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COMDTINST 5860.2A
JUNE 29, 2006

COMMANDANT INSTRUCTION 5860.2A

Subj: COAST GUARD LEGISLATION

- Ref:
- (a) Legislative Coordination and Clearance, OMB Circular No. A-19 (Rev. 20 Sep 1979), (<http://www.whitehouse.gov/omb/circulars/a019/a019.html>)
 - (b) Legislative Procedures, Department of Homeland Security Management Directive 0420
 - (c) Handling of Inquiries from Outside the Coast Guard concerning Budget and Program Matters, HQINST 5216.16 (series)
 - (d) United States Coast Guard Regulations 1992, COMDTINST M5000.3 (series), Para. 9-2-6
 - (e) Prohibition on Use of Appropriated Funds for Lobbying Activities, 18 U.S.C. 1913 (http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+18USC1913)

1. PURPOSE. This Instruction establishes Coast Guard procedures for development and review of legislation.
2. ACTION. Area commanders, district commanders, maintenance and logistics command commanders, Superintendent of the Coast Guard Academy, Chief of Staff elements, assistant commandants of directorates, the Director of International Affairs and Foreign Policy Advisor, the Director of the National Pollution Funds Center, the Judge Advocate General, and special staff elements shall comply with this Instruction. Internet release authorized.
3. DIRECTIVES AFFECTED. Coast Guard Legislation, COMDTINST 5860.2 is cancelled.
4. SUMMARY.
 - a. Enactment of legislation is a complex process, much of which is outside Coast Guard control. The Coast Guard, through internal procedures specified in this instruction and Department of Homeland Security (DHS) and Office of Management and Budget (OMB) policies as set forth in references (a) and (b), annually develops a proposed Coast Guard Authorization Act. As part of

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NON-STANDARD DISTRIBUTION:

DHS and the Executive Branch, the Coast Guard must obtain DHS and OMB approval for its proposed legislation. Following OMB approval, DHS transmits the proposed Coast Guard Authorization Act to the Speaker of the House of Representatives and the President of the Senate as proposed legislation. It is then referred to the committees with primary oversight jurisdiction over the Coast Guard proposals. Transmitting a proposed Coast Guard Authorization Act to Congress early in a Congressional session is critical to maximizing the Coast Guard's potential for success. The Coast Guard may also propose "stand-alone" legislation separate from the annual Coast Guard Authorization Act, provided the measure has no budgetary impacts, or is budget neutral. For example, the Coast Guard may propose separate legislation to implement a maritime treaty. Congress often combines such separate initiatives with other legislative vehicles, such as the Coast Guard Authorization Act, following receipt. Absent extraordinary circumstances, proposals that apply solely to Coast Guard authorities and administration will be included as part of the annual Authorization Act and will not be transmitted separately to Congress.

- b. Any official expression of the Coast Guard's position on legislation proposed by other Federal agencies or Departments or other bills introduced in Congress must also be coordinated with DHS and OMB.

5. DEFINITIONS.

- a. Legislation. Refers to any law, or part of a law, that establishes the legal basis for the operation of the Coast Guard or another federal agency, defines the scope of any agency's legal authorities, or makes a change to the United States Code. This form of Congressional action is most often referred to as "authorizing legislation" or simply "legislation" to distinguish it from an appropriation act which enables agencies to incur obligations and expenditures.
- b. Legislative Change Proposal (LCP). Any of the following (including supporting documents) intended for transmittal to DHS, OMB, or the Congress, or otherwise intended to be made available outside of the Coast Guard.
 - (1) Draft bills or resolutions, or amendments thereto;
 - (2) Draft amendment to a pending bill; or
 - (3) Recommendation or proposal for specific legislation.

6. SCOPE.

- a. This Instruction establishes:
 - (1) an internal Legislative Change Proposal (LCP) process for development, approval, review, and timely submission of proposed legislation to Congress;
 - (2) procedures for developing and submitting formal comments on pending legislation, such as the annual National Defense Authorization Act, that originates outside the Coast Guard but may have an impact on the Coast Guard; and

(3) procedures for responding to requests from members of Congress and Congressional staffs for drafting assistance and technical advice on legislative issues.

b. This Instruction does not address:

- (1) Testimony and budget materials. Preparation and clearance of Congressional testimony by Coast Guard witnesses, reports to Congress, and preparation and clearance of Coast Guard budget and appropriations materials should be coordinated with the Office of Budget and Programs (CG-82). See reference (c) for additional guidance.
- (2) Regulations. The Office of Regulations and Administrative Law (G-LRA) coordinates preparation and clearance of proposed Coast Guard regulations and review and comment on other agencies' proposed regulations.
- (3) Congressional liaison. Communications with Congress on other issues should be coordinated with the Office of Congressional Affairs (G-ICA) and CG-82.
- (4) Legal opinions and advice. Questions about the application or interpretation of current laws should be addressed to the appropriate servicing legal office.

7. COAST GUARD LEGISLATIVE STRATEGY.

- a. Consistency with Administration policy. The Coast Guard's legislative program must carefully balance a number of factors to achieve the greatest potential for success. Each proposed legislative change is thoroughly reviewed by DHS, OMB, other Executive departments and agencies, and Congress. To reach Congress, Coast Guard legislative proposals must be consistent with DHS objectives, the President's annual budget proposal, and overall Administration policies. Any provision that is inconsistent will face intense scrutiny during the clearance process and is extremely unlikely to be approved for transmittal to Congress. As a general rule, legislative proposals that seek to "drive" the budget process by statutorily imposing resource requirements or overcome opposition to specific regulatory actions are unlikely to be successful. See reference (a), OMB Circular A-19, for details on OMB clearance of proposed legislation.
- b. Scope of Change. Generally, the Coast Guard has the greatest chance for successfully achieving legislative changes in those statutes that grant authority or apply specifically to the Coast Guard. These statutes are found primarily in titles 14, 33, and 46 of United States Code. Whenever possible, legislative proposals should be narrowly tailored to Coast Guard-specific authority rather than seek changes to government-wide provisions. Additionally, any proposed change that affects another department or agency (e.g., GSA property management authority) must be closely coordinated with that other department or agency.
- c. Justifying requested change. Congress is often unwilling to grant authority in the abstract. When seeking a change to or an increase in authority, the Coast Guard must be able to clearly explain why the change is needed and how it intends to use the new authority to address a specific problem. Objective data and real-life examples are especially helpful, while seeking authority for its own sake with no specific plan for its use is unlikely to be successful. Similarly,

Congress is more likely to give authority to address a specific problem rather than grant broad, general authority. Narrowly-tailored legislation has greater potential for success. Congress is also unlikely to be sympathetic to a legislative proposal if the Coast Guard already has authority to achieve its desired objective.

- d. Political considerations. Although the Coast Guard works closely with Congressional staffs to explain the benefits of proposed legislation, Congress must balance the competing interests of a number of constituencies (local residents, environmental groups, industry, labor, etc.) and may substantially change the legislation to reach a compromise or it may even prohibit the Coast Guard from accomplishing the objective of the proposed legislative change (e.g., “The Commandant of the Coast Guard may *not* . . .”). If Congress enacts a provision unfavorable to the Coast Guard, the Coast Guard must either accept the provision as enacted or recommend that the President veto the entire bill. Presidential vetoes are rare. Therefore, any legislative proposal must carefully consider the possibility that it could not only be unsuccessful but could actually have an adverse effect on Coast Guard authority.

8. RESPONSIBILITIES.

- a. Commandant. The Commandant approves the draft Coast Guard Authorization Act and forwards it to DHS for departmental clearance, inter-agency clearance through OMB, and transmittal to Congress.

- b. Chief of Staff (G-CCS). G-CCS reviews and approves or disapproves LCPs for development, reviews the draft Coast Guard Authorization Act to ensure that it reflects Coast Guard policies and that resource implications are considered in the budgetary process, and makes recommendations to the Commandant.

- c. Program Directors.

- (1) Defined. For purposes of this instruction, program directors are the Assistant Commandants, the Director of International Affairs and Foreign Policy Advisor (G-CI), the Director of the Office of Civil Rights (G-CR), the Director of the National Pollution Funds Center (NFPC), and the Judge Advocate General (G-L).

- (2) Designation of Program Legislation Coordinator. Each program director shall designate one or more program legislation coordinators to serve as the program’s primary point of contact for legislative issues, and provide each program’s legislation coordinator’s name, office symbol, phone number, and e-mail address to the Office of Legislation (G-LLX). A program director should designate one person as the program’s primary legislation coordinator if more than one program legislation coordinator is designated.

- (3) LCPs. Program directors identify the potential need for statutory changes and, with assistance from G-LLX, prepare LCPs in the format of and containing the information specified in enclosure (2), plus supporting documentation. Program directors shall also ensure that program budget requests for the fiscal year for which an LCP is submitted reflect the resources necessary to implement a proposed legislative change.

- (4) Comments. Upon request, program directors, through their program legislation coordinators, review legislation originating outside the Coast Guard and provide policy-level comments to G-LLX on how that legislation may affect the Coast Guard.
- d. Area, Maintenance and Logistics Command, and District Commanders and Superintendent of the Coast Guard Academy. Area, Maintenance and Logistics Command, and District Commanders and the Superintendent of the Coast Guard Academy may ask the appropriate program director to develop an LCP.
- e. Program Legislation Coordinator. The program legislation coordinator serves as the program's primary point of contact for all legislative issues. The program legislation coordinator manages development, program-level clearance, and submission of LCPs on behalf of the program director. The program legislation coordinator also distributes legislative materials as necessary within the program, collects and reviews any internal program comments, and develops a consolidated response on the program director's behalf.
- f. Judge Advocate General. The Judge Advocate General (G-L), primarily through G-LLX, coordinates development of the Coast Guard's legislative program, drafts an annual Coast Guard Authorization Act and supporting materials, and coordinates development of the Coast Guard's position on legislative issues. G-L receives, reviews, and provides recommendations on LCPs to G-CCS via the Assistant Commandant for Planning, Resources, and Procurement (CG-8), and advises G-CCS and the Commandant on the draft Coast Guard Authorization Act. Following Commandant approval, G-L transmits the proposed Coast Guard Authorization Act to DHS and coordinates clearance with the department, OMB, and other federal agencies. G-L distributes legislative information and materials to the cognizant program directors, collects comments, and communicates the Coast Guard's position to DHS. Upon DHS request, G-L drafts a "views letter" on pending legislation of significant interest to the Coast Guard for departmental approval and signature. G-L also coordinates responses to requests by Congressional members or staffs for drafting assistance. G-L, in accordance with 33 CFR §1.20-1 and 49 CFR §9, also clears all testimony by Coast Guard witnesses before any body other than the U.S. Congress.
- g. Assistant Commandant for Congressional and Public Affairs. The Assistant Commandant for Congressional and Public Affairs (G-I), primarily through G-ICA, reviews LCPs and provides recommendations on potential political, public relations, and similar concerns raised by each LCP and the likelihood that the desired legislative change will be enacted. G-I also reviews the draft Coast Guard Authorization Act and makes recommendations to the Commandant. Following submission of proposed Coast Guard legislation to Congress, G-I monitors its progress and, in consultation with G-L and DHS, coordinates the Coast Guard's responses to requests for additional information from Congressional members, committees, or staffs.
- h. Assistant Commandant for Planning, Resources, and Procurement. The Assistant Commandant for Planning, Resources and Procurement (CG-8) will review the draft bill to ensure that any resource implications are considered in the budgetary process. CG-8, working in concert with the Director, Policy and Planning Directorate (G-X), will also ensure that the draft bill is consistent with Coast Guard strategic and performance goals.

9. COMMUNICATIONS WITH CONGRESS. Coast Guard communications with Congress must be clear and consistent, and Coast Guard policies and resource commitments must be made only by those authorized to make such statements. No Coast Guard member or employee may disclose or discuss a Coast Guard-sponsored legislative proposal with any member of Congress or Congressional staff until it has been approved by OMB and transmitted to the House and Senate by DHS. Any official expression of support for or opposition to any pending legislation must be cleared through DHS and OMB. See references (a) through (d) for additional guidance. Additionally, reference (e), 18 U.S.C. 1913, imposes criminal penalties on government officers or employees who directly or indirectly use appropriated funds in an effort to influence any member of Congress. This includes use of any government correspondence, telephone, or other communications media in an effort to encourage private interests to contact Congress to express support for or opposition to any legislative action.
10. LEGISLATIVE DEVELOPMENT PROCESS. Enclosure (1) provides an overview of the legislative process and legislative terms. Enclosure (2) provides the format for an LCP. Enclosure (3) provides a notional timeline for legislative development.
 - a. LCP submission and approval.
 - (1) Submission. Each year, not later than 1 December, G-L will ask the program directors to submit new LCPs for possible inclusion in the proposed CY+2 Coast Guard Authorization Act. Program directors shall personally approve and submit any desired LCPs to G-L not later than 15 February. Program directors should seek assistance from G-LLX in developing any LCP.
 - (2) LCP content and format. Each proposed legislative change must satisfy requirements established by a number of statutes and Executive Orders. These requirements are identified in enclosure (2). Each LCP shall be submitted in the format provided and include the information specified in enclosure (2). Program directors shall submit any necessary additional supporting materials with each LCP.
 - (3) G-L review and recommendations. G-L will collect LCPs from the program directors, and, following receipt, provide a copy of each LCP to G-I for review and comment. G-L will review each LCP to ensure that it contains all required information and to determine if a change in legislation is needed to accomplish the program director's desired objective. G-L will forward all LCPs to G-CCS via CG-8 not later than 1 April, and recommend whether or not to approve each LCP for further development. Following G-CCS approval, G-LLX, in consultation with the sponsoring program director, shall draft proposed legislation to implement each approved proposal.
 - (4) G-I review and recommendations. G-I will review each LCP to determine if it is consistent with the Coast Guard's overall legislative strategy and identify any potential political concerns raised by the LCP. G-I will provide any input to G-L not later than 15 March.
 - (5) CG-8. CG-8, working in concert with G-X, will review each LCP to ensure that program legislative initiatives are consistent with Coast Guard strategic and performance goals and

that any resource implications are considered in the budgetary process, and provide recommendations to G-CCS not later than 1 May.

- (6) G-CCS review and approval. G-CCS will review and approve or disapprove an LCP for development not later than 30 May. Approval of an LCP is not final clearance of proposed legislation. Further review may determine that a legislative change is not needed or advisable. All proposed legislation is subject to the Commandant's approval.
- b. Previously-approved LCPs. Although the Coast Guard annually submits a proposed Coast Guard Authorization Act to Congress, Congress does not enact a Coast Guard Authorization Act each year. Even if a Coast Guard Authorization Act is enacted, Congress often does not include all the provisions proposed by the Coast Guard. Program directors do not need to resubmit previously-approved LCPs that were deferred, were not cleared outside the Coast Guard, or were not enacted. These LCPs will be considered in the next legislative cycle. However, program directors shall critically review each previously-approved LCP that was not enacted and withdraw any proposals that are no longer needed or have little chance for future success. G-L shall delete previously-approved LCPs at program director request and shall also recommend to G-CCS that previously-approved LCPs be cancelled when appropriate.
 - c. Off-cycle LCPs. Although program directors should anticipate the need for legislation and submit LCPs in accordance with the schedule established by this instruction, a program director who identifies a need for an LCP outside the normal cycle may forward an LCP to G-CCS via G-L and CG-8. The LCP must be accompanied by a memorandum clearly explaining why the LCP should be developed outside the normal cycle. Generally, to avoid delaying development and clearance of the draft Coast Guard Authorization bill, any LCP submitted after 1 July will not be included in the bill for the following year unless it provides significant benefit or prevents substantial harm to the Coast Guard. Similarly, because attempting to insert additional provisions while the draft Coast Guard Authorization Act is in clearance at DHS or OMB may lead to significant delays, the Commandant must approve any addition after the draft Coast Guard Authorization Act is forwarded to DHS for clearance. Although there may be several months from the time a proposed Coast Guard Authorization Act is transmitted to Congress to the time Congress takes action, the Coast Guard has virtually no realistic opportunity to make changes to the proposed Coast Guard Authorization Act after it is transmitted to Congress.
 - d. Coast Guard Authorization Act development and approval.
 - (1) Drafting proposed Coast Guard Authorization Act. G-LLX, in consultation with the program director sponsoring each approved LCP, shall prepare a draft Coast Guard Authorization Act (draft bill) that includes draft legislative text, comparative type showing proposed changes to existing law, and an analysis for each approved LCP that has not been deferred or canceled.
 - (2) G-L review and recommendations. G-L will review the draft bill, and, in consultation with the sponsoring program director, recommend whether any approved LCP should be canceled or deferred. G-L will forward the draft bill and any recommendations for cancellation or deferral of an LCP to the Commandant, via CG-8, G-CCS, and Vice Commandant (G-CV), not later than 15 August.

- (3) CG-8 review and recommendations. CG-8 will review the draft bill to ensure that any resource implications are considered in the budgetary process. CG-8 will also ensure, working in concert with G-X, that the draft bill is consistent with Coast Guard strategic and performance goals. CG-8 will provide recommendations to G-CCS not later than 1 September.
- (4) G-CCS review and recommendations. G-CCS will review the draft bill and may cancel or defer any LCP. G-CCS will forward the draft bill to the Commandant, via G-CV, not later than 15 September. G-L will forward an advance copy of the draft bill to the DHS General Counsel for preliminary review after it is cleared by G-CCS.
- (5) Commandant approval. The Commandant will review the draft bill and any recommendations from G-CCS, G-L, G-I, and CG-8. The Commandant approves the draft bill not later than 1 October and returns it to G-L for transmittal to DHS for clearance.
- (6) DHS clearance. G-L transmits the draft bill to DHS for clearance after it is approved by the Commandant. DHS sends the draft bill for review and clearance throughout DHS. Therefore, program directors must coordinate proposed legislative changes with any DHS directorates, bureaus, or agencies that may be affected by those proposals. Following intra-departmental clearance, DHS will transmit the draft bill to OMB for inter-agency review and clearance. The notional timeline for DHS clearance is 2 January.
- (7) OMB clearance. OMB reviews the draft bill to ensure it is consistent with Administration policies. As part of its clearance process, OMB sends the draft Coast Guard Authorization Act to other departments and agencies within the Executive Branch. Provisions that are coordinated in advance with other departments or agencies have the greatest potential for clearance. The notional timeline for OMB clearance is 15 February.
- (8) Transmittal to Congress. Following OMB clearance, either the Secretary of Homeland Security, the DHS General Counsel, or the Commandant will sign letters transmitting the proposed Coast Guard Authorization Act to the President of the Senate and the Speaker of the House of Representatives. The notional timeline for signature is 1 March. G-L, in coordination with G-I and DHS, will send the proposed Coast Guard Authorization Act to Congress after the transmittal letters are signed.
- (9) Congressional consideration. See enclosure (1) for an overview of Congressional procedures after the President of the Senate and Speaker of the House receive the proposed Coast Guard Authorization Act. Congressional staffs often ask for additional information on costs, benefits, and background for proposed Coast Guard legislative provisions. Program directors are the subject experts, and should coordinate responses with G-LLX and G-ICA. Failure to provide complete, accurate, responsive, and timely information significantly reduces the likelihood that a Coast Guard-proposed provision will be enacted.

11. DRAFTING ASSISTANCE.

- a. Members of Congress and Congressional staffs occasionally ask for Coast Guard assistance in drafting or editing a bill or section of a bill. Under reference (a), the Coast Guard may provide

that assistance as a service to Congress. A response to a request for drafting assistance does not reflect the Administration's position and does not require formal clearance. However, program directors and field commanders may not respond directly to Congressional requests for drafting assistance. All requests for drafting assistance shall be referred to the Chief, G-LLX and Chief, G-ICA. The Chief, G-LLX will develop and coordinate the Coast Guard's response as appropriate within the Coast Guard and with DHS.

- b. All responses to requests for drafting assistance shall contain the following disclaimer in bold type:

"The language in this document is provided in accordance with OMB Circular A-19 in response to a request for drafting assistance from [Member or Committee]. It does not constitute a commitment with respect to the position of the Administration, the Department of Homeland Security, or the United States Coast Guard."

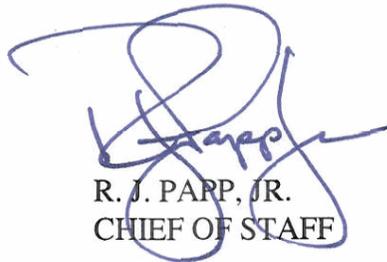
12. REVIEW OF LEGISLATIVE MATERIALS FROM OUTSIDE THE COAST GUARD.

- a. Introduction. G-LLX coordinates review of legislative materials originating outside the Coast Guard and prepares a consolidated Coast Guard response. These include draft legislation, agency "views" letters and formal Statements of Administration Policy (SAPs) on pending legislation, and enrolled bill letters recommending that the President sign or veto a bill after it is passed by Congress. Often, requests for comments have extremely short deadlines (a day or only a few hours) that do not allow for in-depth review. These deadlines are often imposed by OMB and extensions are not granted. Rapid responses are essential to ensuring that the Coast Guard's position can be developed and considered.
- b. Request for comments. G-LLX will screen legislative materials upon receipt to determine whether any Coast Guard interests may be involved, and will distribute the item via e-mail as appropriate to program legislation coordinators and indicate the deadline for responses. Program legislative coordinators shall collect any comments from within the program, reconcile any conflicts, and develop a consolidated response on behalf of the program director. Unless specifically requested, program staffs should not submit comments directly to G-LLX. If a program does not respond by the deadline, G-LLX will assume the program has no comments.
- c. Scope of Comments. Program comments on introduced bills, or draft legislation, should be limited to identifying the item's potential impact on the program, but may highlight issues of possible concern to other programs. The Coast Guard generally does not comment on impacts outside the Coast Guard. Comments must often be cleared by the administration and are frequently edited to comport with DHS and OMB standards and legislative priorities.
- d. Interagency Working Groups. Program directors and their staffs often participate in interagency working groups that develop legislative proposals. These legislative proposals may have policy or budgetary impacts on the Coast Guard. Program legislative coordinators shall notify the Chief, G-LLX when program staffs become involved in developing legislation so the Coast Guard can ensure support and coordination.

Chief, G-LLX when program staffs become involved in developing legislation so the Coast Guard can ensure support and coordination.

13. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental Aspect and Impact Considerations were examined in the development of this Manual and have been determined not to be applicable.

14. FORMS. None.



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CHIEF OF STAFF

Encl: (1) Legislative Terms and Process
(2) Legislative Change Proposal Description and Format
(3) Coast Guard Legislative Development Cycle

Legislative Terms and Process

The development of **legislation** is a complex process involving Constitutional authority, political considerations, and many other factors. The flow chart at the end of this enclosure provides an overview of Congressional action. Only a small percentage of all introduced bills become law.

Introduction of a Bill: Although the President or an Executive department or agency may **propose** legislation, only a **Member of the House** of Representatives may **introduce a bill** in the House, and only a **Senator** may introduce a bill in the Senate. For example, after the **Department of Homeland Security (DHS)** and the **Office of Management and Budget (OMB)** approve a proposed Coast Guard Authorization Bill, the **Secretary of Homeland Security** or the **DHS General Counsel** sends letters to the **Speaker of the House** and the **President of the Senate** asking that Congress consider and enact the proposed legislation. However, DHS must then rely on Members of the House and Senators to introduce a bill – and they are free to accept, reject, or modify the DHS proposal. Historically, up to 50% of Coast Guard-proposed provisions are never introduced in a bill. The Member or Senator who introduces a bill is the **sponsor**, and there is no limit on the number of **co-sponsors**. Each bill is assigned a sequential number (**H.R. ____** for House bills, **S. ____** for Senate bills), beginning with number 1 at the start of each Congress (a Congress runs for two years beginning in January following an election). A **Joint Resolution** may be introduced in the House (**H. J. Res. ____**) or Senate (**S. J. Res. ____**) and also becomes law if passed by both the House and the Senate and signed by the President or enacted over a Presidential veto. Bills are normally available through the **Thomas Legislative Information Service** (<http://thomas.loc.gov>) within two to three days after introduction.

Committee Role: Committees play a critical role in a bill's progress. After introduction, a bill is **referred** to one or more **committees** with jurisdiction over the bill's subject. Each Congress has numerous House and Senate committees, and most committees have one or more **subcommittees**. Committee members are appointed so that the majority party always maintains a majority, and a member of the majority party **chairs** each committee or subcommittee. The senior member from the minority party is the **ranking member** of the committee or subcommittee. Professional **committee staff** members work for each committee, and committee staff positions are divided between the majority and the minority parties. The **House Transportation and Infrastructure Committee**, and its **Coast Guard and Maritime Transportation Subcommittee**, and the **Senate Commerce, Science, and Transportation Committee**, and its **Oceans, Fisheries, and Coast Guard Subcommittee**, have primary jurisdiction over the laws that apply to the Coast Guard. The House has also established a **House Committee on Homeland Security**, and its **Economic Security, Infrastructure Protection, and Cybersecurity Subcommittee** with jurisdiction over domestic port security infrastructure issues.

To move forward, a bill must be **favorably reported** out of the committee to which it is referred, so bills referred to more than one committee face additional challenges. Committee staffs review each bill, and often draft **amendments**. A committee may ask the Executive Branch for its view of the bill, and any Coast Guard response must be coordinated with DHS and OMB. The majority of bills introduced each year are never reported out of committee. Although both the House and Senate have procedures to force a committee to release a bill, these procedures are rarely used. It is unusual for a committee to discharge a bill with other than a favorable report.

Committee Hearings: A committee or subcommittee may hold **hearings** and invite witnesses. Hearings are open to the public unless classified information or other sensitive subjects are involved. Coast Guard members and employees may attend any public hearing, and should wear

appropriate civilian business attire unless part of an official party. Many hearings are also televised on the **C-SPAN** network. Normally, the chair and ranking member of the committee or subcommittee make brief opening statements, and the chair allows other committee members to make statements. Each witness normally submits a written statement for the record and gives a brief oral statement. Each committee member then questions the witness.

Committee Markup: If a subcommittee decides to move a bill forward, it will hold a **markup** session. Usually, the subcommittee chair offers an amendment, called the **chairman's mark** or the **committee staff draft**, and subcommittee members also propose amendments. The subcommittee then votes on the bill and amendments. The subcommittee may vote to **report** the bill to the full committee **favorably**, with or without amendments, **unfavorably**, or **without recommendation**. The subcommittee may also recommend that the full committee "**table**" the bill and postpone further action indefinitely.

The full committee may hold additional hearings, and holds another mark-up session. Often, the committee chair offers an **amendment in the nature of a substitute**, a complete replacement that includes all amendments adopted by the committee. In the House, amendments must be **germane**, or related to the original subject of the bill. The Senate does not have a similar requirement, and amendments may be unrelated to the original subject of the bill.

Committee Report: The committee prepares a **committee report** after it votes to report the bill. The report shows the committee's amendments, includes a section-by-section analysis of the bill, and shows changes to existing law. Each committee report is assigned a sequential number that begins with the Congress in which it was prepared (e.g., **H. Rpt. 109-100** for House reports or **S. Rpt. 109-100** for Senate reports). Reports are normally available through the **Thomas Legislative Information Service** (<http://thomas.loc.gov>) shortly after they are printed. Although committee reports are not legally binding, they are a strong indication of Congressional intent in enacting a law and are generally followed.

Floor Consideration: The House and Senate each follow different procedures for considering a bill. Generally, the House follows strict parliamentary procedures while the Senate's process is more flexible. Floor proceedings and voting results are reported in the **Congressional Record** (<http://www.gpoaccess.gov/crecord/index.html>). For important bills, the Administration may issue a **Statement of Administration Policy (SAP)** indicating its support or opposition.

House Procedures: After a House committee reports a bill, the bill is usually referred to the **House Rules Committee**. The Rules Committee proposes a special resolution, or rule, that specifies when the bill will be considered on the House floor, the amount of time allowed for debate, and limits on additional amendments. The House votes on the bill, either by a **voice vote** (also known as the **yeas and nays**) or by a **recorded vote** using electronic voting machines. A bill passes by a simple majority vote of those voting (with a quorum of 218).

The House may also consider a bill under **suspension of the rules**. Under suspension of the rules, debate is limited and no amendments are allowed except a **manager's amendment** by a member of the committee with primary jurisdiction. Two-thirds of the Members present, with a quorum of 218, must vote in favor of a bill for it to pass under suspension of the rules. Generally, only non-controversial bills are considered under suspension of the rules.

Senate Procedures: In the Senate, the **Senate majority leader** determines when a bill will be considered. Any Senator may continue to debate a bill unless debate is ended by a **cloture** vote, which requires 60 votes to pass. Many non-controversial bills are considered under **unanimous**

consent procedures that limit debate. However, a single objection prevents a bill from being considered by unanimous consent. Any Senator may place a **hold** on a bill by giving notice that he or she intends to object to a request to consider the bill by unanimous consent.

Engrossed Bill: A bill is called an **engrossed bill** after it passes either the House or the Senate. After passage in one chamber, the engrossed bill is transmitted to the other chamber. A bill usually retains the number assigned in the chamber that passes it first. For example, H.R. 450 passes the House and is then transmitted to the Senate as an engrossed bill. H.R. 450 is then referred to the appropriate Senate committees for review. After committee action, H.R. 450 may then be considered on the Senate floor. The Senate may pass H.R. 450 as passed by the House, it may amend the House version, or it may substitute its version of a similar bill for H.R. 450. If the Senate makes any changes, it then returns its engrossed bill to the House – as H.R. 450. The House may adopt the Senate’s changes, make more changes and send the bill back to the Senate for action, or either chamber may request a **conference**.

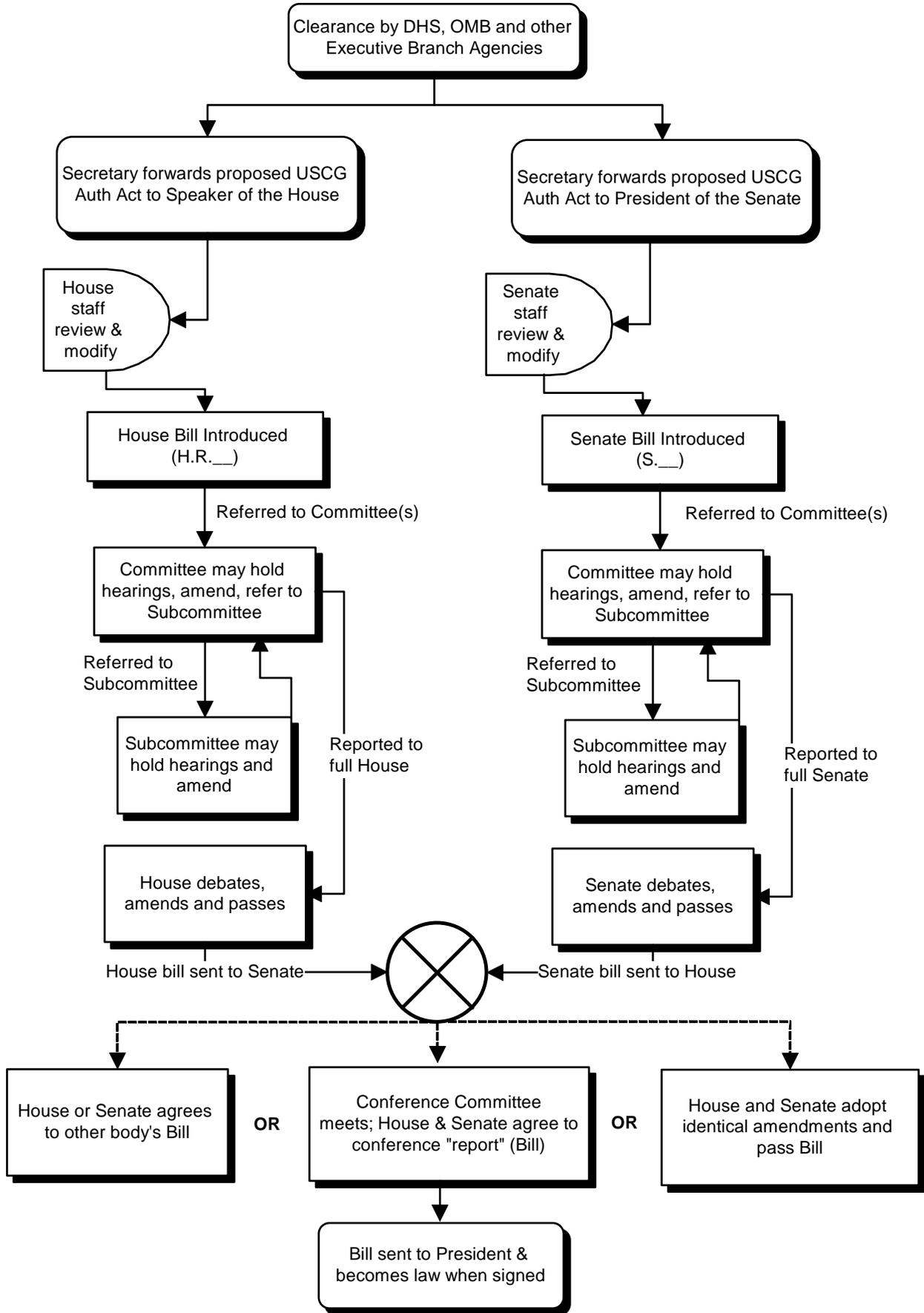
Conference Committee: If a conference is requested, each chamber appoints members to a **conference committee**. The conference committee attempts to resolve the differences between the two engrossed bills, and it may adopt a compromise position between conflicting provisions. If it reaches agreement, the conference committee prepares a **conference report**. Each chamber may accept or reject the conference report. If both the House and Senate vote to accept the conference report, then the conference committee’s version of the bill is transmitted to the President for action. As with committee reports, the conference report is not binding law but it is a strong indication of Congress’ intent.

Enrolled Bill: If both the Senate and House pass an identical bill or accept a conference report, the bill is called an **enrolled bill** and is sent to the **President** for signature. The President may sign the bill into law or **veto** it and return it to Congress, but may not change the bill. OMB may ask for input for an **enrolled bill letter** to recommend whether or not the President sign a bill. Under the Constitution, a bill becomes law unless the President vetoes it within 10 days, not counting Sundays. Congress may override a presidential veto by a 2/3 vote.

Public Law: A bill is given a sequential **Public Law Number** after it becomes law (e.g., Public Law 108-005 was the fifth law enacted by the 108th Congress). Public Laws are normally available on-line at <http://www.gpoaccess.gov/plaws/index.html> within several days after enactment. Many laws are also codified by subject in different **Titles** of the **United States Code**. For example, many of the laws governing the Coast Guard are codified at Title 14, United States Code. A law may also be known by its popular name, such as the Coast Guard Hurricane Relief Act of 2005.

End of Congress: No pending bill may be considered after Congress adjourns at the end of its second session, known as **adjourning sine die**. The bill must start at the beginning if it is introduced in the next Congress.

SIMPLIFIED LEGISLATIVE PROCESS DIAGRAM



CY__ /FY__ LEGISLATIVE CHANGE PROPOSAL

LCP IDENTIFICATION NUMBER: *[The LCP identification number is assigned by the sponsoring program and consists of the last two digits of the calendar year in which it is submitted, the routing symbol of the sponsoring program, and a sequential number (e.g., 04-P-04 would be the fourth LCP submitted by G-P for calendar year 2004).]*

LCP TITLE: *[Short descriptive title of proposed action]*

PROJECT OFFICER: *[Name, Office, Phone Number]*

SUBMITTED BY:

_____ Date: _____
[Office Chief]

REVIEWED AND FORWARDED BY:

_____ Date: _____
[Directorate Director]

_____ Date: _____
[Program Director]

JUDGE ADVOCATE GENERAL (G-L) REVIEW:

_____ Date: _____
[Judge Advocate General]

LEGISLATION [__ IS] [__ IS NOT] REQUIRED TO ACHIEVE DESIRED RESULT.

RECOMMEND THIS LCP BE __ APPROVED. __ DISAPPROVED. __ REVISED.

CHIEF OF STAFF (G-CCS) DECISION:

_____ Date: _____
[Chief of Staff]

LCP IS __ APPROVED. __ DISAPPROVED. __ REVISED AS NOTED.

CY__ /FY__ LEGISLATIVE CHANGE PROPOSAL

LCP IDENTIFICATION NUMBER: ___ - ___ - ___ [see previous page for LCP number format]

LCP TITLE: [see previous page]

PROJECT OFFICER: [Name, Office, Phone Number]

I. EXECUTIVE SUMMARY

- a) **Problem Statement:** Provide a concise statement of the problem created by existing law.
- b) **Desired Result/Recommended Legislative Action:** Provide a concise statement of the proposed legislative action. (Draft legislative text should not be developed at this stage.)
- c) **Policy/Resource Implications of Proposed Change:** Provide a brief summary of any significant policy or resource implications of the proposed change, and indicate whether any resource requirements are reflected in the program's budget request.

II. BACKGROUND

- a) **History** – Briefly discuss how the need for legislative action was identified (e.g., authority gap found during casualty investigation) and any previous attempts to obtain or exercise the desired authority. If previously submitted as an LCP, discuss why the proposal was not successful.
- b) **Existing Authority** – Identify the Coast Guard's existing authority, if any, and any risks associated with continuing to rely on the existing authority. Identify other executive agencies or departments that have similar or related authority, and, if so, provide justification for granting duplicate authority to the Coast Guard. Any proposal that would modify another agency's authority must have strong justification and be coordinated with that agency.

III. LEGISLATIVE PROPOSAL

- a) **Description** – Provide a clear, detailed description of the problem and goal of the proposal. This description should be more detailed than the problem statement and desired result in the executive summary. If the proposal would amend existing authority, provide a cite to the existing law (e.g., OPA 90, 14 USC 93).
- b) **Implementation** – Describe how the desired authority would be used, including the number of persons or vessels to which it would apply, projected costs and benefits to the Coast Guard and the public, and any regulatory changes that would be needed. A well-developed implementation strategy will be of significant assistance in persuading Congress to enact the desired provision.

IV. FEDERAL BUDGETARY IMPACT AND PERSONNEL REQUIREMENTS

Under OMB Circular A-19 (reference (a)), all legislative proposals must include one of the following:

- a) **Estimated Additional Costs** – Estimate additional resource requirements (personnel and

equipment) that would be needed if the proposal were enacted, and indicate whether those resource requirements are included in the program's budget request for the year in which enactment is desired. Additionally, proposed legislation which would result in annual federal costs of over \$1 million must include an estimate of costs for the initial five years following enactment (see 5 USC § 2953);

- b) **Statement of No Cost.** State that no additional federal resources would be needed if the proposal were enacted; or
- c) **Estimate of Cost Savings.** Estimate any federal cost savings that would result from enactment of the proposal.

V. FEDERAL POLICY CONSIDERATIONS

Each LCP **must** address each of the following:

- a) **Civil Rights** – Describe the proposal's impact on federal civil rights, including any direct or indirect impacts on any specific class of people. If none, state, "There is no substantial likelihood that this proposal would have a disparate impact on a class of persons distinguished by race, color, national (ethnic) origin, religion, gender, age, or physical or mental handicaps."
- b) **Environmental Impact** – Describe the proposal's impact on the environment, whether positive or negative. If none, state, "There is no likelihood that this proposal would have a significant effect on the quality of the human environment." (See the National Environmental Policy Act, 42 U.S.C. 4332; and COMDTINST M16475.5 (series)).
- c) **Economic Impact** – Describe the proposal's economic impact on industry, the general public, and state, local, or tribal governments, and include an estimate of potential costs or cost savings. If the proposal has no economic impact, state, "There is no likelihood that this proposal would have a significant economic impact." Potential economic impacts on "small entities," including small businesses, organizations, and small governmental jurisdictions, must be specifically addressed. If no economic impact is expected on small entities, state, "There is no likelihood that this proposal would have a significant economic impact on a substantial number of small entities."
- d) **Federalism** – Describe any impact the proposed change may have on the traditional authority of state, local, or tribal governments or conflict with existing state law. If none state, "There is no likelihood that this proposal would have a substantial effect on the traditional authority or jurisdiction of state, local, or tribal governments." (See E.O. 13132, "Federalism", dated August 4, 1999, 64 FR 43255.)
- e) **Federal and non-Federal Paperwork Requirements** – Describe any new reporting or record-keeping requirements that would result from the proposal. If none, state "There is no likelihood that this proposal would impose any new reporting or record-keeping requirements." (See OMB's regulation entitled, "Controlling Paperwork Burdens on the Public", revised May 10, 1988, the Paperwork Reduction Reauthorization Act of 1986, 44 U.S.C. §§ 3501-3520, 5 C.F.R. § 1320.10, and OMB annual bulletins concerning Information Collection Budgets.)
- f) **Federal Criminal Law Enforcement Authority** – Any proposal that involves new law enforcement authority, new authority to carry firearms, or new authority to make arrests,

searches, or seizures, must be reviewed by the Department of Justice and include specific justification. For the Coast Guard, “new authority” means authority outside the Coast Guard’s traditional role as a maritime law enforcement agency. (See Attorney General’s memorandum of June 29, 1984, entitled “Guidelines for Legislation Involving Federal Criminal Law Enforcement Authority.”)

- g) **Administration Policy.** Describe how the proposal supports overall Coast Guard, DHS, and Administration policies (e.g., promote economic growth, protect the environment).
- h) **Privacy.** Describe any impact the proposal may have on the personal privacy of members of the public. If none, state: “There is no likelihood that this proposal would have an impact on personal privacy.” (See The Privacy Act of 1974, 5 U.S.C. § 552a; Department of Homeland Security (DHS) Act, Section 222 (4), E-Government Act of 2002, Section 208).

VI. POTENTIAL FOR SUCCESS

- a) **Interested Agencies, Groups, or Individuals** – Identify other government agencies, groups, or individuals (particularly members of Congress or staffs) that are expected to have an interest in this proposal, and any expected support or opposition. Internet searches of the web sites of affected interest groups are strongly recommended.
- b) **Drawbacks** – Discuss any negative repercussions the proposal may have, including any potential backlash that it may create.
- c) **Legislative strategy** – Discuss any prior efforts such as interagency working groups, consultations with advisory committees, public meetings, or meetings with members of Congress or Congressional staffs, that led to development of this proposal. Identify any plans to build support for this proposal with other government agencies.
- d) **Likelihood of success** – Provide a good-faith estimate of the proposal’s chances of enactment.

COAST GUARD LEGISLATIVE DEVELOPMENT CYCLE

Internal Coast Guard Actions

CY-2

ACTION

1 Dec G-L asks program directors to submit LCPs for the draft CY+2 Coast Guard Authorization Bill.

CY-1

15 Feb Program directors submit LCPs to G-L. Upon receipt, G-L provides a copy of each LCP to G-I for review and comment.

15 Mar G-I provides input to G-L.

1 Apr G-L forwards LCPs to G-CCS via CG-8 with recommendations for approval or disapproval.

1 May CG-8 forwards LCPs to G-CCS with recommendations for approval or disapproval.

30 May G-CCS approves or disapproves LCPs for development.

15 Aug G-L forwards draft CY+1 Coast Guard Authorization Act via CG-8 and G-CCS for Commandant approval, with recommendations for deferring or canceling any LCPs.

1 Sept CG-8 provides recommendations to G-CCS.

15 Sept G-CCS forwards draft CY+1 Coast Guard Authorization Act for G-C approval. G-L provides advance copy to Assistant General Counsel for Rules and Administration.

1 Oct G-C approves CY+1 Coast Guard Authorization Act; G-L forwards approved package to DHS for intra-department review and approval.

External Actions

CY

2 January DHS clears Coast Guard Authorization Act and forwards to OMB for inter-agency clearance.

15 February OMB clears Coast Guard Authorization Act for transmittal to Congress.

1 March Draft Coast Guard Authorization Act transmitted to Speaker of the House and President of the Senate as proposed legislation.

Apr – Aug Committee staffs review proposed Coast Guard Authorization Act; draft bills for introduction; bills introduced; committees consider and report bill.

Sep – Oct Bill passes House and Senate and is transmitted to President for signature; President signs and bill becomes law.