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## **Coast Guard Authorization Act of 2010**

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On Friday, October 15, President Obama signed into law the Coast Guard Authorization Act of 2010 (H.R. 3619). This is the first such authorization act for the Coast Guard since 2006.

The statute is lengthy (128 pages) and addresses a wide variety of maritime issues. This article will attempt to identify those provisions expected to have the most impact or of the most interest. I have grouped these provisions into broad categories, although there is some natural overlap.

### **USCG authority and organization**

The Coast Guard is provided specific authority to enforce the US coastwise trade laws and its personnel are to be trained with regard to these laws. This provision is somewhat redundant, in that the agency, since its founding as the Revenue Cutter Service in 1790, has had this authority. This specific law enforcement mission has not been emphasized within the Coast Guard for many years, but that is about to change. Since the Coast Guard has more actual presence on the water than does the US Customs and Border Protection (CBP), look for enhanced enforcement of these trade laws.

The authority to establish anchorage grounds and to enforce anchorage ground regulations is being extended from three nautical miles to twelve nautical miles offshore. In addition, the maximum penalty for violation of anchorage ground regulations is being increased from \$100 to \$10,000 (the penalty has not been changed in 100 years).

The statutory provisions for Atlantic and Pacific Area Commanders have been repealed. In their place, the Commandant is allowed to assign up to four Vice Admirals to positions of importance and responsibility (in addition to the Vice Commandant). At least one of the Vice Admirals must be experienced in vessel inspection, marine casualty investigation, mariner licensing, or an equivalent technical expertise in commercial vessel design and construction. The Commandant has since indicated that he will retain the positions of two Area Commands, with the Chief of Staff (now the Deputy Commandant for Mission Support (DCMS) and the Deputy Commandant for Operations (DCO) filling the other two Vice Admiral slots. Workforce expertise in prevention and response is to be enhanced and made systemic. Significantly, marine

safety is finally established as a statutory mission of the Coast Guard. While the mission has been widely recognized, it was not, until now, codified.

### **Merchant mariner issues**

Ship owners and operators and marine employers will be required to maintain mariner records for a minimum of five years after employment of the mariner ceases and make those records available to the Coast Guard upon request. Mariners may renew their licenses, certificates, and documents up to eight months before those documents expire and the renewed document will not be effective until the prior document expires. This is intended to eliminate unintended creep of licensing periods, where the old license expired as soon as the new license was issued. Facility security plans will be required to include provision for seaman's shoreside access at no cost to the individual. States will be limited in their ability to tax the income of mariners who serve on vessels operating in more than one state. Mariners and ship owners/operators will be granted immunity from prosecution for reasonable use of force in defending the vessel against attacks by pirates. This particular provision is of minimal efficacy since it does not apply to prosecutions by foreign nations.

### **Marine safety**

In an effort to make commercial fishing less hazardous, larger fishing vessels will be subject to stability and load line requirements and safety requirements for fishing vessels in general will be enhanced. Vessels will be required to maintain logbooks regarding watchkeeping and hours of service as part of an effort to reduce fatigue among mariners. The statutory tonnage limits on offshore supply vessels (OSVs) are being eliminated.

### **Maritime security**

The Coast Guard's program for citizen involvement in maritime security – America's Waterway Watch – has been given Congressional approval. The foreign port security assistance program has been enhanced, with the Coast Guard given clear authority to assist foreign ports in meeting international security requirements and to blacklist ports that refuse to allow USCG examinations. Waterside security of especially hazardous cargo (particularly liquefied natural gas) is to be enhanced. In light of the November 2008 terrorist attack in Mumbai, India, further analysis of the threat of small boat attack is mandated. A program to standardize port security training and certification is being established. The Department of Homeland Security (DHS) is directed to implement a program for risk-based allocation of maritime security resources. With Coast Guard coordination, state and local agencies will be authorized to enforce port security zones.

### **Environmental protection**

The Coast Guard is directed to take steps to reduce the risk of spills during oil transfers to and from tank vessels. These measures may include a requirement for placement of boom

around the tank vessel prior to the transfer operation. The definition of “higher volume port area” is expanded to include the entire Strait of Juan de Fuca out to Cape Flattery. The designation previously stopped at Port Angeles. As a result, additional response equipment must be deployed in this area. Tug escorts will be required for laden double-hull tankers in Prince William Sound. Additionally, the Administration is directed to negotiate with the Government of Canada in an effort to require tug escorts for tankers transiting the Strait of Juan de Fuca and associated waters. The requirement to provide evidence of financial responsibility to respond to an oil spill is being extended to tank vessels of over 100 gross tons. Previously, tank vessels of between 300 and 100 gross tons were exempt from the certificate of financial responsibility (COFR) requirement. As of January 1, 2011, the owner of the cargo oil transported in US waters in a single-hull tank vessel will be included as a responsible party for purposes of the Oil Pollution Act of 1990 (OPA 90). The Authorization Act also includes provisions implementing for the United States the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001.

### **Planning and Studies**

The Coast Guard is directed to conduct a study of positioning systems that might be supplemental to the global positioning system (GPS). This sounds like an attempt to revive Loran (or eLoran). An assessment is to be conducted of issues related to Arctic marine shipping. Development of domestic transportation policies in the Arctic is to be coordinated by the Committee on the Maritime Transportation System. A study is to be conducted of blended fuels and the impact of their use in the marine industry.

### **Miscellaneous provisions**

The terms of the various Coast Guard advisory committees that had recently expired or were about to expire have been renewed. The Coast Guard has been directed to report to Congress on the status of the various rulemakings mandated by the Federal Water Pollution Control Act (FWPCA) and OPA 90 that have yet to be completed. A provision regarding crew wages on large passenger vessels includes a cap on penalty wage awards and an authorization for deposits of wages of seamen into bank accounts with the written permission of the individual crew member.

This summary does not address all provisions of the Authorization Act and does not attempt to include all the implications of those that are discussed. It does, though, provide a starting point for examination of this lengthy and important statute.