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From: foia <[foia@hq.dhs.gov](mailto:foia@hq.dhs.gov)>

Sent: Mon, Jan 29, 2018 6:57 am

Subject: Department of Homeland Security FOIA 2017-HQFO-00999 Final Response

Good Morning,

Attached is our final response to your request. If you need to contact this office again concerning your request, please provide the DHS reference number. This will enable us to quickly retrieve the information you are seeking and reduce our response time. This office can be reached at 866-431-0486.

Regards,

DHS Privacy Office  
Disclosure & FOIA Program  
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Department of Homeland Security  
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Washington, DC 20528-0655  
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# Homeland Security

June 28, 2017

The Honorable Bill Shuster  
Chairman  
Committee on Transportation and Infrastructure  
United States House of Representatives  
Washington, DC 20515

Dear Representative Shuster,

This letter sets forth Department of Homeland Security (DHS) views with regard to S. 89, a bill “[t]o amend title 46, United States Code, to exempt old vessels that only operate within inland waterways from the fire-retardant materials requirement if the owners of such vessels make annual structural alterations to at least 10 percent of the areas of the vessels that are not constructed of fire-retardant materials and for other purposes.”

(b)(5)

### *Background.*

The Steamer DELTA QUEEN is a 20th century vessel, the superstructure of which is constructed of wood. The vessel’s boilers are original and open directly to the wood superstructure. Uniquely, the vessel’s configuration has been altered such that the sole means of egress is the stage (gangway) on the bow.

In 1966, Congress stipulated that, “no passenger vessel of the United States . . . shall be granted a certificate of inspection . . . *unless the vessel is constructed of fire-retardant materials (emphasis added).*” During the ensuing decades, Congress temporarily delayed the effect of the mandate as it would apply to the Steamer DELTA QUEEN five separate times. Finally, in 2008, the temporary delay expired, and the mandate was made applicable to the Steamer DELTA QUEEN.

S. 89 would, once again, render the mandate inapplicable with regard to the Steamer DELTA QUEEN, provided that the vessel's owner or operator makes structural alterations to those portions of the vessel that are not constructed of fire-retardant materials.<sup>1</sup>

*Discussion.*

(b)(5)

(b)(5) in 2008, the United States Coast Guard's Traveling Inspector who was attending the vessel for examination noted "evidence of a lack of both short- and long-term maintenance that adversely impacts the safety of the vessel . . . [a]ll [of which has] to do with *unintended or excess but unnecessary fireload [sic]* (emphasis added)." The fire load was concentrated in the lower decks (*i.e.*, the fire room, other mechanical areas, and the bilge, as well as in other non-public spaces that, at the time, were bare-wood compartments with no fire-rated insulation or finish). (b)(5)

(b)(5)

Separately, DHS notes that 46 U.S.C. § 3503(b)(1)(D) requires the vessel's owner/operator to "notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations comply with any noncombustible material requirements that the Coast Guard prescribes for non-public spaces." However, as late as 2008, the Traveling Inspector noted that:

Renovations, modifications[,] and or upgrades . . . were found to be limited to those associated with the installed sprinkler system only. Based on a review of Coast Guard records . . . there is no evidence of further modifications or structural fire protections upgrades since 1998 with most activity tapering off after 9/11/2001. Some existing non-public spaces, like the carpenter's shop[,] have been improved by cleaning and organizing, which helps reduce the fire load. Other non-public spaces, such as the laundry room[,] still only show bare wood construction with varying degrees of stainless steel similar to the galley, but as indicated, the installations are not consistent throughout with fire rating unknown.

(b)(5)

The Coast Guard advises that, if it were to inspect the Steamer DELTA QUEEN today,

(b)(5)

Additionally, S. 89 includes a provision whereby passenger vessels having berth or stateroom accommodations for at least 50 passengers shall only be granted a certificate of inspection if, among other things, the vessel has multiple forms of egress off the vessel's bow and stern. (b)(5)

(b)(5)

Lastly, the DHS notes that S. 89 does not require the owner/operator to install thermal and structural boundaries, particularly about the boilers, and does not carry a monetary or non-monetary penalty for failure to comply with the proposed subparagraph (D) requirement. (b)(5)

(b)(5)

(b)(5)

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this letter to Congress.

I appreciate your interest in the Administration's concerns and input, and I look forward to working with you on future homeland security issues. An identical letter has been sent to Representative DeFazio, Senator Thune, and Senator Nelson.

If I may be of further assistance, please contact me at (202) 447-5890.

Respectfully,



Benjamin Cassidy  
Assistant Secretary for Legislative Affairs



# Homeland Security

June 26, 2017

The Honorable Mick Mulvaney  
Director  
Office of Management and Budget  
Executive Office of the President  
Washington, DC 20503

Dear Director Mulvaney:

This letter sets forth the Department of Homeland Security's views on, and its recommendation with regard to, the enrolled bill H.R. 1238, the "Securing our Agriculture and Food Act."

(b)(5)

H.R. 1238 statutorily enshrines the Assistant Secretary for Health Affairs' role in coordinating the Department's efforts to defend the food, agriculture, and veterinary systems of the United States against terrorism and other high-consequence events that pose a high risk to homeland security. This includes providing oversight and management of the Department's responsibilities pursuant to Homeland Security Presidential Directive 9 – Defense of United States Agriculture and Food.

An agriculture or food emergency may develop from a number of sources ranging from a natural disaster resulting in contaminated food or a breakdown of the food transportation system, to a highly contagious disease transmitted from wildlife to livestock to humans, or a deliberate food contamination. Each scenario has the potential to harm the nation's economy and public health.

(b)(5)

Thank you for considering the Department's views and recommendation.

If I may be of further assistance, I can be reached at (202) 447-5890.

Respectfully,

A handwritten signature in black ink that reads "Benjamin Cassidy". The signature is written in a cursive style with a long, sweeping tail on the letter "y".

Benjamin Cassidy  
Assistant Secretary for Legislative Affairs



# Homeland Security

December 9, 2016

The Honorable Shaun Donovan  
Director  
Office of Management and Budget  
Executive Office of the President  
Washington, DC 20503

Dear Director Donovan:

This letter sets forth the views and recommendation of the Department of Homeland Security (DHS) on the enrolled bill S. 2943, the "National Defense Authorization Act for Fiscal Year 2017" (NDAA).

With regard to those provisions of the enrolled bill that pertain to the military activities of the Department of Defense and to the defense activities of the Department of Energy, DHS defers to the Department of Defense and the Department of Energy, respectively, for views.

(b)(5)

In November 2014, the Secretary of Homeland Security established JTFs to operationalize the goals of the Southern Border and Approaches Campaign (*i.e.*, minimizing the risk of terrorism to the Nation, interdicting illicit traffic and goods trying to cross our land, sea, and air borders; and dismantling transnational criminal organizations). Section 1901 authorizes the JTFs to conduct joint operations using DHS personnel and capabilities for the purposes of securing the borders of the United States, responding to homeland security crises, and establishing regionally-based operations. These JTFs will allow the Department to direct resources in a more collaborative fashion to address a broad range of threats and challenges, as well as to improve situational awareness and increase information sharing with federal, state, and local law enforcement agencies. Explicit authorization from Congress will enable the JTFs to operate in a fully integrated and unified fashion along the border.

Additionally, section 1901 provides for the Joint Duty Program for the purposes of enhancing coordination within DHS and promoting professional development. (b)(5)

(b)(5)

Section 1902 establishes in the Department an Office of Strategy, Policy, and Plans headed by an Under Secretary. This Office will further contribute to the Secretary's Unity-of-Effort initiative by ensuring coordinated operational planning and joint strategy development. By way of this provision, the Under Secretary for Strategy, Policy, and Plans is made responsible for leading and coordinating department-wide policy development and implementation, as well as for developing and coordinating strategic plans and the long-term goals of DHS.

Other Provisions of Interest

Other provisions of the enrolled bill are of specific interest to DHS, including—

- Section 534 sets forth certain procedural steps that, in the case of DHS, the Board for Correction of Military Records (BCMR) must take to ensure that claimants have a fair opportunity to present their case, that the BCMR's reasoning and findings are transparent to the public, and that the BCMR's members undergo proper training.

(b)(5)

- Section 1049 authorizes the Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, to waive the polygraph examination requirement for qualified veterans. (b)(5)

(b)(5)

- Section 1214 expands and extends the authorization to grant special immigrant visas to certain Afghans who have provided assistance to the United States in Afghanistan.

(b)(5)

Other Matters

(b)(5)



**Conclusion**

(b)(5)

Thank you for considering the Department's views and recommendation. If I may be of further assistance, please contact me at (202) 447-5890.

Respectfully,

(b)(6)

Assistant Secretary for Legislative Affairs



# Homeland Security

August 30, 2016

The Honorable William M. "Mac" Thornberry  
Chairman  
Committee on Armed Services  
U.S. House of Representatives  
Washington, DC 20515

The Honorable John McCain  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Chairmen Thornberry and McCain:

As you begin the conference on the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017, I write to express the Department of Homeland Security's (DHS) views with the following provisions that either appear or should be included in the House or Senate-passed bill and would impact DHS's operations.

## **Border Security Metrics**

The Federal government has dedicated unprecedented resources to securing the border in recent years, and DHS supports efforts to measure the effectiveness of its ongoing efforts. It is actively working to refine metrics to estimate the impact of its border security and enforcement operations along the border. (b)(5)

(b)(5)

## **Polygraph Waiver.**

(b)(5) section 1097 of H.R. 4909, which would authorize U.S. Customs and Border Protection to waive the polygraph examination requirement under the *Anti-Border Corruption Act of 2010* (Pub. L. No. 111-376) for any applicant who met certain criteria. (b)(5)

(b)(5)

**Ballast Water.**

As noted in the Statement of Administration Policy for H.R. 4909, (b)(5)

(b)(5)

**Board for Correction of Military Records (BCMR) and Discharge Review Board Matters.**

- **Section 536**

(b)(5)

(b)(5)

- **Section 963**

(b)(5) th section 963 of S. 2943, which would add several new provisions to 10 U.S.C. § 1552(a) including requiring the Board to notify an applicant (“claimant”) in writing indicating specific information or documentation necessary to make the claim complete and reviewable by the board “[i]f a board makes a preliminary determination that a claim . . . lacks sufficient information or documentation to support the claim.”

Decisions issued under 10 U.S.C. § 1552 legally constitute final agency action, so the Board does not issue “preliminary determinations.” (b)(5)

(b)(5)

(b)(5)

Under the newly revised 10 U.S.C. § 1552(a)(3)(C), the Board would be required to provide the claimant with copies of his or her military and medical records upon request. (b)(5)

(b)(5)

Under proposed 10 U.S.C. § 1552(a)(5), “[a]ny request for reconsideration of a determination of a board under this section, no matter when filed, shall be reconsidered by a board under this section if supported by materials not previously presented to or considered by the board in making such determination.” (b)(5)

(b)(5) on

Under proposed 10 U.S.C. § 1552 (a)(5), “[e]ach final decision of a board under this subsection shall be made available to the public in electronic form on a centralized Internet website. In any decision so made available to the public there shall be redacted all personally identifiable information.” DHS already makes the vast majority of its decisions publicly available, and DHS redacts personally identifiable information from those decisions. (b)(5)

(b)(5)

Finally, the training requirements in section 963(d) (b)(5)

(b)(5) he

DHS Board members are trained attorneys who already undergo BCMR training upon appointment. (b)(5)

(b)(5)

The Honorable William M. Thornberry  
The Honorable John McCain  
Page 4

The NDAA is important legislation for our national security. While this letter focuses on DHS's issues with certain provisions in the NDAA, consistent with DoD's sentiment, we too appreciate the many positive provisions in the legislation. DHS appreciates your consideration of these views and looks forward to working with your staffs to resolve the concerns we have raised.

Sincerely,

(b)(6)



Assistant Secretary for Legislative Affairs



# Homeland Security

April 18, 2016

The Honorable Shaun Donovan  
Director  
Office of Management and Budget  
Executive Office of the President  
Washington, DC 20503

Dear Director Donovan:

This letter sets forth the views and recommendations of the Department of Homeland Security on enrolled bill S. 1638, the "Department of Homeland Security Consolidation Accountability Act of 2015".

(b)(5)

S. 1638 directs the Secretary in coordination with the Administrator of General Services, within 120 days of enactment, to submit to Congress information on implementation of the enhanced plan included in the President's fiscal year 2016 budget request for the Department headquarters consolidation project within the National Capital Region (NCR). The enrolled bill lists the type of information to be submitted to Congress, including a proposed occupancy plan, the seat-to-staff ratio, and schedule estimates for migrating operations. The submission must also include an assessment of the difference between the current real property and facilities needed by the Department in the NCR, a plan for construction of the headquarters consolidation at the St. Elizabeths campus, and a current plan for the leased portfolio of the Department in the National Capital Region.

Thank you for considering the Department's views and recommendation.

If I may be of further assistance, I can be reached at (202) 447-5890.

Respectfully,

(b)(6)

Assistant Secretary for Legislative Affairs.



# Homeland Security

March 11, 2016

The Honorable Shaun Donovan  
Director  
Office of Management and Budget  
Executive Office of the President  
Washington, DC 20503

Dear Director Donovan:

This letter sets forth the views and recommendations of the Department of Homeland Security (DHS) on enrolled bill S. 1172, the "Edward 'Ted' Kaufman and Michael Leavitt Presidential Transitions Improvements Act of 2016."

(b)(5)

S. 1172 requires the President, not later than 6 months before the date of a Presidential election, to establish a White House transition coordinating council and take other actions necessary to facilitate an efficient transfer of power to a successor President. Section 6 requires the Secretary of Homeland Security to submit a report to Congress "analyzing the threats and vulnerabilities facing the United States during a presidential transition" that includes among other things, identifying and discussing vulnerabilities related to border security and threats related to terrorism, including from weapons of mass destruction. However, the enrolled bill requires the Secretary to submit the report, not later than "February 15, 2016". (b)(5)

(b)(5)

Thank you for considering the Department's views and recommendation.

If I may be of further assistance, I can be reached at (b)(6)

Respectfully,

(b)(6)

Assistant Secretary for Legislative Affairs