the nearest consular office for discharge.

(f) A deduction from wages of the seaman is permitted only if the deduction appears in the account of the seaman required to be delivered under section 10310 of this title, except for matters arising after delivery of the account, in which case a supplementary account is required. During a voyage, the master shall record in the official logbook the matters about which deductions are to be made with the amounts of the deduction. The entries shall be made as the matters occur. The master shall produce the official logbook at the time of payment of wages, and also before a competent authority on the hearing of any complaint or question about the payment of wages.

§ 10319. Costs of a criminal conviction.

In a proceeding about a seaman's wages, if it is shown that the seaman was convicted during the voyage of an offense by a competent tribunal and sentenced by a tribunal, the court hearing the case may direct that part of the wages due the seaman, but not more than $15, be applied to reimburse the master for costs properly incurred in procuring the conviction and sentence.

§ 10320. Records of seamen

[The Secretary may prescribe regulations for reporting by a master of matters about the engagement, discharge, or service of seamen that may be needed in keeping central records of seamen.]

The Secretary shall prescribe regulations requiring shipping companies to maintain records of seamen on matters of engagement, discharge, and service. The shipping companies shall make these records available to the seaman and the Coast Guard on request.

§ 10321. General penalty

[The owner, charterer, managing operator, agent, or master of a vessel on which a seaman is carried in violation of this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of $200 for each seaman carried in violation. The vessel also is liable in rem for the penalty.]

(a) A person violating any provision of this chapter or a regulation issued under this chapter is liable to the United States Government for a civil penalty of not more than $5,000.

(b)The vessel is liable in rem for any penalty assessed under this section.

§ 10604. Penalties

(a) A person violating any provision of this chapter or a regulation issued under this chapter is liable to the United States Government for a civil penalty of not more than $5,000.

(b) The vessel is liable in rem for any penalty assessed under this section.

§ 10701. Application

(a) Except as otherwise specifically provided, this chapter applies to a vessel on a voyage between --

(1) a port of the United States and a port in a foreign country [(except a port in Canada, Mexico, and the West Indies)]; and

(2) a port of the United Sates on the Atlantic Ocean and a port of the United States on the Pacific Ocean.

(b) This chapter does not apply to a vessel on which the seaman by custom or agreement is entitled to share in the profit or result of a voyage.

(c) This chapter does not apply to a foreign vessel.

§ 10702. Duties of masters

(a) When a seaman dies during a voyage, the master shall take charge of the seaman's money and property. An entry shall be made in the official logbook, signed by the master, the chief mate, and an unlicensed crew member containing an inventory of the money and property and a statement of the wages due the seaman, with the total of the deductions to be made.

(b) On compliance with this chapter, the master shall obtain a written certificate of compliance from [a shipping commissioner] <u>the consular officer or court clerk</u>. Clearance may be granted to a foreign-bound vessel only when the certificate is received at the office of customs.

§ 10703. Procedures of masters

(a) If the vessel is proceeding to the United States when a seaman dies, the master shall deliver the seaman's money, property, and wages when the agreement required by this part is ended, as provided [by regulations prescribed by the Secretary] <u>in section 10706 of this title</u>.

(b) If the vessel touches at a foreign port after the death of the seaman, the master shall report to the first available consular officer. The consular officer may require the master to deliver to the officer the money, property, and wages of the seaman. The consular officer shall give the master a receipt for the matters delivered and certify on the agreement the particulars of the delivery. When the agreement ends, the master shall deliver the receipt [as prescribed by regulations] <u>to a district court of the United States</u>.

(c) If the consular officer does not require the master to deliver the seaman's money, property, and wages, the officer shall so certify on the agreement, and the master shall dispose of the money, property, and wages as provided under [subsection (a) of this section] <u>section 10706 of this title</u>.

(d) A deduction from the account of a deceased seaman is valid only if certified by a proper entry in the official logbook.

§ 10706. Seamen dying in the United States

When a seaman dies in the United States and is entitled at death to claim money, property, or wages from the master or owner of a vessel on which the seaman served, the master or owner shall deliver the money, property, and wages [as provided by regulations prescribed by the Secretary] <u>to a district court within one week of the seaman's death. If the seaman's death occurs at sea, such money, property, or wages shall be delivered to a district court or a consular officer within one week of the vessel's arrival at the first port call after the seaman's death</u>.

[§ 10707. Delivery to district court

The Secretary shall provide for the delivery to a district court of the United States of the money, property, and wages of a deceased seaman within one week from the date of receipt.]

§ 10902. Complaints of unfitness

(a)(1) If the chief and second mates or a majority of the crew of a vessel ready to begin a voyage discover, before the vessel leaves harbor, that the vessel is unfit as to crew, hull, equipment, tackle, machinery, apparel, furniture, provisions of food or water, or stores to proceed on the intended voyage and require the unfitness to be inquired into, the master immediately shall apply to the district court of the United States at the place at which the vessel is located, or, if no court is being held at a place at which the vessel is located, to a judge or justice of the peace, for the appointment of surveyors. At least 2 complaining seamen shall accompany the master to the judge or justice of the peace.

(2) A master failing to comply with this subsection is liable to the United States Government for a civil penalty of $500.

(b)(1) Any 3 seaman of a vessel may complain that the provisions of food or water for the crew are, at any time, of bad quality, unfit for use, or deficient in quantity. The complaint may be made to the <u>Secretary,</u> commanding officer of a United States naval vessel, consular officer, [Coast Guard shipping commissioner,] or chief official of the Customs Service.

(2) [The officer, commissioner,] <u>The Secretary, officer,</u> or official shall examine, or have examined, the provisions of food or water. If the provisions are found to be of bad quality, unfit for use, or deficient in quantity, the person making the findings shall certify to the master of the vessel which provisions are of bad quality, unfit for use, or deficient.

(3) [The officer, commissioner,] <u>The Secretary, officer,</u> or official to whom the complaint was made shall --

(A) make an entry in the official logbook of the vessel on the results of the examination; and

(B) submit a report on the examination to the district court of the United States at which the vessel is to arrive, with the report being admissible into evidence in any legal proceeding.

(4) The master is liable to the Government for a civil penalty of not more than $100 each time the master, on receiving the certification referred to in paragraph (2) of this subsection --

(A) does not provide other proper provisions of food or water, when available, in place of the provisions certified as of bad quality or unfit for use;

(B) does not obtain sufficient provisions when the certification includes a finding of a deficiency in quantity; or

(C) uses provisions certified to be of bad quality or unfit for use.

§ 11505. Disposal of forfeitures

(a) Money, propery, and wages forfeited under this chapter for desertion may be applied to compensate the owner or master of the vessel for expenses caused by the desertion. [The balance shall be transferred to the Secretary when the voyage is completed, as prescribed by the Secretary.] <u>The balance shall be transferred to the appropriate district court of the United States when the voyage is completed.</u>

(b) [Within one month of receiving the balance under subsection (a) of this section, the Secretary shall transfer the balance to the appropriate district court of the United States.] If it appears to the district court that the forfeiture was imposed properly, the property transferred may be sold in the same manner prescribed for the disposition of the property of deceased seamen. The court shall deposit in the Treasury as miscellaneous receipts the proceeds of the sale and any money and wages transferred to the court.

(c) When an owner or master fails to transfer the balance as required under subsection (a) of this section, the owner or master is liable to the United States Government for a civil penalty of 2 times the amount of the balance, recoverable by the Secretary in the same manner that seaman's wages are recovered.

(d) In all other cases of forfeiture of wages, the forfeiture shall be for the benefit of the owner of the vessel.

Sec. 12110. Limitations on operations authorized by certificates

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(c)[A vessel and its equipment are liable to seizure by and forfeiture to the United States Government--

(1) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

(2) when a vessel is employed in a trade without an appropriate trade endorsement; or

(3) when a documented vessel with a recreational endorsement is operated other than for pleasure.] A vessel with only a recreational endorsement may not be operated other than for pleasure.

*****

Sec. 12122. Penalties

(a) A person that violates this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than [$500] $25,000. Each day of continuing violation is a separate violation.

[(b) When the owner of a vessel knowingly falsifies or conceals a material fact, or makes a false statement or representation about the documentation of the vessel, that vessel and its equipment are liable to seizure by and forfeiture to the United States Government.]

(b) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government-

(1) when the owner of a vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or makes a false statement or representation about the documentation or when applying for documentation of the vessel;

(2) when a certificate of documentation is knowingly and fraudulently used for a vessel;

(3) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

(4) when a vessel is employed in a trade without an appropriate trade endorsement;

(5) when a documented vessel with only a recreational endorsement is operated other than for pleasure; or

(6) when a documented vessel is placed under the command of a person not a citizen of the United States.

[(c) When a certificate of documentation is knowingly and fraudulently used for a vessel, that vessel and its equipment are liable to seizure by and forfeiture to the Government.]

Outer Continental Shelf Lands Act, as amended, Pub. L. 95-372 (43 U.S.C. 1350)

Sec. 24. Remedies and Penalties

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(b)(1) Except as provided in [paragraph (2),] paragraphs (2) and (3), if any person fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $20,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing. The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increase in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor.

(2) If a failure described in paragraph (1) constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish or other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty may be assessed without regard to the requirement of expiration of a period allowed for corrective action.

(3)(A) If a person fails to comply with or violates a regulation issued under this Act by the Secretary of the department in which the Coast Guard is operating, that person is liable, without regard to the requirement of the expiration of a period allowed for corrective action, to the United States Government for a civil penalty of not more than the amount provided in paragraph (1) for each day of the continuance of that failure or violation.

(B) The Secretary of the department in which the Coast Guard is operating is authorized to assess the amount of the civil penalty for which a person is liable for failure to comply with or for violating a regulation issued under this Act by the Secretary of the department in which the Coast Guard is operating. The assessment of the civil penalty shall be by written notice and after an opportunity for a hearing.

(C) In determining the amount of the penalty, the Secretary of the department in which the Coast Guard is operating shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(D) The Secretary of the department in which the Coast Guard is operating may compromise, modify or remit, with or without consideration, a civil penalty under this Act until referring the assessment to the Attorney General.

(E) If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary of the department in which the Coast Guard is operating may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

SECTION-BY-SECTION ANALYSIS

TITLE I. -- PASSENGER DEFINITION

IN GENERAL.

This title's consolidates changes to 46 USC 2101 the multiple definitions of "passenger" into a single, consistent definition. In addition, this proposal clarifies the application of title 46 to uninspected passenger vessels, small passenger vessels, and passenger vessels by modifying the definition of each to eliminate loopholes. The multiple definitions for "passenger," found in 46 USC 2101(21) for these types of passenger carrying vessels, have been confusing to the public. These definitions also make it difficult for Coast Guard personnel to determine when a vessel must comply with the differing regulations applying to these vessels.

Under the current, multiple definitions of "passenger" in 46 USC 2101(21)(A-F), a person carried on a vessel may or may not be a passenger, depending upon the vessel's tonnage and operation. This is due to the exceptions made in the six separate passenger definitions as the original laws were passed for the different types of vessels. Inconsistencies in the application of the regulations for passenger carrying vessels with respect to equipment, inspection and licensing have resulted. This interferes with Coast Guard enforcement efforts regarding illegal passenger operations.

Also under 46 USC 2101, passenger vessel and small passenger vessel inspection requirements do not apply to bareboat charters. This has created three basic problems. First, sham bareboat charters have been utilized to avoid the inspection requirements by creating a situation where an uninspected vessel is offered for hire without meeting the spirit or intent of a bareboat or demise charter as traditionally interpreted in maritime case law. In particular, short term charters are offered with the charterer being presented a "package deal." In this situation, the charterer usually is not aware of the responsibility that he or she is accepting for passenger safety, especially when there is not an effective transfer of control of the vessel to the charterer. In essence, a bonafide bareboat charter is not achieved. Second, we are concerned that bareboat charters, even when legitimate, carrying more than 12 passengers create an unreasonable safety risk because they do not have to be inspected. With so many persons at risk, any vessel, whether charter or traditional passenger vessel, should have to undergo an inspection to protect those passengers. Third, bareboat charters do not fit the traditional recreational charters where there is usually some sort of operational or use limitation placed by the vessel owner on the charterer. The Coast Guard has had to make determinations on an ad hoc basis whether a recreational vessel charter was bareboat or not, which has made enforcement of the passenger vessel safety laws difficult with respect to these charters. The proposal will bring under inspection all charters carrying more than 12 passengers without regard to whether the charter is a bonafide bareboat charter or other type of arrangement. Many vessels presently offered for demise charter do not meet the safety standards intended for small passenger vessels. The Coast Guard believes the safety standards for the carriage of more than 12 passengers should be higher than those required for recreational vessels. Vessels which are chartered with no crew being provided or specified by the owner carrying 12 or fewer passengers, which would generally include bareboat or demise charters, will retain their status as recreational or pleasure vessels. We consider a crew to be provided or specified by the vessel owner or the owner's representative when the crew, including the master and deck hands, is either actually provided by the owner or when the owner directs the charterer to hire or use certain identified individuals as members of the crew as a condition for chartering the vessel.

SEC.101.

This section amends the definitions of "passenger" in 46 USC 2101(21), by consolidating them into one definition for passenger vessels, small passenger vessels, and uninspected passenger vessels. Under the current definitions of "passenger" in section 2101(21)(A), (B), and (D), the individual carried on a vessel may or may not be a "passenger," depending on the vessel's tonnage or number of "passengers" on board. In addition to passenger vessels, small passenger vessels, and uninspected passenger vessels, the new definition continues the exceptions for certain special use vessels, i.e., offshore supply vessels, fishing industry vessels, and sailing school vessels. The exceptions are based on the special purpose of the vessel, e.g., a sailing school instructor or sailing school student is not a "passenger" under this definition.

SEC.102.

This section amends the definition of "passenger vessel" in 46 USC 2101(22). The current provision defines "passenger vessel" as a vessel of at least 100 gross tons carrying at least one passenger for hire. The proposed amendment adds vessels chartered with the crew provided or specified by the vessel owner or the owner's representative with at least one passenger and with no crew provided or specified carrying more than 12 passengers.

The Department has included a chartered vessel with the crew provided with at least one passenger on board because such a charter is more akin to a passenger for hire situation than it is to a true demise charter. This new paragraph (B) is merely a way to continue to include these charters as passenger vessels under the amended section 2101(22). An important change to the definition of passenger vessel is that it will now include charters with no crew provided or specified by the vessel owner carrying more than 12 passengers. This would include bareboat/demise charters, as used in the true Admiralty context, time charters, voyage charters, and any other type of temporary conveyance. The fact that a vessel is a bareboat charter should not matter for purposes of vessel safety laws. Often, short-term charters do not effect a complete transfer of control of the vessel to the charterer, resulting in a relationship more akin to a passenger on a passenger vessel than to an owner on a pleasure vessel. In some cases, the charter exists solely to avoid inspection requirements. This change will result in safer charters and should result in fairer competition between bareboat charters and traditional passenger vessels.

SEC.103.

This section amends the definition of "small passenger vessel" in 46 USC 2101(35). This amendment is similar, for vessels less than 100 tons, to the amendment of section 102 on "passenger vessel." It adds two types of charters to the definition of small passenger vessel. Charters with the crew provided or specified by the owner or the owner's representative carrying more than six passengers are specifically set out as small passenger vessels in proposed section 2101(35)(B). We note that these chartered vessels have been required to be certificated as small passenger vessels under current law. We are also adding chartered vessels with no crew provided or specified by the owner carrying more than 12 passengers to the definition of small passenger vessel. The discussion of charters in section 102 above also applies here.

The amendment to section 2101(35) of title 46, U.S. Code, distinguishes between charters where the crew is provided by the vessel owner or the owner's representative, and charters where no crew is provided or specified. Any form of charter for which a crew is not provided or specified by the vessel owner or the owner's representative may be operated with up to 12 passengers on board and not be considered a passenger vessel. This change would allow the common practice with respect to recreational vessel charters of limiting the chartered vessel's operation or use and still be a valid charter for purposes of determining when the chartered recreational vessel would become a passenger vessel. Also, this change would incorporate a more precise definition of "demise or bareboat charter," which in its true sense is the owner's relinquishment of total command, control, and possession to the charterer, to include the many varieties of recreational vessel charters. Although a bareboat or demise charter could certainly be included as a "charter with no crew provided or specified" under this section, we will no longer focus on the type of arrangement but rather whether the transaction required, either expressly or impliedly, that the vessel owner provide or specify the crew.

Of course, once the chartered vessel carries more than 12 passengers, it would have to be certificated as a passenger vessel. As is currently the case, a vessel of less than 100 gross tons that is chartered with the crew provided is required to be certificated when it is carrying more than 6 passengers. This is because the degree of control maintained by the owner is the equivalent of operating a small passenger vessel.

We recognize that there are often informal arrangements made among individuals intending to jointly charter a vessel. Often one person will sign and pay the owner for the charter and later the other would-be charterers will reimburse that person for their share. Commonly, the only documentation will show the individual who paid the owner to be the "charterer" and there will be no documentation identifying the status of other individuals who subsequently paid their share. We do not intend those individuals who pay the charterer under these circumstances to become a "passenger for hire." We do not intend that "consideration," the payment of which to a charterer would constitute a "passenger for hire," would include the voluntary sharing by affiliated persons of monies not exceeding the actual cost of the charter in the case of a charter with no crew provided.

Section 103 also adds "submersible vessel" with at least one paying passenger to the definition of "small passenger vessel." This change will result in smaller submersibles being defined as small passenger vessels if they carry at least one paying passenger, instead of more than six required on regular small passenger vessels. This is necessary due to the nature of submersibles. Submersibles are inherently dangerous, and carriage of any passengers should require an inspection as a passenger vessel. Casualties or malfunctions that would be insignificant on a surface vessel could be catastrophic or fatal on a submersible.

SEC.104.

This section amends the definition of "uninspected passenger vessel" in 46 USC 2101(42). This is a technical change to reflect the amendments to the definition of "small passenger vessel" which now includes charters with the crew provided or specified by the owner or the owner's representative carrying more than six passengers. With that amendment, there will be uninspected passenger vessels that carry not more than six passengers but no passengers for hire. Accordingly, we are amending the definition of "uninspected passenger vessel" to conform with the amendment to section 2101(35).

SEC.105.

This section amends 46 USC 2101 by adding a new paragraph (21a) to define the term "passenger for hire." "Passenger for hire" is used in the definitions of "passenger vessel" and "small passenger vessel" but it has not been defined in title 46. "Passenger for hire" is used in conjunction with the newly defined term "consideration" in that "consideration" must directly or indirectly be received by the owner, charterer, operator, agent, or other person having an interest in the vessel on behalf of the "passenger for hire" as a condition of carriage on the vessel.

SEC.106.

This section amends 46 USC 2101 by adding a new paragraph (5a) to define the term "consideration." Although the word "consideration" is used in the existing definition of "passenger" in paragraph (21) of section 2101, it has not been previously defined by statute. Various interpretations have been used by government and industry personnel to the extent that its meaning has not been clarified by past policy determinations. This ambiguity has caused confusion for vessel owners and difficulty for the Coast Guard in enforcing passenger vessel laws and regulations. Absent the transaction of, or intent to transact, business during a voyage with a passenger with whom the owner, charterer, operator, agent, or any other person having an interest in the vessel has, has had, or may thereafter have a beneficial economic relationship, the presence of such a passenger aboard would not be deemed consideration accruing to any individual, person, or entity. Nominal donations of food, drinks, bait, or other friendly gratuities would not be included in the meaning of consideration. Small quantities of fuel could also fall outside the definition. However, for example, a guest giving large quantities of fuel to the vessel owner in exchange for a day's fishing for himself and a few friends would be more than a nominal donation and would constitute "consideration." A determination of what is "nominal" would have to be made on the particular facts of each case.

SEC.107.

This section amends the definition of "offshore supply vessel" in 46 USC 2101(19) by adding "individuals in addition to the crew" as something regularly carried on an offshore supply vessel. It also deletes the statement that an offshore supply vessel "is not a small passenger vessel." Under the existing definition of "offshore supply vessel," if a vessel meets the definition of "small passenger vessel" it must be regulated as such. By deleting "and is not a small passenger vessel," the Coast Guard will no longer be required to consider a vessel carrying individuals employed in the offshore mineral and oil industry as a small passenger vessel. As a result of this section, the Coast Guard will be able to treat these vessels the same as other mineral and oil industry vessels. Offshore crew boats operating in the mineral and oil industries are very different from small passenger vessels, which has created problems trying to regulate them together.

SEC.108.

This section amends the definition of "sailing school vessel" in 46 USC 2101(30) by substituting "more than six" for "at least 6." This is a technical change to coincide "sailing school vessel" with the definition of "small passenger vessel."

SEC.109.

This section amends 46 USC 2101 by adding a new paragraph (37a) to define "submersible vessel." Since this proposal distinguishes submersible vessels from surface vessels for purposes of passenger vessel laws, it should be defined in title 46. If a vessel can operate below the surface of the water, we consider it a "submersible vessel."

TITLE II -- PENALTIES FOR DOCUMENTATION LAW VIOLATIONS

IN GENERAL.

This title is intended to enhance the Department of Transportation's ability to enforce U.S. documentation laws. It increases the maximum civil penalty in section 12122 of title 46, U.S. Code, from $500 to $25,000. This title also makes a documented vessel and its equipment subject to seizure and forfeiture when the vessel is placed under the command of a person not a citizen of the United States.

With the existing $500 maximum penalty, certain vessel operators have considered the penalty to be merely an acceptable cost of doing business. Generally, violations of U.S. documentation laws consist of commercial vessel operations in contravention of the vessel's document, notably the ownership or operation of a U.S. documented vessel by a person not a citizen of the United States. A serious problem prompting these changes has been a recurring scenario involving large fishing industry vessels in the Pacific Northwest. The typical case involves a fishing vessel, often a catcher/processor, with a noncitizen "fish" captain who in fact commands the vessel. A citizen "paper" captain is on board. However, the citizen captain is in a subordinate position to the noncitizen. The law presently provides only a $500 per day penalty and has no specific provision for seizure and forfeiture. Experience has shown that with existing inadequate civil penalties and the high profits to be made, certain companies continue to violate the requirement for a U.S. citizen in command. The requirement for a U.S. citizen in command serves important safety interests. U.S. crewmen should have confidence that they are actually under the command of a U.S. citizen. Their safety frequently depends on the clarity of the commands of the captain. Often, in exigent circumstances, the ability to understand and rapidly respond to the captain's orders may mean the difference between life and death. Having a noncitizen in charge could result in language difficulties, creating confusion for the crew which could jeopardize the vessel, other vessels, and the environment.

SEC.201.

This section makes technical, conforming amendments to section 12110(c) of title 46, U.S. Code, by removing the references to seizure and forfeiture authority. This leaves only the prohibition on operating a recreational vessel other than for pleasure in that subsection. Section 3 of this legislative proposal moves the seizure/forfeiture provision in this subsection to section 12122(b).

SEC.202.

Subsection (a) of this section amends section 12122(a) of title 46, U.S. Code, by increasing the maximum civil penalty for violating chapter 121 (Documentation of Vessels) of title 46, U.S. Code, from $500 to $25,000. The procedures set out in section 2107, civil penalty procedures, which apply to all of subtitle II of title 46, would continue to apply to section 12122(a) penalty actions. These include the consideration of the nature, circumstances, extent, and gravity of the acts committed. In addition, as part of the civil penalty process, the Secretary also considers the violator's degree of culpability, history of prior offenses, and ability to pay.

Subsection (b) of this section amends section 12122(b) of title 46, U.S. Code, by placing all the seizure/forfeiture authority for chapter 121 of title 46 in the penalty section for that chapter. This section adds a new substantive basis for the seizure and forfeiture authority and it moves three existing authorities currently in section 12110(c) to this provision. Placing all the violations for which the Federal Government would be authorized to exercise its seizure and forfeiture authority for violations of U.S. documentation laws in the penalty section of chapter 121 should make it clearer for both those who enforce the documentation laws and those subject to those laws.

The exercise of seizure and forfeiture authority by the U.S. Government is necessary to prevent the continuation of many unlawful operations. Use of seizure/forfeiture authority would be in addition to any civil penalty the vessel owner/operator would be subject to under section 12122(a). Where there is a violation set out in section 12122(b), the Government will also be able to exercise seizure and forfeiture authority over the vessel and its equipment. While we follow the procedures set out in 46 U.S. Code 2107, for the assessment of civil penalties, such procedures, including hearings, are not requisites for seizure and forfeiture action by the Government. Seizure and forfeiture provisions in the law work best as a deterrent to illegal conduct. If the protections and associated delay of a hearing are provided, far fewer vessels operating illegally will be seized and the deterrent effect will be greatly reduced.

A description of proposed subsection (b) of section 12122 follows:

Subsection (b)(1) is currently subsection (b). There is no change in language from the current provision.

Subsection (b)(2) is currently subsection (c). This subsection also makes no language changes from the original provision.

Subsection (b)(3) is currently section 12110(c)(1), which was recently added by section 5213 of title V of the Oceans Act of 1992 (title V is entitled the "Coast Guard Authorization Act of 1992"). Section 5213 amended section 12110(c) to authorize seizure of and forfeiture by the Federal Government of a vessel and equipment when the vessel is operated after its endorsements had been denied or revoked under section 12123 of title 46, U.S. Code. Without this seizure authority, we have the anomalous situation of having a civil penalty as our only remedy for nonpayment of civil penalties.

Subsection (b)(4) is currently section 12110(c)(2), also recently amended by the "Coast Guard Authorization Act of 1992". We are moving it to section 12122 merely to make the use of this authority clearer. We intend no substantive change to the current provision, which applies to vessels operating with no document or trade endorsement as well as vessels operating in a trade with the wrong endorsement.

Subsection (b)(5) is currently section 12110(c)(3), also recently amended by the "Coast Guard Authorization Act of 1992". We are moving it to section 12122 merely to make the use of this authority clearer. We intend no substantive change to the current provision.

Subsection (b)(6) is new. It makes a documented vessel and its equipment liable to seizure and forfeiture when the vessel is placed under the command of a person not a citizen of the United States.

In determining whether a person is or is not a citizen of the United States, the definition of "citizen of the United States" in section 2101(3a) of title 46, U.S. Code, would apply.

We intend that "under the command of" have the same meaning as in section 12110(d) of title 46, U.S. Code. The "command" of a vessel includes, but is not limited to, complete authority and control over and responsibility for all aspects of vessel navigation; stability, cargo loading, and communications; material condition of the vessel; health, welfare, safety, and training of the crew; fishing and fish processing activities; crew hiring, firing, discipline, and pay; maintenance, provisioning, and supplies; and compliance with all applicable U.S. laws and regulations. We consider the person vested with "command" of a U.S. Vessel to be the ultimate authority on board the vessel and the orders of the person in command may not be countermanded by anyone else on the vessel for any reason whatsoever.

Subsection (c) of this section is merely a technical, conforming amendment necessary because subsection (b) of this section placed the current section 12122(c) in proposed section 12122(b).

TITLE III -- UNMANNED SEAGOING BARGES

IN GENERAL.

This title discontinues the inspection requirement on certain unmanned, seagoing barges. It does this by adding an exemption in section 3302, Exemptions, to the inspection requirement for seagoing barges in section 3301(6) of title 46, U.S. Code. These barges, as defined in 46 U.S.C. 2101(32), are required to be inspected every two years by 46 U.S.C. 3307(3). Based on casualty statistics, we believe unmanned seagoing freight barges that do not carry hazardous materials as cargo nor flammable or combustible liquid, including oil, in bulk, pose a greatly reduced threat to associated personnel and the marine environment, and thus should no longer undergo inspection. Seagoing barges that operate outside the Boundary Line and are 150 gross tons, or over, must have a load line under 46 U.S.C. 5102. Of the 680 inspected seagoing barges in the Marine Safety Information System (MSIS), 677 barges (99.6%) are over 150 gross tons. The American Bureau of Shipping (ABS) and other authorized classification societies presently conduct hull surveys for load line issuance in addition to U.S. Coast Guard hull inspections on these vessels. Classification society surveys should be sufficient to maintain hull integrity. We note that these surveys are required every five years, are focused on specific and limited aspects of the vessel, and are not considered equivalent to a vessel inspection. These vessels generally do not have other systems (i.e., life saving, firefighting, etc.) that mandate further Coast Guard inspection. The Coast Guard will continue its oversight program.

Approximately one half (340) of seagoing barges would be exempt from inspection as a result of this proposal. Based on the time it takes to inspect a seagoing barge, we estimate the savings to the Coast Guard to be three full-time equivalents per year. The barge industry would save by not having to pay user fees for the inspection of these barges.

SEC.301.

This section exempts certain seagoing barges from the section 3301(6) inspection requirement. A seagoing barge is defined in section 2101(32) as a non-self propelled vessel of at least 100 gross tons making voyages beyond the Boundary Line. The exemption is only for those seagoing barges that are both unmanned and do not carry hazardous materials as cargo, nor flammable or combustible liquids, including oil, in bulk.

By unmanned we mean to allow no personnel on board the seagoing barge while it is underway, except: (1) in emergency situations; (2) for intermittent seaworthiness examinations; or (3) during periods the barge is being on or off-loaded. If personnel are on board the seagoing barge at other times while it is underway, we would consider it subject to inspection requirements. Regardless of inspection status, if personnel are on board while the seagoing barge is underway, lifesaving equipment would be required.

We intend this exemption to apply when the unmanned, seagoing barge is not carrying flammable or combustible liquid, including oil, in bulk (the most likely example would be as fuel for auxiliary equipment) or carrying hazardous materials as cargo. We note that oil and hazardous materials have the meanings as set out in section 2101 of title 46, U.S. Code.

TITLE IV -- SEAMAN'S EMPLOYMENT AND DISCHARGE

IN GENERAL.

This title, Seamen's Employment and Discharge, removes the words "shipping commissioners" where it appears in Part G, Merchant Seamen Protection and Relief, of subtitle II of title 46, U.S. Code. For over ten years, Congress has specifically provided in Department of Transportation Appropriations Acts that no monies be spent for shipping commissioners. This title merely legislates that intent. This title also consolidates all of the rules for employment and discharge for foreign and domestic voyages into Chapter 103 and, accordingly, repeals Chapter 105, Coastwise Voyages.

Chapter 103, as amended by this title, requires the shipping companies to maintain records of employment and discharge and make them available to seamen and the Coast Guard. We are also amending chapter 103 to allow shipping companies to design their own shipping agreements (subject to Coast Guard approval), including using computers to make the agreement, as long as they provide a hard copy of the shipping agreement to the seaman.

This title also makes technical changes to put all the applicability provisions for chapter 103 in section 10301, Application, and all of the penalty provisions in section 10321, General Penalty.

SEC.401.

This section amends section 10301 of title 46, U.S. Code, to apply to vessels greater than 100 gross tons, and, with certain exceptions, to apply to vessels on foreign and coastwise voyages, as well as vessels on voyages from the United States to Canada, Mexico, and the West Indies.

This section will also apply chapter 103 to public vessels that are issued certificates of inspection. Generally it will not apply to vessels in which seamen by custom and tradition share in the profit of the voyage, recreational vessels, vessels exclusively on navigable waters, vessels on the Great Lakes (except those on an international voyage), and vessels making short voyages between ports in the same state or ports in an adjacent state with connecting shorelines. Certain specific provisions (sections 10313-10316) continue to be made applicable to foreign vessels while they are at a place subject to the jurisdiction of the United States.

SEC.402.

This section amends section 10302 to require the owner, charterer, managing operator, master or individual in charge of a vessel to make a shipping agreement with each seaman. The agreement must be in writing and be signed by both the master, individual in charge, or a representative of the owner, charterer, or managing operator and the seaman and a copy of the agreement must be provided to the seaman. These agreements must be made before the seaman is employed.

Companies will be permitted to design and use their own forms, including producing and maintaining the agreements by computer, in order to satisfy their personnel and accounting record needs. New subsection (d) requires the owner, charterer, managing operator, etc., to maintain the shipping agreement and to make copies available to the seaman. The Coast Guard does not intend to stock forms or provide them to the public.

SEC.403

This section amends section 10303, which sets the requirements for provisions, by removing the provision that states that the section does not apply to fishing or whaling vessels or yachts. We have reorganized chapter 103 to put all applicable provisions in section 10301. In addition, chapter 103 continues to exclude any vessel where the seamen are entitled to share in the voyage's profits, which includes most fishing vessels. If a fishing or whaling vessel does not share profits with the seamen, we intend all of chapter 103 to apply to it.

SEC.404.

This section repeals section 10304, which sets out the required form for the shipping agreement. Instead of having the specific form set out, we require that a shipping agreement be made between the owner, master, etc., and the seaman and that it include the areas listed in section 10302(b).

This section also repeals sections 10305 which sets out the manner of signing the agreement. The essence of section 10305 is review of the agreement by the shipping commissioner. Since there are no longer shipping commissioners and section 10302 sets out the manner of signing, section 10305 is unnecessary.

SEC.405.

This section substitutes "master or individual in charge" for "shipping commissioner" in section 10306 which addresses exhibiting merchant mariners' documents. This is merely a technical, conforming amendment directing to whom the seaman is to show the required merchant mariner's documents.

SEC.406.

This section strikes the civil penalty provision in section 10307, which requires the master to post the shipping agreement on the vessel. We are consolidating all the civil penalties for violations of chapter 103 into section 10321.

SEC.407.

This section strikes the civil penalty provision in section 10308, which requires the shipping agreement to be signed in front of a consular officer when the seaman is engaged outside the United States. This is a technical amendment made for the same reason stated in the discussion on section 406 above.

SEC.408.

This section strikes the civil penalty provision in section 10309, which addresses engaging seamen to replace seamen lost because of desertion or casualty, for the same reason stated above in Section 406 above. This section also strikes the provision stating that section 10309 does not apply to fishing and whaling vessels, as discussed in section 403 above.

SEC.409.

This section strikes reference to shipping commissioner in the first sentence of section 10310, which provides that an accounting of the seaman's wages be delivered to the seaman at least 48 hours before paying off or discharging the seaman. In addition, it strikes the penalty provision for the same reason stated in Section 406 above.

SEC.410.

This section amends section 10311(a) by substituting "master or individual in charge" for "shipping commissioner." This will require those persons to provide the seaman with a certificate of discharge. This section also strikes "shipping commissioner" from subsection (b). In addition, subsection (d)(1) is amended by requiring the owner and other individuals in charge, instead of the Secretary, to maintain the records of discharge. We have also removed the provisions to charge for providing the seaman with a duplicate of the discharge.

SEC.411.

This section amends section 10312, which provides the procedures for settlement on the discharge of a seaman. Section 10312 currently provides that the shipping commissioner be a third party to disputes between the vessel master or owner and the seaman. We are repealing these provisions and keeping only the requirement that the agreement be signed by both parties when the discharge and settlement are completed. Since there have been no shipping commissioners for over ten years, these disputes have had to be settled by the Federal court system and will continue to be under this section.

SEC.412.

This section removes the specific applicability references in subsections (b), (e), and (h) of section 10313, which addresses wages, for the same reasons given in section 403 above. It also deletes reference to the applicability of the section to foreign flag vessels, which now appears at section 10301.

SEC.413.

This section amends sections 10314, which addresses advances, by removing the penalty provision and the applicability provisions with respect to fishing and whaling vessels and foreign flag vessels.

SEC.414.

This section removes the references to shipping commissioner in section 10315(b) with respect to approving allotments and now provides only that allotments must be in writing. It also strikes the penalty provision and the reference to its applicability to foreign vessels.

SEC.415.

This section amends section 10320 to require shipping companies to maintain seaman's records pursuant to Coast Guard regulations. This section also requires that all the maintained records be made available to both the seaman and the Coast Guard. Under existing section 10320, the Coast Guard maintained these records.

SEC.416.

This section amends section 10321, the current penalty section, by making the section applicable for all violations of chapter 103 and by increasing the maximum civil penalty assessment from $200 to $5,000, to more accurately reflect modern commercial vessel operations.

SEC.417.

This section merely conforms the analysis to Chapter 103 to the amendments made in this title.

SEC.418.

This section repeals Chapter 105 - Coastwise Voyages. The type of voyage covered under Chapter 105, a voyage between non-adjacent states, will be covered under amended Chapter 103. Accordingly, this repeal is merely a conforming amendment.

SEC.419.

This section conforms the analysis to Part G in Subtitle II of title 46, U.S. Code, to the amendments made in this title.

SEC.420.

This section adds a penalty section to Chapter 106, which concerns seaman's rights on fishing voyages. Chapter 106 does not provide for any sanctions for violations of its provisions. This lack of penalty provision has created problems enforcing this chapter. Proposed section 10604 tracks section 10321, as amended by this title.

SEC.421.

This section amends section 2113 to include part G, Merchant Seamen Protection and Relief, to the laws from which the Secretary may exempt certain excursion or oceanographic research vessels. Parts B, Inspection, and F, Manning of Vessels, are already included in this section and it is appropriate to give this discretionary authority for this portion of title 46. Former 46 U.S.C. 445 authorized the Secretary to exempt oceanographic research vessels from these provisions. When the shipping statutes were codified in 1983 as subtitle II of title 46, U.S. Code, this authority was eliminated without explanation. There appeared to be no legislative intent to remove this authority; therefore, this section is intended to re-establish former statutory authority.

SEC.422.

This section repeals section 10102, which sets out the designations and duties of shipping commissioners. Since there has been no funding for shipping commissioners for years and this title is removing all references to shipping commissioners in title 46, section 10102 is no longer needed.

SEC.423.

This section amends 10103, which requires the master who hires or discharges a seaman without a shipping commissioner being present to submit a report to the Coast Guard of the situation involved. This amendment strikes the reference to the shipping commissioner and requires the master to submit the report to the shipping company.

SEC.424.

This section amends section 10701, which provides for the applicability of chapter 107, the effects of deceased seamen. Currently, section 10701(a)(1) applies chapter 107 to all foreign voyages from the United States except those to Canada, Mexico, or the West Indies. We have repealed the identical exception in chapter 103 and we do not see why chapter 107 should not apply to these Western Hemisphere voyages.

SEC.425.

This section amends section 10706, which requires the master or vessel owner to deliver the deceased seaman's property and wages, as prescribed by regulations. Proposed section 10706 would require the master or vessel owner to deliver them to the U.S. district court. Under current 10707, which is repealed by this title, the Coast Guard delivers the property to the court.

SEC.426.

This section repeals section 10707, as the requirement to deliver the deceased seaman's property to a district court is now provided in section 10706.

SEC.427.

This section is similar to section 425 discussed above. It amends section 11505, which addresses disposal of forfeitures, by requiring the vessel owner or master to transfer the balance of forfeited wages to the appropriate district court instead of to the Coast Guard as is now the case.

SEC.428.

This section makes conforming amendments to reflect this title's amendments.

TITLE V. -- FISHING INDUSTRY VESSEL SAFETY

SEC.501.

This section adds a new section 8904a entitled "Uninspected fishing industry vessels" to chapter 89, SMALL VESSEL MANNING, of title 46, U.S. Code. This section requires the operator of a documented, uninspected fishing, fish processing, and fish tender vessel to have a Coast Guard license. Under current law, all inspected vessels, regardless of size, must carry the complement of licensed individuals stated in the vessel's certificate of inspection. In general, fishing vessels are not inspected, while fish processing vessels of greater than 5,000 gross tons and fish tender vessels of greater than 500 gross tons are inspected. In addition, under the Officers' Competency Certificates Convention, 1936, as implemented by 46 U.S.C. 8304, uninspected vessels of at least 200 gross tons operating on the high seas are required to have licensed operators. In effect, this section would bring all documented fishing industry vessels of less than 200 gross tons under the requirement to have a licensed operator and those fishing industry vessels of at least 200 gross tons operating only on waters within the Boundary Line. Vessels of at least 200 gross tons operating on the high seas, already required to have a licensed operator, would continue to have the current requirements and regulations apply to them. Since this section applies to only documented fishing industry vessels, it does not affect State numbered vessels. It is our opinion that Coast Guard licensed operators are better prepared and more knowledgeable than unlicensed operators and thus more likely to conduct fishing operations safely.

According to industry projections, there will be over 50,000 fishing industry personnel required to obtain Coast Guard licenses as a result of this section. We recognize that this could have the potential to be burdensome to these individuals. Accordingly, we intend to adopt a policy of shared responsibility with private training facilities under which the Coast Guard would accept certificates of completion of training from courses approved by the Coast Guard for an applicant to become eligible for a Coast Guard license. Unlike the present license examination system, the licensee will not need to take a written Coast Guard exam. The Coast Guard envisions authorizing alternatives that will still ensure that successful license applicants demonstrate a threshold level of knowledge of subjects relevant to safe vessel operations. We would expect a demonstrated working knowledge of at least the following: vessel stability, navigation, rules of the road, vessel maintenance, and crew management. As required by Federal law, license candidates will remain subject to provisions related to "age, character, habits of life, experience, professional qualifications, and physical fitness," as well as citizenship, recency of service, and English language ability. On receiving the certificate of completion, the Coast Guard would then require submission of satisfactory evidence of chemical (i.e. drug and alcohol) testing. When an individual is qualified in all respects, the appropriate license will be issued.

We intend to implement a seven year phase-in period under which there would be a two year hiatus until starting the actual five year license period. During the first two years, training institutions will be working to obtain approval of their courses while the Coast Guard will be issuing Application Acknowledgments to fishermen. The Application Acknowledgments will allow fishermen to operate vessels for a designated period before receiving their certificates of completion from an approved training course.

SEC.503.

This section amends section 4508(e)(1) of title 46, U.S. Code, by changing the expiration date for the Commercial Fishing Vessel Safety Advisory Committee from 1994 to 1999. The Commercial Fishing Vessel Safety Advisory Committee was authorized to be established by section 2(a) of Public Law 100-424, enacted on September 8, 1988. Under that provision, the Secretary of the department in which the Coast Guard is operating was required to establish this committee to advise the Secretary on the safe operation of commercial fishing vessels. The committee has been an effective forum for analyzing and discussing fishing industry safety concerns. Accordingly, the Department proposes to extend the authorization of this valuable advisory committee.

TITLE VI. -- OUTER CONTINENTAL SHELF CIVIL PENALTIES

SEC.601.

This section amends section 24(b) of the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1350(b). It adds a new paragraph (3) to subsection (b) to provide civil penalty procedures for the Secretary of the department in which the Coast Guard is operating (Secretary) to assess civil penalties for violations of regulations promulgated under OCSLA by the Coast Guard. This changes the existing civil penalties procedure for OCSLA in two ways. First, when a violation of a Coast Guard regulation issued under OCSLA occurs, it would no longer be the responsibility of the Secretary of the Interior to assess, collect, or compromise the penalty for that violation. Since it would be a violation of a Coast Guard issued regulation, most likely in an area of Coast Guard expertise, it is inefficient and burdensome to involve Interior officials in a wholly Coast Guard matter. This responsibility would be transferred to the Secretary. (Note that section 24 also applies to regulations issued by the Minerals Management Service of the Department of the Interior, leases, licenses, permits, and orders issued under OCSLA, none of which are affected by this title.)

Second, this section makes violations of all Coast Guard issued regulations under OCSLA subject to a civil penalty when the penalty has been assessed under the usual Coast Guard civil penalty procedures. Under existing section 24(b)(1), a failure to comply with certain regulations, leases, licenses, or permits issued under OCSLA can subject a person to a civil penalty only after notice of the failure to comply and after a reasonable time for corrective action. Section 24(b) of OCSLA was amended by the Oil Pollution Act of 1990 to authorize civil penalty assessments without having to wait for corrective action when the failure or violation creates a threat of serious or immediate harm to life, property, or the environment. While the elimination of the mandatory waiting period for corrective action for those serious cases is an improvement, we feel, at least with respect to violations of Coast Guard issued regulations, that OCSLA should provide for immediate civil penalty assessment authority. When such a serious injury or a pollution incident occurs as a result of a violation of a Coast Guard regulation, for example, inoperable obstruction lights during restricted visibility, it clearly would be a serious case with no corrective waiting period required. However, if the same violation were discovered during a routine inspection, it is uncertain whether the Coast Guard could assess a civil penalty for the violation or whether the "corrective waiting period" would be required before such assessment.

The "corrective waiting period" is unnecessary as the Coast Guard would conduct its civil penalty procedures under OCSLA in the same manner as it does for other maritime safety violations. In fact, proposed section 24(b)(3) is virtually identical to section 2107 of title 46, U.S. Code, which provides for civil penalty procedures for all of Subtitle II of title 46, Vessels and Seamen. The Coast Guard has assessed, and continues to assess, civil penalties in a fair manner under section 2107. This section has been effective in handling the tens of thousands of civil penalty enforcement cases administered annually by the Coast Guard.