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107TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 107–777

MARITIME TRANSPORTATION SECURITY ACT OF 2002

NOVEMBER 13, 2002.—Ordered to be printed

Mr. YOUNG of Alaska, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 1214]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1214), to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Maritime Transportation Security Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MARITIME TRANSPORTATION SECURITY

Sec. 101. Findings.
Sec. 102. Port security.
Sec. 103. International seafarer identification.
Sec. 104. Extension of seaward jurisdiction.
Sec. 105. Suspension of limitation on strength of Coast Guard.
Sec. 106. Extension of Deepwater Port Act to natural gas.
Sec. 107. Assignment of Coast Guard personnel as sea marshals and enhanced use of other security personnel.
Sec. 108. Technical amendments concerning the transmittal of certain information to the customs service.
Sec. 109. Maritime security professional training.
Sec. 110. Additional reports.
Sec. 111. Performance standards.

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Sec. 112. Report on foreign-flag vessels.
Sec. 113. Revision of Port Security Planning Guide.

TITLE II—MARITIME POLICY IMPROVEMENT

Sec. 201. Short title.
Sec. 202. Vessel COASTAL VENTURE.
Sec. 203. Expansion of American Merchant Marine Memorial Wall of Honor.
Sec. 204. Discharge of agricultural cargo residue.
Sec. 205. Recording and discharging notices of claim of maritime lien.
Sec. 206. Tonnage of R/V DAVIDSON.
Sec. 207. Miscellaneous certificates of documentation.
Sec. 208. Exemption for Victory Ships.
Sec. 209. Certificate of documentation for 3 barges.
Sec. 210. Certificate of documentation for the EAGLE.
Sec. 211. Waiver for vessels in New World Challenge Race.
Sec. 212. Vessel ASPHALT COMMANDER.
Sec. 213. Coastwise trade authorization.
Sec. 214. Jones Act waiver for delayed vessel delivery.
Sec. 215. Realignment of policy responsibility in the Department of Transportation.

TITLE III—COAST GUARD PERSONNEL AND MARITIME SAFETY

Sec. 301. Short title.

Subtitle A—Personnel Management

Sec. 311. Coast Guard band director rank.
Sec. 312. Compensatory absence for isolated duty.
Sec. 313. Accelerated promotion of certain Coast Guard officers.

Subtitle B—Marine Safety

Sec. 321. Extension of Territorial Sea for Vessel Bridge-to-Bridge Radiotelephone Act.
Sec. 322. Modification of various reporting requirements.
Sec. 323. Oil spill liability trust fund; emergency fund advancement authority.
Sec. 324. Merchant mariner documentation requirements.
Sec. 325. Penalties for negligent operations and interfering with safe operation.

Subtitle C—Renewal of Advisory Groups

Sec. 331. Commercial Fishing Industry Vessel Advisory Committee.
Sec. 332. Houston-Galveston Navigation Safety Advisory Committee.
Sec. 333. Lower Mississippi River Waterway Advisory Committee.
Sec. 334. Navigation Safety Advisory Council.
Sec. 335. National Boating Safety Advisory Council.
Sec. 336. Towing Safety Advisory Committee.

Subtitle D—Miscellaneous

Sec. 341. Patrol craft.
Sec. 342. Boating safety.
Sec. 343. Caribbean support tender.
Sec. 344. Prohibition of new maritime user fees.
Sec. 345. Great Lakes lighthouses.
Sec. 346. Modernization of National Distress and Response System.
Sec. 347. Conveyance of Coast Guard property in Portland, Maine.
Sec. 348. Additional Coast Guard funding needs after September 11, 2001.
Sec. 349. Miscellaneous conveyances.

TITLE IV—OMNIBUS MARITIME IMPROVEMENTS

Sec. 401. Short title.
Sec. 402. Extension of Coast Guard housing authorities.
Sec. 403. Inventory of vessels for cable laying, maintenance, and repair.
Sec. 404. Vessel escort operations and towing assistance.
Sec. 405. Search and rescue center standards.
Sec. 406. VHF communications services.
Sec. 407. Lower Columbia River maritime fire and safety activities.
Sec. 408. Conforming references to the former Merchant Marine and Fisheries Committee.
Sec. 409. Restriction on vessel documentation.
Sec. 410. Hypothermia protective clothing requirement.

Sec. 411. Reserve officer promotions.
Sec. 412. Regular lieutenant commanders and commanders; continuation upon failure of selection for promotion.
Sec. 413. Reserve student pre-commissioning assistance program.
Sec. 414. Continuation on active duty beyond thirty years.
Sec. 415. Payment of death gratuities on behalf of Coast Guard auxiliarists.
Sec. 416. Align Coast Guard severance pay and revocation of commission authority with Department of Defense authority.
Sec. 417. Long-term lease authority for lighthouse property.
Sec. 418. Maritime Drug Law Enforcement Act amendments.
Sec. 419. Wing-in-ground craft.
Sec. 420. Electronic filing of commercial instruments for vessels.
Sec. 421. Deletion of thumbprint requirement for merchant mariners' documents.
Sec. 422. Temporary certificates of documentation for recreational vessels.
Sec. 423. Marine casualty investigations involving foreign vessels.
Sec. 424. Conveyance of Coast Guard property in Hampton Township, Michigan.
Sec. 425. Conveyance of property in Traverse City, Michigan.
Sec. 426. Annual report on Coast Guard capabilities and readiness to fulfill national defense responsibilities.
Sec. 427. Extension of authorization for oil spill recovery institute.
Sec. 428. Protection against discrimination.
Sec. 429. Icebreaking services.
Sec. 430. Fishing vessel safety training.
Sec. 431. Limitation on liability of pilots at Coast Guard Vessel Traffic Services.
Sec. 432. Assistance for marine safety station on Chicago lakefront.
Sec. 433. Extension of time for recreational vessel and associated equipment recalls.
Sec. 434. Repair of municipal dock, Escanaba, Michigan.
Sec. 435. Vessel GLOBAL EXPLORER.
Sec. 436. Aleutian trade.
Sec. 437. Pictured Rocks National Lakeshore boundary revision.
Sec. 438. Loran-C.
Sec. 439. Authorization of payment.
Sec. 440. Report on oil spill responder immunity.
Sec. 441. Fishing agreements.
Sec. 442. Electronic publishing of marine casualty reports.
Sec. 443. Safety and security of ports and waterways.
Sec. 444. Suspension of payment.
Sec. 445. Prohibition on navigation fees.

TITLE V—AUTHORIZATION OF APPROPRIATIONS FOR THE COAST GUARD

Sec. 501. Short title.
Sec. 502. Authorization of appropriations.
Sec. 503. Authorized levels of military strength and training.

TITLE I—MARITIME TRANSPORTATION SECURITY

SEC. 101. FINDINGS.

The Congress makes the following findings:

(1) There are 361 public ports in the United States that are an integral part of our Nation's commerce.

(2) United States ports handle over 95 percent of United States overseas trade. The total volume of goods imported and exported through ports is expected to more than double over the next 20 years.

(3) The variety of trade and commerce carried out at ports includes bulk cargo, containerized cargo, passenger transport and tourism, and intermodal transportation systems that are complex to secure.

(4) The United States is increasingly dependent on imported energy for a substantial share of its energy supply, and

a disruption of that share of supply would seriously harm consumers and our economy.

(5) The top 50 ports in the United States account for about 90 percent of all the cargo tonnage. Twenty-five United States ports account for 98 percent of all container shipments. Cruise ships visiting foreign destinations embark from at least 16 ports. Ferries in the United States transport 113,000,000 passengers and 32,000,000 vehicles per year.

(6) Ports often are a major locus of Federal crime, including drug trafficking, cargo theft, and smuggling of contraband and aliens.

(7) Ports are often very open and exposed and are susceptible to large scale acts of terrorism that could cause a large loss of life or economic disruption.

(8) Current inspection levels of containerized cargo are insufficient to counter potential security risks. Technology is currently not adequately deployed to allow for the nonintrusive inspection of containerized cargo.

(9) The cruise ship industry poses a special risk from a security perspective.

(10) Securing entry points and other areas of port facilities and examining or inspecting containers would increase security at United States ports.

(11) Biometric identification procedures for individuals having access to secure areas in port facilities are important tools to deter and prevent port cargo crimes, smuggling, and terrorist actions.

(12) United States ports are international boundaries that—

(A) are particularly vulnerable to breaches in security;

(B) may present weaknesses in the ability of the United States to realize its national security objectives; and

(C) may serve as a vector or target for terrorist attacks aimed at the United States.

(13) It is in the best interests of the United States—

(A) to have a free flow of interstate and foreign commerce and to ensure the efficient movement of cargo;

(B) to increase United States port security by establishing improving communication among law enforcement officials responsible for port security;

(C) to formulate requirements for physical port security, recognizing the different character and nature of United States port facilities, and to require the establishment of security programs at port facilities;

(D) to provide financial assistance to help the States and the private sector to increase physical security of United States ports;

(E) to invest in long-term technology to facilitate the private sector development of technology that will assist in the nonintrusive timely detection of crime or potential crime at United States ports;

(F) to increase intelligence collection on cargo and intermodal movements to address areas of potential threat to safety and security; and

(G) to promote private sector procedures that provide for in-transit visibility and support law enforcement efforts directed at managing the security risks of cargo shipments.

(14) On April 27, 1999, the President established the Interagency Commission on Crime and Security in United States Ports to undertake a comprehensive study of the nature and extent of the problem of crime in our ports, as well as the ways in which governments at all levels are responding. The Commission concluded that frequent crimes in ports include drug smuggling, illegal car exports, fraud, and cargo theft. Internal conspiracies are an issue at many ports and contribute to Federal crime. Criminal organizations are exploiting weak security at ports to commit a wide range of cargo crimes. Intelligence and information sharing among law enforcement agencies needs to be improved and coordinated at many ports. A lack of minimum physical and personnel security standards at ports and related facilities leaves many ports and port users very vulnerable. Access to ports and operations within ports is often uncontrolled. Security-related and detection-related equipment, such as small boats, cameras, large-scale x-ray machines, and vessel tracking devices, are lacking at many ports.

(15) The International Maritime Organization and other similar international organizations are currently developing a new maritime security system that contains the essential elements for enhancing global maritime security. Therefore, it is in the best interests of the United States to implement new international instruments that establish such a system.

SEC. 102. PORT SECURITY.

(a) IN GENERAL.—Title 46, United States Code, is amended by adding at the end the following new subtitle:

"Subtitle VI—Miscellaneous

"Chap.	*Sec.*
"701. Port Security	***70101***

"CHAPTER 701—PORT SECURITY

"Sec.
"70101. Definitions.
"70102. United States facility and vessel vulnerability assessments.
"70103. Maritime transportation security plans.
"70104. Transportation security incident response.
"70105. Transportation security cards.
"70106. Maritime safety and security teams.
"70107. Grants.
"70108. Foreign port assessment.
"70109. Notifying foreign authorities.
"70110. Actions when foreign ports not maintaining effective antiterrorism measures.
"70111. Enhanced crewmember identification.
"70112. Maritime security advisory committees.
"70113. Maritime intelligence.
"70114. Automatic identification systems.
"70115. Long-range vessel tracking system.
"70116. Secure systems of transportation.
"70117. Civil penalty.

"§ 70101. Definitions

"For the purpose of this chapter:

"(1) The term 'Area Maritime Transportation Security Plan' means an Area Maritime Transportation Security Plan prepared under section 70103(b).

"(2) The term 'facility' means any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the United States.

"(3) The term 'National Maritime Transportation Security Plan' means the National Maritime Transportation Security Plan prepared and published under section 70103(a).

"(4) The term 'owner or operator' means—

"(A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel; and

"(B) in the case of a facility, any person owning, leasing, or operating such facility.

"(5) The term 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

"(6) The term 'transportation security incident' means a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area.

"§ 70102. United States facility and vessel vulnerability assessments

"(a) INITIAL ASSESSMENTS.—The Secretary shall conduct an assessment of vessel types and United States facilities on or adjacent to the waters subject to the jurisdiction of the United States to identify those vessel types and United States facilities that pose a high risk of being involved in a transportation security incident.

"(b) FACILITY AND VESSEL ASSESSMENTS.—(1) Based on the information gathered under subsection (a) of this section, the Secretary shall conduct a detailed vulnerability assessment of the facilities and vessels that may be involved in a transportation security incident. The vulnerability assessment shall include the following:

"(A) Identification and evaluation of critical assets and infrastructures.

"(B) Identification of the threats to those assets and infrastructures.

"(C) Identification of weaknesses in physical security, passenger and cargo security, structural integrity, protection systems, procedural policies, communications systems, transportation infrastructure, utilities, contingency response, and other areas as determined by the Secretary.

"(2) Upon completion of an assessment under this subsection for a facility or vessel, the Secretary shall provide the owner or operator with a copy of the vulnerability assessment for that facility or vessel.

"(3) The Secretary shall update each vulnerability assessment conducted under this section at least every 5 years.

"(4) In lieu of conducting a facility or vessel vulnerability assessment under paragraph (1), the Secretary may accept an alternative assessment conducted by or on behalf of the owner or operator of the facility or vessel if the Secretary determines that the alternative assessment includes the matters required under paragraph (1).

"§ 70103. Maritime transportation security plans

"(a) NATIONAL MARITIME TRANSPORTATION SECURITY PLAN.—(1) The Secretary shall prepare a National Maritime Transportation Security Plan for deterring and responding to a transportation security incident.

"(2) The National Maritime Transportation Security Plan shall provide for efficient, coordinated, and effective action to deter and minimize damage from a transportation security incident, and shall include the following:

"(A) Assignment of duties and responsibilities among Federal departments and agencies and coordination with State and local governmental agencies.

"(B) Identification of security resources.

"(C) Procedures and techniques to be employed in deterring a national transportation security incident.

"(D) Establishment of procedures for the coordination of activities of—

"(i) Coast Guard maritime security teams established under this chapter; and

"(ii) Federal Maritime Security Coordinators required under this chapter.

"(E) A system of surveillance and notice designed to safeguard against as well as ensure earliest possible notice of a transportation security incident and imminent threats of such a security incident to the appropriate State and Federal agencies.

"(F) Establishment of criteria and procedures to ensure immediate and effective Federal identification of a transportation security incident, or the substantial threat of such a security incident.

"(G) Designation of—

"(i) areas for which Area Maritime Transportation Security Plans are required to be prepared under subsection (b); and

"(ii) a Coast Guard official who shall be the Federal Maritime Security Coordinator for each such area.

"(H) A risk-based system for evaluating the potential for violations of security zones designated by the Secretary on the waters subject to the jurisdiction of the United States.

"(I) A recognition of certified systems of intermodal transportation.

"(J) A plan for ensuring that the flow of cargo through United States ports is reestablished as efficiently and quickly as possible after a transportation security incident.

"(3) The Secretary shall, as the Secretary considers advisable, revise or otherwise amend the National Maritime Transportation Security Plan.

"(4) Actions by Federal agencies to deter and minimize damage from a transportation security incident shall, to the greatest extent possible, be in accordance with the National Maritime Transportation Security Plan.

"(5) The Secretary shall inform vessel and facility owners or operators of the provisions in the National Transportation Security Plan that the Secretary considers necessary for security purposes.

"(b) AREA MARITIME TRANSPORTATION SECURITY PLANS.—(1) The Federal Maritime Security Coordinator designated under subsection (a)(2)(G) for an area shall—

"(A) submit to the Secretary an Area Maritime Transportation Security Plan for the area; and

"(B) solicit advice from the Area Security Advisory Committee required under this chapter, for the area to assure preplanning of joint deterrence efforts, including appropriate procedures for deterrence of a transportation security incident.

"(2) The Area Maritime Transportation Security Plan for an area shall—

"(A) when implemented in conjunction with the National Maritime Transportation Security Plan, be adequate to deter a transportation security incident in or near the area to the maximum extent practicable;

"(B) describe the area and infrastructure covered by the plan, including the areas of population or special economic, environmental, or national security importance that might be damaged by a transportation security incident;

"(C) describe in detail how the plan is integrated with other Area Maritime Transportation Security Plans, and with facility security plans and vessel security plans under this section;

"(D) include consultation and coordination with the Department of Defense on matters relating to Department of Defense facilities and vessels;

"(E) include any other information the Secretary requires; and

"(F) be updated at least every 5 years by the Federal Maritime Security Coordinator.

"(3) The Secretary shall—

"(A) review and approve Area Maritime Transportation Security Plans under this subsection; and

"(B) periodically review previously approved Area Maritime Transportation Security Plans.

"(4) In security zones designated by the Secretary in each Area Maritime Transportation Security Plan, the Secretary shall consider—

"(A) the use of public/private partnerships to enforce security within the security zones, shoreside protection alternatives, and the environmental, public safety, and relative effectiveness of such alternatives; and

"(B) technological means of enhancing the security zones of port, territorial waters, and waterways of the United States.

"(c) VESSEL AND FACILITY SECURITY PLANS.—(1) Within 6 months after the prescription of interim final regulations on vessel and facility security plans, an owner or operator of a vessel or facility described in paragraph (2) shall prepare and submit to the Secretary a security plan for the vessel or facility, for deterring a transportation security incident to the maximum extent practicable.

"(2) The vessels and facilities referred to in paragraph (1)—

"(A) except as provided in subparagraph (B), are vessels and facilities that the Secretary believes may be involved in a transportation security incident; and

"(B) do not include any vessel or facility owned or operated by the Department of Defense.

"(3) A security plan required under this subsection shall—

"(A) be consistent with the requirements of the National Maritime Transportation Security Plan and Area Maritime Transportation Security Plans;

"(B) identify the qualified individual having full authority to implement security actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to subparagraph (C);

"(C) include provisions for—

"(i) establishing and maintaining physical security, passenger and cargo security, and personnel security;

"(ii) establishing and controlling access to secure areas of the vessel or facility;

"(iii) procedural security policies;

"(iv) communications systems; and

"(v) other security systems;

"(D) identify, and ensure by contract or other means approved by the Secretary, the availability of security measures necessary to deter to the maximum extent practicable a transportation security incident or a substantial threat of such a security incident;

"(E) describe the training, periodic unannounced drills, and security actions of persons on the vessel or at the facility, to be carried out under the plan to deter to the maximum extent practicable a transportation security incident, or a substantial threat of such a security incident;

"(F) be updated at least every five years; and

"(G) be resubmitted for approval of each change to the vessel or facility that may substantially affect the security of the vessel or facility.

"(4) The Secretary shall—

"(A) promptly review each such plan;

"(B) require amendments to any plan that does not meet the requirements of this subsection;

"(C) approve any plan that meets the requirements of this subsection; and

"(D) review each plan periodically thereafter.

"(5) A vessel or facility for which a plan is required to be submitted under this subsection may not operate after the end of the 12-month period beginning on the date of the prescription of interim final regulations on vessel and facility security plans, unless—

"(A) the plan has been approved by the Secretary; and

"(B) the vessel or facility is operating in compliance with the plan.

"(6) Notwithstanding paragraph (5), the Secretary may authorize a vessel or facility to operate without a security plan approved under this subsection, until not later than 1 year after the date of the submission to the Secretary of a plan for the vessel or facility, if the owner or operator of the vessel or facility certifies that the owner or operator has ensured by contract or other means approved by the Secretary to deter to the maximum extent practicable a transportation security incident or a substantial threat of such a security incident.

"(7) The Secretary shall require each owner or operator of a vessel or facility located within or adjacent to waters subject to the jurisdiction of the United States to implement any necessary interim security measures, including cargo security programs, to deter to the maximum extent practicable a transportation security incident until the security plan for that vessel or facility operator is approved.

"(d) NONDISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, information developed under this chapter is not required to be disclosed to the public, including—

"(1) facility security plans, vessel security plans, and port vulnerability assessments; and

"(2) other information related to security plans, procedures, or programs for vessels or facilities authorized under this chapter.

"§ 70104. Transportation security incident response

"(a) FACILITY AND VESSEL RESPONSE PLANS.—The Secretary shall—

"(1) establish security incident response plans for vessels and facilities that may be involved in a transportation security incident; and

"(2) make those plans available to the Director of the Federal Emergency Management Agency for inclusion in the Director's response plan for United States ports and waterways.

"(b) CONTENTS.—Response plans developed under subsection (a) shall provide a comprehensive response to an emergency, including notifying and coordinating with local, State, and Federal authorities, including the Director of the Federal Emergency Management Agency, securing the facility or vessel, and evacuating facility and vessel personnel.

"(c) INCLUSION IN SECURITY PLAN.—A response plan required under this subsection for a vessel or facility may be included in the security plan prepared under section 70103(c).

"§ 70105. Transportation security cards

"(a) PROHIBITION.—(1) The Secretary shall prescribe regulations to prevent an individual from entering an area of a vessel or facility that is designated as a secure area by the Secretary for purposes of a security plan for the vessel or facility that is approved by the Secretary under section 70103 of this title unless the individual—

"(A) holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan; or

"(B) is accompanied by another individual who holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan.

"(2) A person shall not admit an individual into such a secure area unless the entry of the individual into the area is in compliance with paragraph (1).

"(b) ISSUANCE OF CARDS.—(1) The Secretary shall issue a biometric transportation security card to an individual specified in paragraph (2), unless the Secretary decides that the individual poses a security risk under subsection (c) warranting denial of the card.

"(2) This subsection applies to—

"(A) an individual allowed unescorted access to a secure area designated in a vessel or facility security plan approved under section 70103 of this title;

"(B) an individual issued a license, certificate of registry, or merchant mariners document under part E of subtitle II of this title;

"(C) a vessel pilot;

"(D) an individual engaged on a towing vessel that pushes, pulls, or hauls alongside a tank vessel;

"(E) an individual with access to security sensitive information as determined by the Secretary; and

"(F) other individuals engaged in port security activities as determined by the Secretary.

"(c) DETERMINATION OF TERRORISM SECURITY RISK.—(1) An individual may not be denied a transportation security card under subsection (b) unless the Secretary determines that individual—

"(A) has been convicted within the preceding 7-year period of a felony or found not guilty by reason of insanity of a felony—

"(i) that the Secretary believes could cause the individual to be a terrorism security risk to the United States; or

"(ii) for causing a severe transportation security incident;

"(B) has been released from incarceration within the preceding 5-year period for committing a felony described in subparagraph (A);

"(C) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

"(D) otherwise poses a terrorism security risk to the United States.

"(2) The Secretary shall prescribe regulations that establish a waiver process for issuing a transportation security card to an individual found to be otherwise ineligible for such a card under paragraph (1). In deciding to issue a card to such an individual, the Secretary shall—

"(A) give consideration to the circumstances of any disqualifying act or offense, restitution made by the individual, Federal and State mitigation remedies, and other factors from which it may be concluded that the individual does not pose a terrorism risk warranting denial of the card; and

"(B) issue a waiver to an individual without regard to whether that individual would otherwise be disqualified if the individual's employer establishes alternate security arrangements acceptable to the Secretary.

"(3) The Secretary shall establish an appeals process under this section for individuals found to be ineligible for a transportation security card that includes notice and an opportunity for a hearing.

"(4) Upon application, the Secretary may issue a transportation security card to an individual if the Secretary has previously determined, under section 5103a of title 49, that the individual does not pose a security risk.

"(d) BACKGROUND RECORDS CHECK.—(1) On request of the Secretary, the Attorney General shall—

"(A) conduct a background records check regarding the individual; and

"(B) upon completing the background records check, notify the Secretary of the completion and results of the background records check.

"(2) A background records check regarding an individual under this subsection shall consist of the following:

"(A) A check of the relevant criminal history databases.

"(B) In the case of an alien, a check of the relevant databases to determine the status of the alien under the immigration laws of the United States.

"(C) As appropriate, a check of the relevant international databases or other appropriate means.

"(D) Review of any other national security-related information or database identified by the Attorney General for purposes of such a background records check.

"(e) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—(1) Information obtained by the Attorney General or the Secretary under this section may not be made available to the public, including the individual's employer.

"(2) Any information constituting grounds for denial of a transportation security card under this section shall be maintained confidentially by the Secretary and may be used only for making determinations under this section. The Secretary may share any such information with other Federal law enforcement agencies. An individual's employer may only be informed of whether or not the individual has been issued the card under this section.

"(f) DEFINITION.—In this section, the term 'alien' has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).".

"§ 70106. Maritime safety and security teams

"(a) IN GENERAL.—To enhance the domestic maritime security capability of the United States, the Secretary shall establish such maritime safety and security teams as are needed to safeguard the public and protect vessels, harbors, ports, facilities, and cargo in waters subject to the jurisdiction of the United States from destruction, loss or injury from crime, or sabotage due to terrorist activity, and to respond to such activity in accordance with the transportation security plans developed under section 70103.

"(b) MISSION.—Each maritime safety and security team shall be trained, equipped, and capable of being employed to—

"(1) deter, protect against, and rapidly respond to threats of maritime terrorism;

"(2) enforce moving or fixed safety or security zones established pursuant to law;

"(3) conduct high speed intercepts;

"(4) board, search, and seize any article or thing on or at, respectively, a vessel or facility found to present a risk to the vessel or facility, or to a port;

"(5) rapidly deploy to supplement United States armed forces domestically or overseas;

"(6) respond to criminal or terrorist acts within a port so as to minimize, insofar as possible, the disruption caused by such acts;

"(7) assist with facility vulnerability assessments required under this chapter; and

"(8) carry out other security missions as are assigned to it by the Secretary.

"(c) COORDINATION WITH OTHER AGENCIES.—To the maximum extent feasible, each maritime safety and security team shall coordinate its activities with other Federal, State, and local law enforcement and emergency response agencies.

"§ 70107. Grants

"(a) IN GENERAL.—The Secretary of Transportation, acting through the Maritime Administrator, shall establish a grant program for making a fair and equitable allocation among port authorities, facility operators, and State and local agencies required to provide security services of funds to implement Area Maritime Transportation Security Plans and facility security plans. The program shall take into account national economic and strategic defense considerations.

"(b) ELIGIBLE COSTS.—The following costs of funding the correction of Coast Guard identified vulnerabilities in port security and ensuring compliance with Area Maritime Transportation Security Plans and facility security plans are eligible to be funded:

"(1) Salary, benefits, overtime compensation, retirement contributions, and other costs of additional Coast Guard mandated security personnel.

"(2) The cost of acquisition, operation, and maintenance of security equipment or facilities to be used for security monitoring and recording, security gates and fencing, marine barriers for designated security zones, security-related lighting systems, remote surveillance, concealed video systems, security vessels, and other security-related infrastructure or equipment that contributes to the overall security of passengers, cargo, or crewmembers.

"(3) The cost of screening equipment, including equipment that detects weapons of mass destruction and conventional explosives, and of testing and evaluating such equipment, to certify secure systems of transportation.

"(4) The cost of conducting vulnerability assessments to evaluate and make recommendations with respect to security.

"(c) MATCHING REQUIREMENTS.—

"(1) 75-PERCENT FEDERAL FUNDING.—Except as provided in paragraph (2), Federal funds for any eligible project under this section shall not exceed 75 percent of the total cost of such project.

"(2) EXCEPTIONS.—

"(A) SMALL PROJECTS.—There are no matching requirements for grants under subsection (a) for projects costing not more than $25,000.

"(B) HIGHER LEVEL OF SUPPORT REQUIRED.—If the Secretary of Transportation determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, then the Secretary may approve grants under this section with a matching requirement other than that specified in paragraph (1).

"(d) COORDINATION AND COOPERATION AGREEMENTS.—The Secretary of Transportation shall ensure that projects paid for, or the costs of which are reimbursed, under this section within any area or port are coordinated with other projects, and may require cooperative agreements among users of the port and port facilities with respect to projects funded under this section.

"(e) ADMINISTRATION.—

"(1) IN GENERAL.—The program shall require eligible port authorities, facility operators, and State and local agencies required to provide security services, to submit an application, at such time, in such form, and containing such information and assurances as the Secretary of Transportation may require, and shall include appropriate application, review, and delivery mechanisms.

"(2) MINIMUM STANDARDS FOR PAYMENT OR REIMBURSEMENT.—Each application for payment or reimbursement of eligible costs shall include, at a minimum, the following:

"(A) A copy of the applicable Area Maritime Transportation Security Plan or facility security plan.

"(B) A comprehensive description of the need for the project, and a statement of the project's relationship to the applicable Area Maritime Transportation Security Plan or facility security plan.

"(C) A determination by the Captain of the Port that the security project addresses or corrects Coast Guard identified vulnerabilities in security and ensures compliance with Area Maritime Transportation Security Plans and facility security plans.

"(3) PROCEDURAL SAFEGUARDS.—The Secretary of Transportation shall by regulation establish appropriate accounting, reporting, and review procedures to ensure that amounts paid or reimbursed under this section are used for the purposes for which they were made available, all expenditures are properly accounted for, and amounts not used for such purposes and amounts not obligated or expended are recovered.

"(4) PROJECT APPROVAL REQUIRED.—The Secretary of Transportation may approve an application for the payment or reimbursement of costs under this section only if the Secretary of Transportation is satisfied that—

"(A) the project is consistent with Coast Guard vulnerability assessments and ensures compliance with Area Maritime Transportation Security Plans and facility security plans;

"(B) enough money is available to pay the project costs that will not be reimbursed by the United States Government under this section;

"(C) the project will be completed without unreasonable delay; and

"(D) the recipient has authority to carry out the project as proposed.

"(f) AUDITS AND EXAMINATIONS.—A recipient of amounts made available under this section shall keep such records as the Secretary of Transportation may require, and make them available for review and audit by the Secretary of Transportation, the Comptroller Gen-

eral of the United States, or the Inspector General of the Department of Transportation.

"(g) REPORTS ON SECURITY FUNDING AND COMPLIANCE.—

"(1) INITIAL REPORT.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit an unclassified report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, that—

"(A) includes a funding proposal and rationale to fund the correction of Coast Guard identified vulnerabilities in port security and to help ensure compliance with Area Maritime Transportation Security Plans and facility security plans for fiscal years 2003 through 2008; and

"(B) includes projected funding proposals for fiscal years 2003 through 2008 for the following security programs:

"(i) The Sea Marshall program.

"(ii) The Automated Identification System and a system of polling vessels on entry into United States waters.

"(iii) The maritime intelligence requirements in this Act.

"(iv) The issuance of transportation security cards required by section 70105.

"(vii) The program of certifying secure systems of transportation.

"(2) OTHER EXPENDITURES.—The Secretary of Transportation shall, as part of the report required by paragraph (1) report, in coordination with the Commissioner of Customs, on projected expenditures of screening and detection equipment and on cargo security programs over fiscal years 2003 through 2008.

"(3) ANNUAL REPORTS.—Annually, beginning 1 year after transmittal of the report required by paragraph (1) until October 1, 2009, the Secretary of Transportation shall transmit an unclassified annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, on progress in achieving compliance with the correction of Coast Guard identified vulnerabilities in port security and compliance with Area Maritime Transportation Security Plans and facility security plans that—

"(A) identifies any modifications necessary in funding to ensure the correction of Coast Guard identified vulnerabilities and ensure compliance with Area Maritime Transportation Security Plans and facility security plans;

"(B) includes an assessment of progress in implementing the grant program established by subsection (a);

"(C) includes any recommendations the Secretary may make to improve these programs; and

"(D) with respect to a port selected by the Secretary of Transportation, describes progress and enhancements of applicable Area Maritime Transportation Security Plans and facility security plans and how the Maritime Transpor-

tation Security Act of 2002 has improved security at that port.

"(h) AUTHORIZATION OF APPROPRIATIONS.— There are authorized to be appropriated to the Secretary of Transportation for each of fiscal years 2003 through 2008 such sums as are necessary to carry out subsections (a) through (g).

"(i) RESEARCH AND DEVELOPMENT GRANTS FOR PORT SECURITY.—

"(1) AUTHORITY.—The Secretary of Transportation is authorized to establish and administer a grant program for the support of research and development of technologies that can be used to secure the ports of the United States. The Secretary may award grants under the program to national laboratories, private nonprofit organizations, institutions of higher education, and other entities. The Secretary shall establish competitive procedures for awarding grants under the program and criteria for grant applications and eligibility.

"(2) USE OF FUNDS.—Grants awarded pursuant to paragraph (1) shall be used to develop—

"(A) methods to increase the ability of the Customs Service to inspect, or target for inspection, merchandise carried on any vessel that will arrive or has arrived at any port or place in the United States;

"(B) equipment to accurately detect explosives, or chemical and biological agents, that could be used to commit terrorist acts against the United States;

"(C) equipment to accurately detect nuclear materials, including scintillation-based detection equipment capable of attachment to spreaders to signal the presence of nuclear materials during the unloading of containers;

"(D) improved tags and seals designed for use on shipping containers to track the transportation of the merchandise in such containers, including 'smart sensors' that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit such information to the appropriate authorities at a remote location;

"(E) tools to mitigate the consequences of a terrorist act at a port of the United States, including a network of sensors to predict the dispersion of radiological, chemical, or biological agents that might be intentionally or accidentally released; or

"(F) applications to apply existing technologies from other industries to increase overall port security.

"(3) ADMINISTRATIVE PROVISIONS.—

"(A) NO DUPLICATION OF EFFORT.—Before making any grant, the Secretary of Transportation shall coordinate with other Federal agencies to ensure the grant will not be used for research and development that is already being conducted with Federal funding.

"(B) ACCOUNTING.—The Secretary of Transportation shall by regulation establish accounting, reporting, and review procedures to ensure that funds made available under paragraph (1) are used for the purpose for which they were made available, that all expenditures are properly ac-

counted for, and that amounts not used for such purposes and amounts not expended are recovered.

"(C) RECORDKEEPING.—Recipients of grants shall keep all records related to expenditures and obligations of funds provided under paragraph (1) and make them available upon request to the Inspector General of the Department of Transportation and the Secretary of Transportation for audit and examination.

"(D) ANNUAL REVIEW AND REPORT.—The Inspector General of the Department of Transportation shall annually review the program established under paragraph (1) to ensure that the expenditures and obligations of funds are consistent with the purposes for which they are provided and report the findings to Congress.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for each of the fiscal years 2003 through 2008 to carry out the provisions of this subsection.

"§ 70108. Foreign port assessment

"(a) IN GENERAL.—The Secretary shall assess the effectiveness of the antiterrorism measures maintained at—

"(1) a foreign port—

"(A) served by vessels documented under chapter 121 of this title; or

"(B) from which foreign vessels depart on a voyage to the United States; and

"(2) any other foreign port the Secretary believes poses a security risk to international maritime commerce.

"(b) PROCEDURES.—In conducting an assessment under subsection (a), the Secretary shall assess the effectiveness of—

"(1) screening of containerized and other cargo and baggage;

"(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

"(3) additional security on board vessels;

"(4) licensing or certification of compliance with appropriate security standards;

"(5) the security management program of the foreign port; and

"(6) other appropriate measures to deter terrorism against the United States.

"(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with—

"(1) the Secretary of Defense and the Secretary of State—

"(A) on the terrorist threat that exists in each country involved; and

"(B) to identify foreign ports that pose a high risk of introducing terrorism to international maritime commerce;

"(2) the Secretary of the Treasury;

"(3) appropriate authorities of foreign governments; and

"(4) operators of vessels.

"§ 70109. Notifying foreign authorities

"(a) IN GENERAL.—If the Secretary, after conducting an assessment under section 70108, finds that a port in a foreign country does not maintain effective antiterrorism measures, the Secretary shall notify the appropriate authorities of the government of the foreign country of the finding and recommend the steps necessary to improve the antiterrorism measures in use at the port.

"(b) TRAINING PROGRAM.—The Secretary, in cooperation with the Secretary of State, shall operate a port security training program for ports in foreign countries that are found under section 70108 to lack effective antiterrorism measures.

"§ 70110. Actions when foreign ports not maintaining effective antiterrorism measures

"(a) IN GENERAL.—If the Secretary finds that a foreign port does not maintain effective antiterrorism measures, the Secretary—

"(1) may prescribe conditions of entry into the United States for any vessel arriving from that port, or any vessel carrying cargo or passengers originating from or transshipped through that port;

"(2) may deny entry into the United States to any vessel that does not meet such conditions; and

"(3) shall provide public notice for passengers of the ineffective antiterrorism measures.

"(b) EFFECTIVE DATE FOR SANCTIONS.—Any action taken by the Secretary under subsection (a) for a particular port shall take effect—

"(1) 90 days after the government of the foreign country with jurisdiction over or control of that port is notified under section 70109 unless the Secretary finds that the government has brought the antiterrorism measures at the port up to the security level the Secretary used in making an assessment under section 70108 before the end of that 90-day period; or

"(2) immediately upon the finding of the Secretary under subsection (a) if the Secretary finds, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, vessels, or crew traveling to or from the port.

"(c) STATE DEPARTMENT TO BE NOTIFIED.—The Secretary immediately shall notify the Secretary of State of a finding that a port does not maintain effective antiterrorism measures.

"(d) ACTION CANCELED.—An action required under this section is no longer required if the Secretary decides that effective antiterrorism measures are maintained at the port.

"§ 70111. Enhanced crewmember identification

"(a) REQUIREMENT.—The Secretary, in consultation with the Attorney General and the Secretary of State, shall require crewmembers on vessels calling at United States ports to carry and present on demand any identification that the Secretary decides is necessary.

"(b) FORMS AND PROCESS.—The Secretary, in consultation with the Attorney General and the Secretary of State, shall establish the proper forms and process that shall be used for identification and verification of crewmembers.

"§ 70112. Maritime Security Advisory Committees

"(a) ESTABLISHMENT OF COMMITTEES.—(1) The Secretary shall establish a National Maritime Security Advisory Committee. The Committee—

"(A) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to national maritime security matters;

"(B) may make available to the Congress recommendations that the Committee makes to the Secretary; and

"(C) shall meet at the call of—

"(i) the Secretary, who shall call such a meeting at least once during each calendar year; or

"(ii) a majority of the Committee.

"(2)(A) The Secretary may—

"(i) establish an Area Maritime Security Advisory Committee for any port area of the United States; and

"(ii) request such a committee to review the proposed Area Maritime Transportation Security Plan developed under section 70103(b) and make recommendations to the Secretary that the Committee considers appropriate.

"(B) A committee established under this paragraph for an area—

"(i) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to maritime security in that area;

"(ii) may make available to the Congress recommendations that the committee makes to the Secretary; and

"(iii) shall meet at the call of—

"(I) the Secretary, who shall call such a meeting at least once during each calendar year; or

"(II) a majority of the committee.

"(b) MEMBERSHIP.—(1) Each of the committees established under subsection (a) shall consist of not less than 7 members appointed by the Secretary, each of whom has at least 5 years practical experience in maritime security operations.

"(2) The term of each member shall be for a period of not more than 5 years, specified by the Secretary.

"(3) Before appointing an individual to a position on such a committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the committee.

"(4) The Secretary may require an individual to have passed an appropriate security background examination before appointment to the Committee.

"(c) CHAIRPERSON AND VICE CHAIRPERSON.—(1) Each committee established under subsection (a) shall elect 1 of its members as the Chairman and 1 of its members at the Vice Chairperson.

"(2) The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman.

"(d) OBSERVERS.—(1) The Secretary shall, and the head of any other interested Federal agency may, designate a representative to participate as an observer with the Committee.

"(2) The Secretary's designated representative shall act as the executive secretary of the Committee and shall perform the duties set

forth in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App.).

"(e) CONSIDERATION OF VIEWS.—The Secretary shall consider the information, advice, and recommendations of the Committee in formulating policy regarding matters affecting maritime security.

"(f) COMPENSATION AND EXPENSES.—(1) A member of a committee established under this section, when attending meetings of the committee or when otherwise engaged in the business of the committee, is entitled to receive—

"(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS–15 of the General Schedule under section 5332 of title 5 including travel time; and

"(B) travel or transportation expenses under section 5703 of title 5.

"(2) A member of such a committee shall not be considered to be an officer or employee of the United States for any purpose based on their receipt of any payment under this subsection.

"(g) FACA; TERMINATION.—(1) The Federal Advisory Committee Act (5 U.S.C. App.)—

"(A) applies to the National Maritime Security Advisory Committee established under this section, except that such committee terminates on September 30, 2008; and

"(B) does not apply to Area Maritime Security Advisory Committees established under this section.

"(2) Not later than September 30, 2006, each committee established under this section shall submit to the Congress its recommendation regarding whether the committee should be renewed and continued beyond the termination date.

"§ 70113. Maritime intelligence

"(a) IN GENERAL.—The Secretary shall implement a system to collect, integrate, and analyze information concerning vessels operating on or bound for waters subject to the jurisdiction of the United States, including information related to crew, passengers, cargo, and intermodal shipments.

"(b) CONSULTATION.—In developing the information system under subsection (a), the Secretary shall consult with the Transportation Security Oversight Board and other departments and agencies, as appropriate.

"(c) INFORMATION INTEGRATION.—To deter a transportation security incident, the Secretary may collect information from public and private entities to the extent that the information is not provided by other Federal departments and agencies.

"§ 70114. Automatic identification systems

"(a) SYSTEM REQUIREMENTS.—(1) Subject to paragraph (2), the following vessels, while operating on the navigable waters of the United States, shall be equipped with and operate an automatic identification system under regulations prescribed by the Secretary:

"(A) A self-propelled commercial vessel of at least 65 feet overall in length.

"(B) A vessel carrying more than a number of passengers for hire determined by the Secretary.

"(C) A towing vessel of more than 26 feet overall in length and 600 horsepower.

"(D) Any other vessel for which the Secretary decides that an automatic identification system is necessary for the safe navigation of the vessel.

"(2) The Secretary may—

"(A) exempt a vessel from paragraph (1) if the Secretary finds that an automatic identification system is not necessary for the safe navigation of the vessel on the waters on which the vessel operates; and

"(B) waive the application of paragraph (1) with respect to operation of vessels on navigable waters of the United States specified by the Secretary if the Secretary finds that automatic identification systems are not needed for safe navigation on those waters.

"(b) REGULATIONS.—The Secretary shall prescribe regulations implementing subsection (a), including requirements for the operation and maintenance of the automatic identification systems required under subsection (a).

"§ 70115. Long-range vessel tracking system

"The Secretary may develop and implement a long-range automated vessel tracking system for all vessels in United States waters that are equipped with the Global Maritime Distress and Safety System or equivalent satellite technology. The system shall be designed to provide the Secretary the capability of receiving information on vessel positions at interval positions appropriate to deter transportation security incidents. The Secretary may use existing maritime organizations to collect and monitor tracking information under the system.

"§ 70116. Secure systems of transportation

"(a) IN GENERAL.—The Secretary, in consultation with the Transportation Security Oversight Board, shall establish a program to evaluate and certify secure systems of international intermodal transportation.

"(b) ELEMENTS OF PROGRAM.—The program shall include—

"(1) establishing standards and procedures for screening and evaluating cargo prior to loading in a foreign port for shipment to the United States either directly or via a foreign port;

"(2) establishing standards and procedures for securing cargo and monitoring that security while in transit;

"(3) developing performance standards to enhance the physical security of shipping containers, including standards for seals and locks;

"(4) establishing standards and procedures for allowing the United States Government to ensure and validate compliance with this program; and

"(5) any other measures the Secretary considers necessary to ensure the security and integrity of international intermodal transport movements.

"§ 70117. Civil penalty

"Any person that violates this chapter or any regulation under this chapter shall be liable to the United States for a civil penalty of not more than $25,000 for each violation.".

(b) CONFORMING AMENDMENT.—The table of subtitles at the beginning of title 46, United States Code, is amended by adding at the end the following:

"VI. MISCELLANEOUS ..... 70101".

(c) DEADLINE.—The Secretary shall establish the plans required under section 70104(a)(1) of title 46, United States Code, as enacted by this Act, before April 1, 2003.

(d) RULEMAKING REQUIREMENTS.—

(1) INTERIM FINAL RULE AUTHORITY.—The Secretary shall issue an interim final rule as a temporary regulation implementing this section (including the amendments made by this section) as soon as practicable after the date of enactment of this section, without regard to the provisions of chapter 5 of title 5, United States Code. All regulations prescribed under the authority of this subsection that are not earlier superseded by final regulations shall expire not later than 1 year after the date of enactment of this Act.

(2) INITIATION OF RULEMAKING.—The Secretary may initiate a rulemaking to implement this section (including the amendments made by this section) as soon as practicable after the date of enactment of this section. The final rule issued pursuant to that rulemaking may supersede the interim final rule promulgated under this subsection.

(e) PHASE-IN OF AUTOMATIC IDENTIFICATION SYSTEM.—

(1) SCHEDULE.—Section 70114 of title 46, United States Code, as enacted by this Act, shall apply as follows:

(A) On and after January 1, 2003, to any vessel built after that date.

(B) On and after July 1, 2003, to any vessel built before the date referred to in subparagraph (A) that is—

(i) a passenger vessel required to carry a certificate under the International Convention for the Safety of Life at Sea, 1974 (SOLAS);

(ii) a tanker; or

(iii) a towing vessel engaged in moving a tank vessel.

(C) On and after December 31, 2004, to all other vessels built before the date referred to in subparagraph (A).

(2) DEFINITION.—The terms in this subsection have the same meaning as those terms have under section 2101 of title 46, United States Code.

SEC. 103. INTERNATIONAL SEAFARER IDENTIFICATION.

(a) TREATY INITIATIVE.—The Secretary of the department in which the Coast Guard is operating is encouraged to negotiate an international agreement, or an amendment to an international agreement, that provides for a uniform, comprehensive, international system of identification for seafarers that will enable the United States and another country to establish authoritatively the identity of any seafarer aboard a vessel within the jurisdiction, in-

cluding the territorial waters, of the United States or such other country.

(b) LEGISLATIVE ALTERNATIVE.—If the Secretary fails to complete a negotiation process undertaken under subsection (a) within 24 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a draft of legislation that, if enacted, would establish a uniform, comprehensive system of identification for seafarers.

SEC. 104. EXTENSION OF SEAWARD JURISDICTION.

(a) DEFINITION OF TERRITORIAL WATERS.—Section 1 of title XIII of the Act of June 15, 1917 (50 U.S.C. 195; 40 Stat. 231) is amended—

(1) by striking "The term 'United States' as used in this Act includes" and inserting the following:

"In this Act:

"(1) UNITED STATES.—The term 'United States' includes"; and

(2) by adding at the end the following:

"(2) TERRITORIAL WATERS.—The term 'territorial waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.".

(b) CIVIL PENALTY FOR VIOLATION OF ACT OF JUNE 15, 1917.—Section 2 of title II of the Act of June 15, 1917 (50 U.S.C. 192), is amended—

(1) by inserting "(a) IN GENERAL.—" before "If" in the first undesignated paragraph;

(2) by striking "(a) If any other" and inserting "(b) APPLICATION TO OTHERS.—If any other"; and

(3) by adding at the end the following:

"(c) CIVIL PENALTY.—A person violating this Act, or a regulation prescribed under this Act, shall be liable to the United States Government for a civil penalty of not more than $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation.".

SEC. 105. SUSPENSION OF LIMITATION ON STRENGTH OF COAST GUARD.

(a) PERSONNEL END STRENGTHS.—Section 661(a) of title 14, United States Code, is amended by adding at the end the following: "If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard, for a period not to exceed 6 months after the end of the war or termination of the national emergency.".

(b) OFFICERS IN COAST GUARD RESERVE.—Section 724 of title 14, United States Code, is amended by adding at the end thereof the following:

"(c) DEFERRAL OF LIMITATION.—If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military

or civilian component of the Coast Guard Reserve, for a period not to exceed 6 months after the end of the war or termination of the national emergency.".

SEC. 106. EXTENSION OF DEEPWATER PORT ACT TO NATURAL GAS.

(a) IN GENERAL.—The following provisions of the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) are each amended by inserting "or natural gas" after "oil" each place it appears:

(1) Section 2(a) (33 U.S.C. 1501(a)).

(2) Section 4(a) (33 U.S.C. 1503(a)).

(3) Section 21(a) (33 U.S.C. 1520(a)).

(b) DEFINITIONS.—Section 3 of the Deepwater Port Act of 1974 (33 U.S.C. 1502) is amended—

(1) by redesignating paragraphs (13) through (18) as paragraphs (14) through (19), respectively;

(2) by amending paragraph (9) to read as follows:

"(9) 'deepwater port'—

"(A) means any fixed or floating manmade structure other than a vessel, or any group of such structures, that are located beyond State seaward boundaries and that are used or intended for use as a port or terminal for the transportation, storage, or further handling of oil or natural gas for transportation to any State, except as otherwise provided in section 23, and for other uses not inconsistent with the purposes of this Act, including transportation of oil or natural gas from the United States outer continental shelf;

"(B) includes all components and equipment, including pipelines, pumping stations, service platforms, buoys, mooring lines, and similar facilities to the extent they are located seaward of the high water mark;

"(C) in the case of a structure used or intended for such use with respect to natural gas, includes all components and equipment, including pipelines, pumping or compressor stations, service platforms, buoys, mooring lines, and similar facilities that are proposed or approved for construction and operation as part of a deepwater port, to the extent that they are located seaward of the high water mark and do not include interconnecting facilities; and

"(D) shall be considered a 'new source' for purposes of the Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act, (33 U.S.C. 1251 et seq.);"; and

(3) by inserting after paragraph (12) the following:

"(13) 'natural gas' means either natural gas unmixed, or any mixture of natural or artificial gas, including compressed or liquefied natural gas;".

(c) FACILITY APPROVAL.—

(1) Section 5(d) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(d)) is amended by adding at the end the following:

"(4) This subsection shall not apply to deepwater ports for natural gas.".

(2) Section 5(i) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(i)) is amended by adding at the end the following:

"(4) The Secretary shall approve or deny any application for a deepwater port for natural gas submitted pursuant to this Act not later than 90 days after the last public hearing on a proposed li-

cense. Paragraphs (1), (2), and (3) of this subsection shall not apply to an application for a deepwater port for natural gas.".

(d) FACILITY DEVELOPMENT.—Section 8 of the Deepwater Port Act of 1974 (33 U.S.C. 1507) is amended by adding at the end the following:

"(d) MANAGED ACCESS.—Subsections (a) and (b) shall not apply to deepwater ports for natural gas. A licensee of a deepwater port for natural gas, or an affiliate thereof, may exclusively utilize the entire capacity of the deepwater port and storage facilities for the acceptance, transport, storage, regasification, or conveyance of natural gas produced, processed, marketed, or otherwise obtained by agreement by such licensee or its affiliates. The licensee may make unused capacity of the deepwater port and storage facilities available to other persons, pursuant to reasonable terms and conditions imposed by the licensee, if such use does not otherwise interfere in any way with the acceptance, transport, storage, regasification, or conveyance of natural gas produced, processed, marketed, or otherwise obtained by agreement by such licensee or its affiliates.

"(e) JURISDICTION.—Notwithstanding any provision of the Natural Gas Act (15 U.S.C. 717 et seq.), any regulation or rule issued thereunder, or section 19 as it pertains to such Act, this Act shall apply with respect to the licensing, siting, construction, or operation of a deepwater natural gas port or the acceptance, transport, storage, regassification, or conveyance of natural gas at or through a deepwater port, to the exclusion of the Natural Gas Act or any regulation or rule issued thereunder.".

(e) REGULATIONS.—

(1) AGENCY AND DEPARTMENT EXPERTISE AND RESPONSIBILITIES.—Not later than 30 days after the date of the enactment of this Act, the heads of Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of deepwater ports for natural gas shall transmit to the Secretary of Transportation written comments as to such expertise or statutory responsibilities pursuant to the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) or any other Federal law.

(2) INTERIM FINAL RULE.—The Secretary may issue an interim final rule as a temporary regulation implementing this section (including the amendments made by this section) as soon as practicable after the date of enactment of this section, without regard to the provisions of chapter 5 of title 5, United States Code.

(3) FINAL RULES.—As soon as practicable after the date of the enactment of this Act, the Secretary of Transportation shall issue additional final rules that, in the discretion of the Secretary, are determined to be necessary under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) for the application and issuance of licenses for a deepwater port for natural gas.

(f) ENVIRONMENTAL ANALYSIS.—Section 5 of the Deepwater Port Act of 1974 (33 U.S.C. 1504) is amended by striking subsection (f) and inserting the following:

"(f) NEPA COMPLIANCE.—For all applications, the Secretary, in cooperation with other involved Federal agencies and departments, shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Such compliance shall fulfill the requirement of

all Federal agencies in carrying out their responsibilities under the National Environmental Policy Act of 1969 pursuant to this Act.".

(g) STATE FEES.—Section 5(h)(2) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(h)(2)) is amended by inserting "and unless prohibited by law," after "Notwithstanding any other provision of this Act,".

SEC. 107. ASSIGNMENT OF COAST GUARD PERSONNEL AS SEA MARSHALS AND ENHANCED USE OF OTHER SECURITY PERSONNEL.

(a) IN GENERAL.—Section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)) is amended—

(1) by striking "and" after the semicolon in paragraph (1);

(2) by striking "terrorism." in paragraph (2) and inserting "terrorism; and"; and

(3) by adding at the end the following:

"(3) dispatch properly trained and qualified armed Coast Guard personnel on vessels and public or commercial structures on or adjacent to waters subject to United States jurisdiction to deter or respond to acts of terrorism or transportation security incidents, as defined in section 70101 of title 46, United States Code.".

(b) REPORT ON USE OF NON-COAST GUARD PERSONNEL.—The Secretary of the department in which the Coast Guard is operating shall evaluate and report to the Congress on—

(1) the potential use of Federal, State, or local government personnel, and documented United States Merchant Marine personnel, to supplement Coast Guard personnel under section 7(b)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)(3));

(2) the possibility of using personnel other than Coast Guard personnel to carry out Coast Guard personnel functions under that section and whether additional legal authority would be necessary to use such personnel for such functions; and

(3) the possibility of utilizing the United States Merchant Marine Academy, State maritime academies, or Coast Guard approved maritime industry schools in the United States, to provide training under that section.

SEC. 108. TECHNICAL AMENDMENTS CONCERNING THE TRANSMITTAL OF CERTAIN INFORMATION TO THE CUSTOMS SERVICE.

(a) TARIFF ACT OF 1930.—Section 431A(d) of the Tariff Act of 1930, as added by section 343(b) of the Trade Act of 2002 (Public Law 107–210), is amended to read as follows:

"(d) REPORTING OF UNDOCUMENTED CARGO.—

"(1) IN GENERAL.—A vessel carrier shall notify the Customs Service of any cargo tendered to such carrier that is not properly documented pursuant to this section and that has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal, and the location of the cargo in the marine terminal.

"(2) SHARING ARRANGEMENTS.—For vessel carriers that are members of vessel sharing agreements (or any other arrangement whereby a carrier moves cargo on another carrier's vessel), the vessel carrier accepting the booking shall be responsible for

reporting undocumented cargo, without regard to whether it operates the vessel on which the transportation is to be made.

"(3) REASSIGNMENT TO ANOTHER VESSEL.—For purposes of this subsection and subsection (f), if merchandise has been tendered to a marine terminal operator and subsequently reassigned for carriage on another vessel, the merchandise shall be considered properly documented if the information provided reflects carriage on the previously assigned vessel and otherwise meets the requirements of subsection (b). Notwithstanding the preceding sentence, it shall be the responsibility of the vessel carrier to notify the Customs Service promptly of any reassignment of merchandise for carriage on a vessel other than the vessel on which the merchandise was originally assigned.

"(4) MULTIPLE CONTAINERS.—If a single shipment is comprised of multiple containers, the 48-hour period described in paragraph (1) shall begin to run from the time the last container of the shipment is delivered to the marine terminal operator. It shall be the responsibility of the person tendering the cargo to inform the carrier that the shipment consists of multiple containers that will be delivered to the marine terminal operator at different times as part of a single shipment.".

(b) MANDATORY ADVANCED ELECTRONIC INFORMATION.—Section 343(a) of the Trade Act of 2002 (Public Law 107–210) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—

"(A) Subject to paragraphs (2) and (3), the Secretary is authorized to promulgate regulations providing for the transmission to the Customs Service, through an electronic data interchange system, of information pertaining to cargo to be brought into the United States or to be sent from the United States, prior to the arrival or departure of the cargo.

"(B) The Secretary shall endeavor to promulgate an initial set of regulations under subparagraph (A) not later than October 1, 2003.".

(2) by striking paragraph (2) and inserting the following:

"(2) INFORMATION REQUIRED.—The cargo information required by the regulations promulgated pursuant to paragraph (1) under the parameters set forth in paragraph (3) shall be such information on cargo as the Secretary determines to be reasonably necessary to ensure cargo safety and security pursuant to those laws enforced and administered by the Customs Service. The Secretary shall provide to appropriate Federal departments and agencies cargo information obtained pursuant to paragraph (1)."; and

(3) in paragraph (3)—

(A) by striking "aviation, maritime, and surface transportation safety and security" in subparagraphs (F), (H), and (L)(ii) and inserting "cargo safety and security";

(B) in subparagraph (F)—

(i) by inserting "merchandise" after "determining";

(ii) by inserting "and preventing smuggling" after "security"; and

(iii) by adding at the end the following: "Notwithstanding the preceding sentence, nothing in

this section shall be treated as amending, repealing, or otherwise modifying title IV of the Tariff Act of 1930 or regulations promulgated thereunder.";

(C) in subparagraph (G)—

(i) in the first sentence—

(I) by inserting "cargo" after "confidential"; and

(II) by inserting after "Customs Service" the following: "pursuant to such regulations, except for the manifest information collected pursuant to section 431 of the Tariff Act of 1930 and required to be available for public disclosure pursuant to section 431(c) of such Act."; and

(ii) by striking the second sentence; and

(D) in subparagraph (L)—

(i) in the matter preceding clause (i)—

(I) by striking "60" and inserting "15"; and

(II) by striking "promulgation of regulations" and inserting "publication of a final rule pursuant to this section";

(ii) by striking "and" at the end of clause (iii);

(iii) by striking the period and inserting "; and" at the end of clause (iv); and

(iv) by inserting at the end the following:

"(v) if the Secretary determines to amend the proposed regulations after they have been transmitted to the Committees pursuant to this subparagraph, the Secretary shall transmit the amended regulations to such Committees no later than 5 days prior to the publication of the final rule.".

(c) REPEAL.—Section 343A of the Trade Act of 2002 (116 Stat. 985) is repealed.

SEC. 109. MARITIME SECURITY PROFESSIONAL TRAINING.

(a) IN GENERAL.—

(1) DEVELOPMENT OF STANDARDS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall develop standards and curriculum to allow for the training and certification of maritime security professionals. In developing these standards and curriculum, the Secretary shall consult with the National Maritime Security Advisory Committee established under section 70112 of title 46, United States Code, as amended by this Act.

(2) SECRETARY TO CONSULT ON STANDARDS.—In developing standards under this section, the Secretary may, without regard to the Federal Advisory Committee Act (5 U.S.C. App.), consult with the Federal Law Enforcement Training Center, the United States Merchant Marine Academy's Global Maritime and Transportation School, the Maritime Security Council, the International Association of Airport and Port Police, the National Cargo Security Council, and any other Federal, State, or local government or law enforcement agency or private organization or individual determined by the Secretary to have pertinent expertise.

(b) MINIMUM STANDARDS.—The standards established by the Secretary under subsection (a) shall include the following elements:

(1) The training and certification of maritime security professionals in accordance with accepted law enforcement and security guidelines, policies, and procedures, including, as appropriate, recommendations for incorporating a background check process for personnel trained and certified in foreign ports.

(2) The training of students and instructors in all aspects of prevention, detection, investigation, and reporting of criminal activities in the international maritime environment.

(3) The provision of off-site training and certification courses and certified personnel at United States and foreign ports used by United States-flagged vessels, or by foreign-flagged vessels with United States citizens as passengers or crewmembers, to develop and enhance security awareness and practices.

(c) TRAINING PROVIDED TO LAW ENFORCEMENT AND SECURITY PERSONNEL.—

(1) IN GENERAL.—The Secretary is authorized to make the training opportunities provided under this section available to any Federal, State, local, and private law enforcement or maritime security personnel in the United States or to personnel employed in foreign ports used by vessels with United States citizens as passengers or crewmembers.

(2) ACADEMIES AND SCHOOLS.—The Secretary may provide training under this section at—

(A) each of the 6 State maritime academies;

(B) the United States Merchant Marine Academy;

(C) the Appalachian Transportation Institute; and

(D) other security training schools in the United States.

(d) USE OF CONTRACT RESOURCES.—The Secretary may employ Federal and contract resources to train and certify maritime security professionals in accordance with the standards and curriculum developed under this Act.

(e) ANNUAL REPORT.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the expenditure of appropriated funds and the training under this section.

(f) AUTHORIZATION OF APPROPRIATIONS—There are authorized to be appropriated to the Secretary to carry out this section $5,500,000 for each of fiscal years 2003 through 2008.

SEC. 110. ADDITIONAL REPORTS.

(a) ANNUAL REPORT ON MARITIME SECURITY AND TERRORISM.—Section 905 of the International Maritime and Port Security Act (46 U.S.C. App. 1802) is amended by adding at the end thereof the following: "Beginning with the first report submitted under this section after the date of enactment of the Maritime Transportation Security Act of 2002, the Secretary shall include a description of activities undertaken under title I of that Act and an analysis of the effect of those activities on port security against acts of terrorism.".

(b) REPORT ON TRAINING CENTER.—The Commandant of the United States Coast Guard, in conjunction with the Secretary of the Navy, shall submit to Congress a report, at the time they submit their fiscal year 2005 budget, on the life cycle costs and benefits of creating a Center for Coastal and Maritime Security. The purpose of the Center would be to provide an integrated training complex to

prevent and mitigate terrorist threats against coastal and maritime assets of the United States, including ports, harbors, ships, dams, reservoirs, and transport nodes.

(c) REPORT ON SECURE SYSTEM OF TRANSPORTATION PROGRAM.—Within one year after the secure system of transportation program is implemented under section 70116 of title 46, United States Code, as amended by this Act, the Secretary of the department in which the Coast Guard is operating shall transmit a report to the Senate Committees on Commerce, Science, and Transportation and Finance and the House of Representatives Committees on Transportation and Infrastructure and Ways and Means that—

(1) evaluates the secure system of transportation program and its components;

(2) states the Secretary's view as to whether any procedure, system, or technology evaluated as part of the program offers a higher level of security than requiring imported goods to clear customs under existing procedures and for the requirements of the National Maritime Security Plan for reopening of United States ports to commerce;

(3) states the Secretary's view as to the integrity of the procedures, technology, or systems evaluated as part of the program;

(4) makes a recommendation with respect to whether the program, or any procedure, system, or technology should be incorporated in a nationwide system for preclearance of imports of waterborne goods and for the requirements of the National Maritime Security Plan for the reopening of United States ports to commerce;

(5) describes the impact of the program on staffing levels at the department in which the Coast Guard is operating, and the Customs Service; and

(6) states the Secretary's views as to whether there is a method by which the United States could validate foreign ports so that cargo from those ports is preapproved for entry into the United States and for the purpose of the requirements of the National Maritime Security Plan for the reopening of United States ports to commerce.

SEC. 111. PERFORMANCE STANDARDS.

Not later than January 1, 2004, the Secretary of the department in which the Coast Guard is operating, in consultation with the Transportation Security Oversight Board, shall—

(1) develop and maintain an antiterrorism cargo identification, tracking, and screening system for containerized cargo shipped to and from the United States either directly or via a foreign port; and

(2) develop performance standards to enhance the physical security of shipping containers, including standards for seals and locks.

SEC. 112. REPORT ON FOREIGN-FLAG VESSELS.

Within 6 months after the date of enactment of this Act and every year thereafter, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of State, shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on

Transportation and Infrastructure of the House of Representatives that lists the following information:

(1) A list of all nations whose flag vessels have entered United States ports in the previous year.

(2) Of the nations on that list, a separate list of those nations—

(A) whose registered flag vessels appear as Priority III or higher on the Boarding Priority Matrix maintained by the Coast Guard;

(B) that have presented, or whose flag vessels have presented, false, intentionally incomplete, or fraudulent information to the United States concerning passenger or cargo manifests, crew identity or qualifications, or registration or classification of their flag vessels;

(C) whose vessel registration or classification procedures have been found by the Secretary to be noncompliant with international classifications or do not exercise adequate control over safety and security concerns; or

(D) whose laws or regulations are not sufficient to allow tracking of ownership and registration histories of registered flag vessels.

(3) Actions taken by the United States, whether through domestic action or international negotiation, including agreements at the International Maritime Organization under section 902 of the International Maritime and Port Security Act (46 U.S.C. App. 1801), to improve transparency and security of vessel registration procedures in nations on the list under paragraph (2).

(4) Recommendations for legislative or other actions needed to improve security of United States ports against potential threats posed by flag vessels of nations named in paragraph (2).

SEC. 113. REVISION OF PORT SECURITY PLANNING GUIDE.

The Secretary of Transportation, acting through the Maritime Administration and after consultation with the National Maritime Security Advisory Committee and the Coast Guard, shall publish a revised version of the document entitled "Port Security: A National Planning Guide", incorporating the requirements prescribed under chapter 701 of title 46, United States Code, as amended by this Act, within 3 years after the date of enactment of this Act, and make that revised document available on the Internet.

TITLE II—MARITIME POLICY IMPROVEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "Maritime Policy Improvement Act of 2002".

SEC. 202. VESSEL COASTAL VENTURE.

Section 1120(g) of the Coast Guard Authorization Act of 1996 (Public Law 104–324; 110 Stat. 3978) is amended by inserting "COASTAL VENTURE (United States official number 971086)," after "vessels".

SEC. 203. EXPANSION OF AMERICAN MERCHANT MARINE MEMORIAL WALL OF HONOR.

(a) FINDINGS.—The Congress finds that—

(1) the United States Merchant Marine has served the people of the United States in all wars since 1775;

(2) the United States Merchant Marine served as the Nation's first navy and defeated the British Navy to help gain the Nation's independence;

(3) the United States Merchant Marine kept the lifeline of freedom open to the allies of the United States during the Second World War, making one of the most significant contributions made by any nation to the victory of the allies in that war;

(4) President Franklin D. Roosevelt and many military leaders praised the role of the United States Merchant Marine as the "Fourth Arm of Defense" during the Second World War;

(5) more than 250,000 men and women served in the United States Merchant Marine during the Second World War;

(6) during the Second World War, members of the United States Merchant Marine faced dangers from the elements and from submarines, mines, armed raiders, destroyers, aircraft, and "kamikaze" pilots;

(7) during the Second World War, at least 6,830 members of the United States Merchant Marine were killed at sea;

(8) during the Second World War, 11,000 members of the United States Merchant Marine were wounded, at least 1,100 of whom later died from their wounds;

(9) during the Second World War, 604 members of the United States Merchant Marine were taken prisoner;

(10) 1 in 32 members of the United States Merchant Marine serving in the Second World War died in the line of duty, suffering a higher percentage of war-related deaths than any of the other armed services of the United States; and

(11) the United States Merchant Marine continues to serve the United States, promoting freedom and meeting the high ideals of its former members.

(b) GRANTS TO CONSTRUCT ADDITION TO AMERICAN MERCHANT MARINE MEMORIAL WALL OF HONOR.—

(1) IN GENERAL.—The Secretary of Transportation may make grants to the American Merchant Marine Veterans Memorial Committee, Inc., to construct an addition to the American Merchant Marine Memorial Wall of Honor located at the Los Angeles Maritime Museum in San Pedro, California.

(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out with a grant made under this section shall be 50 percent.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000 for fiscal year 2003.

SEC. 204. DISCHARGE OF AGRICULTURAL CARGO RESIDUE.

Notwithstanding any other provision of law, the discharge from a vessel of any agricultural cargo residue material in the form of hold washings shall be governed exclusively by the provisions of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) that implement Annex V to the International Convention for the Prevention of Pollution from Ships.

SEC. 205. RECORDING AND DISCHARGING NOTICES OF CLAIM OF MARITIME LIEN.

(a) LIENS ON ANY DOCUMENTED VESSEL.—

(1) IN GENERAL.—Section 31343 of title 46, United States Code, is amended as follows:

(A) By amending the section heading to read as follows:

"§ 31343. Recording and discharging notices of claim of maritime lien".

(B) In subsection (a) by striking "covered by a preferred mortgage filed or recorded under this chapter" and inserting "documented, or for which an application for documentation has been filed, under chapter 121".

(C) By amending subsection (b) to read as follows:

"(b)(1) The Secretary shall record a notice complying with subsection (a) of this section if, when the notice is presented to the Secretary for recording, the person having the claim files with the notice a declaration stating the following:

"(A) The information in the notice is true and correct to the best of the knowledge, information, and belief of the individual who signed it.

"(B) A copy of the notice, as presented for recordation, has been sent to each of the following:

"(i) The owner of the vessel.

"(ii) Each person that recorded under subsection (a) of this section an unexpired notice of a claim of an undischarged lien on the vessel.

"(iii) The mortgagee of each mortgage filed or recorded under section 31321 of this title that is an undischarged mortgage on the vessel.

"(2) A declaration under this subsection filed by a person that is not an individual must be signed by the president, member, partner, trustee, or other individual authorized to execute the declaration on behalf of the person.".

(D) By amending subsection (c) to read as follows:

"(c)(1) On full and final discharge of the indebtedness that is the basis for a notice of claim of lien recorded under subsection (b) of this section, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness. The Secretary shall record the certificate.

"(2) The district courts of the United States shall have jurisdiction over a civil action in Admiralty to declare that a vessel is not subject to a lien claimed under subsection (b) of this section, or that the vessel is not subject to the notice of claim of lien, or both, regardless of the amount in controversy or the citizenship of the parties. Venue in such an action shall be in the district where the vessel is found or where the claimant resides or where the notice of claim of lien is recorded. The court may award costs and attorneys fees to the prevailing party, unless the court finds that the position of the other party was substantially justified or other circumstances make an award of costs and attorneys fees unjust. The Secretary shall record any such declaratory order.".

(E) By adding at the end the following:

"(e) A notice of claim of lien recorded under subsection (b) of this section shall expire 3 years after the date the lien was established, as such date is stated in the notice under subsection (a) of this section.

"(f) This section does not alter in any respect the law pertaining to the establishment of a maritime lien, the remedy provided by such a lien, or the defenses thereto, including any defense under the doctrine of laches.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 313 of title 46, United States Code, is amended by striking the item relating to section 31343 and inserting the following:

"31343. Recording and discharging notices of claim of maritime lien.".

(b) NOTICE REQUIREMENTS.—Section 31325 of title 46, United States Code, is amended as follows:

(1) In subsection (d)(1)(B) by striking "a notice of a claim" and inserting "an unexpired notice of a claim".

(2) In subsection (f)(1) by striking "a notice of a claim" and inserting "an unexpired notice of a claim".

(c) APPROVAL OF SURRENDER OF DOCUMENTATION.—Section 12111 of title 46, United States Code, is amended by adding at the end the following:

"(d)(1) The Secretary shall not refuse to approve the surrender of the certificate of documentation for a vessel solely on the basis that a notice of a claim of a lien on the vessel has been recorded under section 31343(a) of this title.

"(2) The Secretary may condition approval of the surrender of the certificate of documentation for a vessel over 1,000 gross tons.".

(d) TECHNICAL CORRECTION.—Section 9(c) of the Shipping Act, 1916 (46 App. U.S.C. 808(c)) is amended in the matter preceding paragraph (1) by striking "Except" and all that follows through "12106(e) of title 46," and inserting "Except as provided in section 611 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1181) and in section 12106(e) of title 46,".

(e) EFFECTIVE DATE.—This section shall take effect January 1, 2003.

SEC. 206. TONNAGE OF R/V DAVIDSON.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall prescribe a tonnage measurement as a small passenger vessel as defined in section 2101 of title 46, United States Code, for the vessel R/V DAVIDSON (United States official number D1066485) for purposes of applying the optional regulatory measurement under section 14305 of that title.

(b) APPLICATION.—Subsection (a) shall apply only when the vessel is operating in compliance with the requirements of section 3301(8) of title 46, United States Code.

SEC. 207. MISCELLANEOUS CERTIFICATES OF DOCUMENTATION.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) LOOKING GLASS (United States official number 925735).

(2) YANKEE (United States official number 1076210).

(3) LUCKY DOG of St. Petersburg, Florida (State of Florida registration number FLZP7569E373).

(4) ENTERPRIZE (United States official number 1077571).

(5) M/V SANDPIPER (United States official number 1079439).

(6) FRITHA (United States official number 1085943).

(7) PUFFIN (United States official number 697029).

(8) VICTORY OF BURNHAM (United States official number 663780).

(9) R'ADVENTURE II (United States official number 905373).

(10) ANTJA (State of Florida registration number FL3475MA).

(11) SKIMMER, manufactured by Contour Yachts, Inc. (hull identification number QHG34031D001).

(12) TOKEENA (State of South Carolina registration number SC 1602 BJ).

(13) DOUBLE EAGLE 2 (United States official number 1042549).

(14) ENCOUNTER (United States official number 998174).

(15) AJ (United States official number 599164).

(16) BARGE 10 (United States official number 1101368).

(17) NOT A SHOT (United States official number 911064).

(18) PRIDE OF MANY (Canadian official number 811529).

(19) AMAZING GRACE (United States official number 92769).

(20) SHEWHO (United States official number 1104094).

(21) SOVEREIGN (United States official number 1028144).

(22) CALEDONIA (United States official number 679530).

(23) ISLANDER (State of South Carolina identification number SC 9279 BJ).

(24) F/V ANITA J (United States official number 560532).

(25) F/V HALF MOON BAY (United States official number 615796).

(26) F/V SUNSET BAY (United States official number 598484).

(27) BILLIE–B (United States official number 958427).

(b) ELIGIBILITY FOR ADMINISTRATIVE WAIVERS.—The following vessels are deemed to be eligible vessels within the meaning of section 504(2) of the Coast Guard Authorization Act of 1998 (46 U.S.C. 12106 note):

(1) EXCELLENCE III (hull identification number HQZ00255K101).

(2) ADIOS (hull identification number FAL75003A101).

(3) LAUDERDALE LADY (United States official number 1103520).

(4) UNIT ONE (United States official number 1128562).

(c) REPEAL OF JONES ACT WAIVER ADMINISTRATIVE PROCESS SUNSET; ANTI-FRAUD REVOCATION AUTHORITY.—

(1) REPEAL OF SUNSET.—Section 505 of the Coast Guard Authorization Act of 1998 (46 U.S.C. 12106 note) is repealed. The repeal of section 505 shall have no effect on the validity of

any certificate or endorsement issued under section 502 of that Act.

(2) REVOCATION FOR FRAUD.—Section 503 of the Coast Guard Authorization Act of 1998 (46 U.S.C. 12106 note) is amended to read as follows:

"SEC. 503. REVOCATION.

"(a) REVOCATION FOR FRAUD.—The Secretary shall revoke a certificate or an endorsement issued under section 502, after notice and an opportunity for a hearing, if the Secretary determines that the certificate or endorsement was obtained by fraud.

"(b) APPLICATION WITH CRIMINAL PENALTIES.—Nothing in this section affects—

"(1) the criminal prohibition on fraud and false statements provided by section 1001 of title 18, United States Code; or

"(2) any other authority of the Secretary to revoke a certificate or endorsement issued under section 502 of this Act.".

(d) TECHNOLOGY DEMONSTRATION WAIVER.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for the sole purpose of technology demonstrations (including transporting guests for such demonstration who have not contributed consideration for their passage) for the vessel FOILCAT (United States official number 1063892).

SEC. 208. EXEMPTION FOR VICTORY SHIPS.

Section 3302(l)(1) of title 46, United States Code, is amended by adding at the end the following:

"(D) The SS Red Oak Victory (United States official number 249410), owned by the Richmond Museum Association, located in Richmond, California.

"(E) The SS American Victory (United States official number 248005), owned by Victory Ship, Inc., of Tampa, Florida.

"(F) The LST–325, owned by USS LST Ship Memorial, Incorporated, located in Mobile, Alabama.".

SEC. 209. CERTIFICATE OF DOCUMENTATION FOR 3 BARGES.

(a) DOCUMENTATION CERTIFICATE.—Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), and subject to subsection (c) of this section, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with an appropriate endorsement for employment in the coastwise trade for each of the vessels listed in subsection (b).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) The former Navy deck barge JIM, having a length of 110 feet and a width of 34 feet.

(2) The former railroad car barge HUGH, having a length of 185 feet and a width of 34 feet.

(3) The former railroad car barge TOMMY, having a length of 185 feet and a width of 34 feet.

(c) LIMITATION ON OPERATION.—A vessel issued a certificate of documentation under this section may be used only as a floating

platform for launching fireworks, including transportation of materials associated with that use.

SEC. 210. CERTIFICATE OF DOCUMENTATION FOR THE EAGLE.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), chapter 121 of title 46, United States Code, and section 1 of the Act of May 28, 1906 (46 App. U.S.C. 292), the Secretary of the department in which the Coast Guard is operating shall issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel EAGLE (hull number BK–1754, United States official number 1091389) if the vessel is—

(1) owned by a State, a political subdivision of a State, or a public authority chartered by a State;

(2) if chartered, chartered to a State, a political subdivision of a State, or a public authority chartered by a State;

(3) operated only in conjunction with—

(A) scour jet operations; or

(B) dredging services adjacent to facilities owned by the State, political subdivision, or public authority; and

(4) externally identified clearly as a vessel of that State, subdivision, or authority.

SEC. 211. WAIVER FOR VESSELS IN NEW WORLD CHALLENGE RACE.

Notwithstanding section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), beginning on April 1, 2002, the 10 sailboats participating in the New World Challenge Race may transport guests, who have not contributed consideration for their passage, from and around the ports of San Francisco and San Diego, California, before and during stops of that race. This section shall have no force or effect beginning on the earlier of—

(1) 60 days after the last competing sailboat reaches the end of that race in San Francisco, California; or

(2) December 31, 2003.

SEC. 212. VESSEL ASPHALT COMMANDER.

Notwithstanding any other law or agreement with the United States Government, the vessel ASPHALT COMMANDER (United States official number 663105) may be transferred to or placed under a foreign registry or sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

SEC. 213. COASTWISE TRADE AUTHORIZATION.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), or any other provision of law restricting the operation of a foreign-built vessel in the coastwise trade of the United States, the following vessels may, subject to subsection (b), engage in the coastwise trade of the United States to transport platform jackets from ports in the Gulf of Mexico to sites on the Outer Continental Shelf for completion of certain offshore projects as follows:

(1) The H–114, H–627, I–650, and H–851 for the projects known as Atlantis, Thunderhorse, Holstein, and Mad Dog.

(2) The I–600 for the projects known as Murphy Medusa, Dominion Devil's Tower, and Murphy Front Runner.

(b) PRIORITY FOR U.S.-BUILT VESSELS.—Subsection (a) shall not apply in instances where a United States-built, United States-documented vessel with the capacity to transport and launch the platform jacket involved or its components is available to transport that jacket or its components. In this section, the term "platform jacket" has the meaning given that term under the thirteenth proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as amended by subsection (c) of this section.

(c) DEFINITION.—The thirteenth proviso (pertaining to transportation by launch barge) of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), is amended by striking the period at the end and inserting the following: "; and for the purposes of this proviso, the term 'platform jacket' includes any type of offshore drilling or production structure or components, including platform jackets, tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure) hull (including vertical legs and connecting pontoons or vertical cylinder), tower and base sections of a platform jacket, jacket structures, and deck modules (known as 'topsides') of a hydrocarbon development and production platform.".

SEC. 214. JONES ACT WAIVER FOR DELAYED VESSEL DELIVERY.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for a self-propelled tank vessel not built in the United States as provided in this section.

(b) WAIVER REQUIREMENTS.—The Secretary may not grant a waiver under subsection (a) unless—

(1) the person requesting the waiver is a party to a binding legal contract, executed within 24 months after the date of enactment of this Act, with a United States shipyard for the construction in the United States of a self-propelled tank vessel;

(2) the Secretary determines, on the basis of the terms of the contract, the parties to the contract, the actions of those parties in connection with the contract, and the circumstances under which the contract was executed, that the parties are making a bona fide effort to construct in the United States and deliver a self-propelled tank vessel in a timely manner;

(3) the vessel for which the waiver is granted will meet otherwise applicable requirements of law regarding ownership and operation for vessels employed in the coastwise trade;

(4) the shipyard owns a facility with sufficient infrastructure to construct the self-propelled tank vessel;

(5) the self-propelled tank vessel that is the subject of that contract will not be available for use on the contracted delivery date because of a delay in the construction or delivery of the vessel due to unusual circumstances; and

(6) the Secretary determines that no other suitable tank vessel or vessels, or tank vessel capacity, that would not require such a waiver are reasonably available to the person requesting the waiver.

Prior to making the determination under paragraph (6), the Secretary shall provide public notice of a waiver request and shall provide persons who may have such suitable tank vessels an opportunity to indicate to the requester and the Secretary the particulars of available tank vessels or tank vessel capacity not requiring a waiver under this section.

(c) LIMITATIONS.—

(1) CAPACITY OF TANK VESSEL.—The Secretary may not grant a waiver under subsection (a) for a self-propelled tank vessel that has substantially greater capacity than the vessel described in subsection (b)(1).

(2) MAXIMUM DURATION OF WAIVER.—The Secretary may not grant a waiver under subsection (a) for a period prior to, or extending more than 48 months after, the original contract delivery date of the vessel described in subsection (b)(1).

(3) MAXIMUM NUMBER OF WAIVERS.—The Secretary may grant waivers under subsection (a) for not more than 3 self-propelled tank vessels.

(d) DETERMINATION OF WAIVER.—

(1) IN GENERAL.—A waiver grant under subsection (a) shall terminate on the earlier of—

(A) the date established by the Secretary as its expiration date under subsection (c)(2); or

(B) the date that is 60 days after the day on which the vessel described in subsection (b)(1) is delivered.

(2) TERMINATION FOR INTENTIONAL DELAY.—The Secretary may terminate a waiver granted under subsection (a) at any time if the Secretary determines that the delay in the construction or delivery of the vessel described in the subsection (b)(1) is no longer due to unusual circumstances.

(e) SUSPENSION OF WAIVER.—The Secretary may suspend a waiver granted under subsection (a) for any period of time if the Secretary determines that a suitable tank vessel, or suitable tank vessel capacity, that would not require such a waiver is reasonably available to the person requesting the waiver.

(f) CONTRACTED-FOR VESSEL DELIVERY.—If the Secretary grants a waiver under subsection (a), the shipyard constructing the vessel described in subsection (b)(1) shall deliver the vessel, constructed in accordance with the terms of the contract, as soon as practicable after the delivery date established by the contract.

(g) UNUSUAL CIRCUMSTANCES DEFINED.—In this section, the term "unusual circumstances" means bankruptcy of the shipyard or Acts of God (other than ordinary storms or inclement weather conditions), labor strikes, acts of sabotage, explosions, fires, or vandalism, and similar circumstances beyond the control of the parties to the contract which prevent commencement of construction, or timely delivery or completion, of a vessel.

SEC. 215. REALIGNMENT OF POLICY RESPONSIBILITY IN THE DEPARTMENT OF TRANSPORTATION.

(a) IN GENERAL.—Section 102 of title 49, United States Code, is amended by—

(1) redesignating subsection (d) as subsection (g), and moving such subsection to appear after subsection (f);

(2) inserting after subsection (c) the following:

"(d) The Department has an Under Secretary of Transportation for Policy appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall provide leadership in the development of policy for the Department, supervise the policy activities of Assistant Secretaries with primary responsibility for aviation, international, and other transportation policy development and carry out other powers and duties prescribed by the Secretary. The Under Secretary acts for the Secretary when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of Secretary and Deputy Secretary are vacant."; and

(3) by striking "Secretary and the Deputy Secretary" each place it appears in the last sentence of subsection (f), as redesignated, and inserting "Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy".

(b) POSITION IN EXECUTIVE SERVICE.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Transportation for Policy.".

(c) CONFORMING AMENDMENT.—Section 102 of title 49, United States Code, is further amended by striking subsection (g), as redesignated by subsection (a)(1), on the date that an individual is appointed to the position of Under Secretary of Transportation for Policy under subsection (d) of such section, as added by subsection (a)(2) of this section.

TITLE III—COAST GUARD PERSONNEL AND MARITIME SAFETY

SEC. 301. SHORT TITLE.

This title may be cited as the "Coast Guard Personnel and Maritime Safety Act of 2002".

Subtitle A—Personnel Management

SEC. 311. COAST GUARD BAND DIRECTOR RANK.

Section 336(d) of title 14, United States Code, is amended by striking "commander" and inserting "captain".

SEC. 312. COMPENSATORY ABSENCE FOR ISOLATED DUTY.

(a) IN GENERAL.—Section 511 of title 14, United States Code, is amended to read as follows:

"§ 511. Compensatory absence from duty for military personnel at isolated duty stations

"The Secretary may grant compensatory absence from duty to military personnel of the Coast Guard serving at isolated duty stations of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 13 of title 14, United States Code, is amended by striking the item relating to section 511 and inserting the following:

"511. Compensatory absence from duty for military personnel at isolated duty stations.".

SEC. 313. ACCELERATED PROMOTION OF CERTAIN COAST GUARD OFFICERS.

Title 14, United States Code, is amended—

(1) in section 259, by adding at the end the following:

"(c)(1) After selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in subsection (b) unless such a percentage is a number less than one, in which case the board may recommend one officer for such placement. No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

"(2) The Secretary shall conduct a survey of the Coast Guard officer corps to determine if implementation of this subsection will improve Coast Guard officer retention. A selection board may not make any recommendation under this subsection before the date on which the Secretary publishes a finding, based upon the results of the survey, that implementation of this subsection will improve Coast Guard officer retention.

"(3) The Secretary shall submit any finding made by the Secretary pursuant to paragraph (2) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.";

(2) in section 260(a), by inserting "and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title" after "promotion"; and

(3) in section 271(a), by inserting at the end the following: "The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.".

Subtitle B—Marine Safety

SEC. 321. EXTENSION OF TERRITORIAL SEA FOR VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT.

Section 4(b) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(b)), is amended by striking "United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended." and inserting "United States, which includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.".

SEC. 322. MODIFICATION OF VARIOUS REPORTING REQUIREMENTS.

(a) TERMINATION OF OIL SPILL LIABILITY TRUST FUND ANNUAL REPORT.—The report regarding the Oil Spill Liability Trust Fund

required by the Conference Report (House Report 101–892) accompanying the Department of Transportation and Related Agencies Appropriations Act, 1991, as that requirement was amended by section 1122 of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66), shall no longer be submitted to the Congress.

(b) PRESERVATION OF CERTAIN REPORTING REQUIREMENTS.—Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

(1) COAST GUARD OPERATIONS AND EXPENDITURES.—Section 651 of title 14, United States Code.

(2) SUMMARY OF MARINE CASUALTIES REPORTED DURING PRIOR FISCAL YEAR.—Section 6307(c) of title 46, United States Code.

(3) USER FEE ACTIVITIES AND AMOUNTS.—Section 664 of title 46, United States Code.

(4) CONDITIONS OF PUBLIC PORTS OF THE UNITED STATES.—Section 308(c) of title 49, United States Code.

(5) ACTIVITIES OF FEDERAL MARITIME COMMISSION.—Section 208 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1118).

(6) ACTIVITIES OF INTERAGENCY COORDINATING COMMITTEE ON OIL POLLUTION RESEARCH.—Section 7001(e) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(e)).

SEC. 323. OIL SPILL LIABILITY TRUST FUND; EMERGENCY FUND ADVANCEMENT AUTHORITY.

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by inserting after the first sentence the following: "To the extent that such amount is not adequate, the Coast Guard may obtain an advance from the Fund of such sums as may be necessary, up to a maximum of $100,000,000, and within 30 days shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance. Amounts advanced shall be repaid to the Fund when, and to the extent that, removal costs are recovered by the Coast Guard from responsible parties for the discharge or substantial threat of discharge.".

SEC. 324. MERCHANT MARINER DOCUMENTATION REQUIREMENTS.

(a) INTERIM MERCHANT MARINERS' DOCUMENTS.—Section 7302 of title 46, United States Code, is amended—

(1) by striking "A" in subsection (f) and inserting "Except as provided in subsection (g), a"; and

(2) by adding at the end the following:

"(g)(1) The Secretary may, pending receipt and review of information required under subsections (c) and (d), immediately issue an interim merchant mariner's document valid for a period not to exceed 120 days, to—

"(A) an individual to be employed as gaming personnel, entertainment personnel, wait staff, or other service personnel on board a passenger vessel not engaged in foreign service, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; or

"(B) an individual seeking renewal of, or qualifying for a supplemental endorsement to, a valid merchant mariner's document issued under this section.

"(2) No more than one interim document may be issued to an individual under paragraph (1)(A) of this subsection.".

(b) EXCEPTION.—Section 8701(a) of title 46, United States Code, is amended—

(1) by striking "and" after the semicolon in paragraph (8);

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following:

"(9) a passenger vessel not engaged in a foreign voyage with respect to individuals on board employed for a period of not more than 30 service days within a 12 month period as entertainment personnel, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; and".

SEC. 325. PENALTIES FOR NEGLIGENT OPERATIONS AND INTERFERING WITH SAFE OPERATION.

Section 2302(a) of title 46, United States Code, is amended by striking "$1,000." and inserting "$5,000 in the case of a recreational vessel, or $25,000 in the case of any other vessel.".

Subtitle C—Renewal of Advisory Groups

SEC. 331. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

(a) COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.—Section 4508 of title 46, United States Code, is amended—

*(1) by inserting "**Safety**" in the section heading after "**Vessel**";*

(2) by inserting "Safety" in subsection (a) after "Vessel";

(3) by striking "(5 App. U.S.C. 1 et seq.)" in subsection (e)(1) and inserting "(5 App. U.S.C.)"; and

(4) by striking "on September 30, 2000" in subsection (e)(1) and inserting "on September 30, 2005".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 46, United States Code, is amended by striking the item relating to section 4508 and inserting the following:

"4508. Commercial Fishing Industry Vessel Safety Advisory Committee.".

SEC. 332. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

Section 18(h) of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking "September 30, 2000." and inserting "September 30, 2005.".

SEC. 333. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

Section 19(g) of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking "September 30, 2000" and inserting "September 30, 2005".

SEC. 334. NAVIGATION SAFETY ADVISORY COUNCIL.

Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking "September 30, 2000" and inserting "September 30, 2005".

SEC. 335. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 2000" and inserting "September 30, 2005".

SEC. 336. TOWING SAFETY ADVISORY COMMITTEE.

The Act entitled "An Act to establish a Towing Safety Advisory Committee in the Department of Transportation" approved October 6, 1980 (33 U.S.C. 1231a), is amended by striking "September 30, 2000." in subsection (e) and inserting "September 30, 2005.".

Subtitle D—Miscellaneous

SEC. 341. PATROL CRAFT.

Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating may accept, by direct transfer without cost, for use by the Coast Guard primarily for expanded drug interdiction activities required to meet national supply reduction performance goals, up to 7 PC–170 patrol craft from the Department of Defense if it offers to transfer such craft.

SEC. 342. BOATING SAFETY.

(a) GENERAL STATE REVENUE DEFINITION.—For fiscal year 2003, the term "general State revenue" in section 13102(a)(3) of title 46, United States Code, includes any amounts expended for the State's recreational boating safety program by a State agency, a public corporation established under State law, or any other State instrumentality, as determined by the Secretary of the department in which the Coast Guard is operating.

(b) FUNDING.—For fiscal year 2003, the amount available for recreational boating safety under section 4(b)(3) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(3)), is $83,000,000.

SEC. 343. CARIBBEAN SUPPORT TENDER.

(a) IN GENERAL.—The Coast Guard is authorized to operate and maintain a Caribbean Support Tender (or similar type vessel) to provide technical assistance, including law enforcement training, for foreign coast guards, navies, and other maritime services.

(b) MEDICAL AND DENTAL CARE.—

(1) The Commandant may provide medical and dental care to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States—

(A) on an outpatient basis without cost; and

(B) on an inpatient basis if the United States is reimbursed for the costs of providing such care.

Payments received as reimbursement for the provision of such care shall be credited to the appropriations against which the charges were made for the provision of such care.

(2) Notwithstanding paragraph (1)(B), the Commandant may provide inpatient medical and dental care in the United States without cost to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 344. PROHIBITION OF NEW MARITIME USER FEES.

Section 2110(k) of title 46, United States Code, is amended by striking "2001" and inserting "2006".

SEC. 345. GREAT LAKES LIGHTHOUSES.

(a) FINDINGS.—The Congress finds the following:

(1) The Great Lakes are home to more than 400 lighthouses. 120 of these maritime landmarks are in the State of Michigan.

(2) Lighthouses are an important part of Great Lakes culture and stand as a testament to the importance of shipping in the region's political, economic, and social history.

(3) Advances in navigation technology have made many Great Lakes lighthouses obsolete. In Michigan alone, approximately 70 lighthouses will be designated as excess property of the Federal Government and will be transferred to the General Services Administration for disposal.

(4) Unfortunately, the Federal property disposal process is confusing, complicated, and not well-suited to disposal of historic lighthouses or to facilitate transfers to nonprofit organizations. This is especially troubling because, in many cases, local nonprofit historical organizations have dedicated tremendous resources to preserving and maintaining Great Lakes lighthouses.

(5) If Great Lakes lighthouses disappear, the public will be unaware of an important chapter in Great Lakes history.

(6) The National Trust for Historic Preservation has placed Michigan lighthouses on their list of Most Endangered Historic Places.

(b) ASSISTANCE FOR GREAT LAKES LIGHTHOUSE PRESERVATION EFFORTS.—The Secretary of the department in which the Coast Guard is operating, may—

(1) continue to offer advice and technical assistance to organizations in the Great Lakes region that are dedicated to lighthouse stewardship; and

(2) promptly release information regarding the timing of designations of Coast Guard lighthouses on the Great Lakes as excess to the needs of the Coast Guard, to enable those organizations to mobilize and be prepared to take appropriate action with respect to the disposal of those properties.

SEC. 346. MODERNIZATION OF NATIONAL DISTRESS AND RESPONSE SYSTEM.

(a) REPORT.—The Secretary of the department in which the Coast Guard is operating shall prepare a status report on the modernization of the National Distress and Response System and transmit the report, not later than 60 days after the date of enactment of this Act and annually thereafter until completion of the project, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) CONTENTS.—The report required by subsection (a) shall—

(1) set forth the scope of the modernization, the schedule for completion of the System, and information on progress in meeting the schedule and on any anticipated delays;

(2) specify the funding expended to-date on the System, the funding required to complete the System, and the purposes for which the funds were or will be expended;

(3) describe and map the existing public and private communications coverage throughout the waters of the coastal and internal regions of the continental United States, Alaska, Hawaii, Guam, and the Caribbean, and identify locations that possess direction-finding, asset-tracking communications, and digital selective calling service;

(4) identify areas of high risk to boaters and Coast Guard personnel due to communications gaps;

(5) specify steps taken by the Secretary to fill existing gaps in coverage, including obtaining direction-finding equipment, digital recording systems, asset-tracking communications, use of commercial VHF services, and digital selective calling services that meet or exceed Global Maritime Distress and Safety System requirements adopted under the International Convention for the Safety of Life at Sea;

(6) identify the number of VHF–FM radios equipped with digital selective calling sold to United States boaters;

(7) list all reported marine accidents, casualties, and fatalities occurring in areas with existing communications gaps or failures, including incidents associated with gaps in VHF–FM coverage or digital selected calling capabilities and failures associated with inadequate communications equipment aboard the involved vessels during calendar years 1997 and thereafter;

(8) identify existing systems available to close all identified marine safety gaps before January 1, 2003, including expeditious receipt and response by appropriate Coast Guard operations centers to VHF–FM digital selective calling distress signal; and

(9) identify actions taken to-date to implement the recommendations of the National Transportation Safety Board in its Report No. MAR–99–01.

SEC. 347. CONVEYANCE OF COAST GUARD PROPERTY IN PORTLAND, MAINE.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating, or a designee of the Secretary, may convey to the Gulf of Maine Aquarium Development Corporation, its successors and assigns, without payment for consideration, all right, title, and interest of the United States in and to approximately 4.13 acres of land, including a pier and bulkhead, known as the Naval Reserve Pier property, together with any improvements thereon in their then current condition, located in Portland, Maine. All conditions placed with the deed of title shall be construed as covenants running with the land.

(2) IDENTIFICATION OF PROPERTY.—The Secretary, in consultation with the Commandant of the Coast Guard, may identify, describe, and determine the property to be conveyed under this section. The floating docks associated with or attached to the Naval Reserve Pier property shall remain the personal property of the United States.

(b) LEASE TO THE UNITED STATES.—

(1) CONDITION OF CONVEYANCE.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into a lease agreement with the United States, the terms of which are mutually satisfactory to the Commandant and the Corporation, in which the Corporation shall lease a portion of the Naval Reserve Pier property to the United States for a term of 30 years without payment of consideration. The lease agreement shall be executed within 12 months after the date of enactment of this Act.

(2) IDENTIFICATION OF LEASED PREMISES.—The Secretary, in consultation with the Commandant, may identify and describe the leased premises and rights of access, including the following, in order to allow the Coast Guard to operate and perform missions from and upon the leased premises:

(A) The right of ingress and egress over the Naval Reserve Pier property, including the pier and bulkhead, at any time, without notice, for purposes of access to Coast Guard vessels and performance of Coast Guard missions and other mission-related activities.

(B) The right to berth Coast Guard cutters or other vessels as required in the moorings along the east side of the Naval Reserve Pier property and the right to attach floating docks which shall be owned and maintained at the United States' sole cost and expense.

(C) The right to operate, maintain, remove, relocate, or replace an aid to navigation located upon, or to install any aid to navigation upon, the Naval Reserve Pier property as the Coast Guard, in its sole discretion, may determine is needed for navigational purposes.

(D) The right to occupy up to 3,000 contiguous gross square feet at the Naval Reserve Pier property for storage and office space, which will be provided and constructed by the Corporation, at the Corporation's sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense.

(E) The right to occupy up to 1,200 contiguous gross square feet of offsite storage in a location other than the Naval Reserve Pier property, which will be provided by the Corporation at the Corporation's sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense.

(F) The right for Coast Guard personnel to park up to 60 vehicles, at no expense to the Government, in the Corporation's parking spaces on the Naval Reserve Pier property or in parking spaces that the Corporation may secure within 1,000 feet of the Naval Reserve Pier property or within 1,000 feet of the Coast Guard Marine Safety Office Portland. Spaces for no less than 30 vehicles shall be located on the Naval Reserve Pier property.

(3) RENEWAL.—The lease described in paragraph (1) may be renewed, at the sole option of the United States, for additional lease terms.

(4) LIMITATION ON SUBLEASES.—The United States may not sublease the leased premises to a third party or use the leased premises for purposes other than fulfilling the missions of the Coast Guard and for other mission related activities.

(5) TERMINATION.—In the event that the Coast Guard ceases to use the leased premises, the Secretary, in consultation with the Commandant, may terminate the lease with the Corporation.

(c) IMPROVEMENT OF LEASED PREMISES.—

(1) IN GENERAL.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States, subject to the Commandant's design specifications, project's schedule, and final project approval, to replace the bulkhead and pier which connects to, and provides access from, the bulkhead to the floating docks, at the Corporation's sole cost and expense, on the east side of the Naval Reserve Pier property within 30 months from the date of conveyance. The agreement to improve the leased premises shall be executed within 12 months after the date of enactment of this Act.

(2) FURTHER IMPROVEMENTS.—In addition to the improvements described in paragraph (1), the Commandant may further improve the leased premises during the lease term, at the United States sole cost and expense.

(d) UTILITY INSTALLATION AND MAINTENANCE OBLIGATIONS.—

(1) UTILITIES.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to allow the United States to operate and maintain existing utility lines and related equipment, at the United States sole cost and expense. At such time as the Corporation constructs its proposed public aquarium, the Corporation shall replace existing utility lines and related equipment and provide additional utility lines and equipment capable of supporting a third 110-foot Coast Guard cutter, with comparable, new, code compliant utility lines and equipment at the Corporation's sole cost and expense, maintain such utility lines and related equipment from an agreed upon demarcation point, and make such utility lines and equipment available for use by the United States, if the United States pays for its use of utilities at its sole cost and expense. The agreement concerning the operation and maintenance of utility lines and equipment shall be executed within 12 months after the date of enactment of this Act.

(2) MAINTENANCE.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to maintain, at the Corporation's sole cost and expense, the replacement bulkhead and pier on the east side of the Naval Reserve Pier property. The agreement concerning the maintenance of the bulkhead and pier shall be executed within 12 months after the date of enactment of this Act.

(3) AIDS TO NAVIGATION.—The United States shall be required to maintain, at its sole cost and expense, any Coast Guard active aid to navigation located upon the Naval Reserve Pier property.

(e) ADDITIONAL RIGHTS.—The conveyance of the Naval Reserve Pier property shall be made subject to conditions the Secretary considers necessary to ensure that—

(1) the Corporation shall not interfere or allow interference, in any manner, with use of the leased premises by the United States; and

(2) the Corporation shall not interfere or allow interference, in any manner, with any aid to navigation nor hinder activities required for the operation and maintenance of any aid to navigation, without the express written permission of the head of the agency responsible for operating and maintaining the aid to navigation.

(f) REMEDIES AND REVERSIONARY INTEREST.—The Naval Reserve Pier property, at the option of the Secretary, shall revert to the United States and be placed under the administrative control of the Secretary, if, and only if, the Corporation fails to abide by any of the terms of this section or any agreement entered into under subsection (b), (c), or (d) of this section.

(g) LIABILITY OF THE PARTIES.—The liability of the United States and the Corporation for any injury, death, or damage to or loss of property occurring on the leased property shall be determined with reference to existing State or Federal law, as appropriate, and any such liability may not be modified or enlarged by this title or any agreement of the parties.

(h) EXPIRATION OF AUTHORITY TO CONVEY.—The authority to convey the Naval Reserve property under this section shall expire 3 years after the date of enactment of this Act.

(i) DEFINITIONS.—In this section, the following definitions apply:

(1) AID TO NAVIGATION.—The term "aid to navigation" means equipment used for navigational purposes, including a light, antenna, sound signal, electronic navigation equipment, cameras, sensors power source, or other related equipment which are operated or maintained by the United States.

(2) CORPORATION.—The term "Corporation" means the Gulf of Maine Aquarium Development Corporation, its successors and assigns.

SEC. 348. ADDITIONAL COAST GUARD FUNDING NEEDS AFTER SEPTEMBER 11, 2001.

(a) IN GENERAL.—No later than 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress that—

(1) compares Coast Guard expenditures by mission area on an annualized basis before and after the terrorist attacks of September 11, 2001;

(2) estimates—

(A) annual funding amounts and personnel levels that would restore all Coast Guard mission areas to the readiness levels that existed before September 11, 2001;

(B) annual funding amounts and personnel levels required to fulfill the Coast Guard's additional responsibilities for port security after September 11, 2001; and

(C) annual funding amounts and personnel levels required to increase law enforcement needs in mission areas other than port security after September 11, 2001;

(3) generally describes the services provided by the Coast Guard to the Department of Defense after September 11, 2001, and states the cost of such services; and

(4) identifies the Federal agency providing funds for those services.

(b) REPORT REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate identifying mission targets for each Coast Guard mission for fiscal years 2003, 2004, and 2005 and the specific steps necessary to achieve those targets. The Inspector General of the department in which the Coast Guard is operating shall review the final strategic plan and provide an independent report with its views to the Committees within 90 days after the plan has been submitted by the Secretary.

SEC. 349. MISCELLANEOUS CONVEYANCES.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to each of the following properties:

(A) Coast Guard Slip Point Light Station, located in Clallam County, Washington, to Clallam County, Washington.

(B) The parcel of land on which is situated the Point Piños Light, located in Monterey County, California, to the city of Pacific Grove, California.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this subsection.

(3) LIMITATION.—The Secretary may not under this section convey—

(A) any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance; or

(B) any interest in submerged land.

(b) GENERAL TERMS AND CONDITIONS.—

(1) IN GENERAL.—Each conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions required by this section and other terms and conditions the Secretary may consider appropriate, including the reservation of easements and other rights on behalf of the United States.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established under this section, each conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property shall immediately revert to the United States if—

(A) the property, or any part of the property—

(i) ceases to be available and accessible to the public, on a reasonable basis, for educational, park, recreational, cultural, historic preservation, or other simi-

lar purposes specified for the property in the terms of conveyance;

(ii) ceases to be maintained in a manner that is consistent with its present or future use as a site for Coast Guard aids to navigation or compliance with this section; or

(iii) ceases to be maintained in a manner consistent with the conditions in paragraph (4) established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Secretary provides written notice to the owner that the property is needed for national security purposes.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—Each conveyance of property under this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed that are active aids to navigation shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Commandant of the Coast Guard;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating, maintaining, and inspecting aids to navigation and for the purpose of enforcing compliance with this subsection; and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) MAINTENANCE OF PROPERTY.—(A) Subject to subparagraph (B), the owner of a property conveyed under this section shall maintain the property in a proper, substantial, and workmanlike manner, and in accordance with any conditions established by the conveying authority pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(B) The owner of a property conveyed under this section is not required to maintain any active aid to navigation equipment on the property, except private aids to navigation permitted under section 83 of title 14, United States Code.

(c) SPECIAL TERMS AND CONDITIONS.—The Secretary may retain all right, title, and interest of the United States in and to any portion of any parcel referred to in subsection (a)(1)(B) that the Secretary considers appropriate.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) AIDS TO NAVIGATION.—The term "aids to navigation" means equipment used for navigation purposes, including a light, antenna, radio, sound signal, electronic navigation equipment, or other associated equipment which are operated or maintained by the United States.

(2) OWNER.—The term "owner" means, for a property conveyed under this section, the person identified in subsection (a)(1) of the property and includes any successor or assign of that person.

TITLE IV—OMNIBUS MARITIME IMPROVEMENTS

SEC. 401. SHORT TITLE.

This title may be cited as the "Omnibus Maritime and Coast Guard Improvements Act of 2002".

SEC. 402. EXTENSION OF COAST GUARD HOUSING AUTHORITIES.

(a) HOUSING CONTRACTORS.—Section 681(a) of title 14, United States Code, is amended by inserting ", including a small business concern qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a))," after "private persons".

(b) BUDGET AUTHORITY LIMITATION.—Section 687(f) of title 14, United States Code, is amended by striking "$20,000,000" and inserting "$40,000,000".

(c) DEMONSTRATION PROJECT.—Section 687 of title 14, United States Code, is amended by adding at the end the following:

"(g) DEMONSTRATION PROJECT AUTHORIZED.—To promote efficiencies through the use of alternative procedures for expediting new housing projects, the Secretary—

"(1) may develop and implement a demonstration project for acquisition or construction of military family housing and military unaccompanied housing on or near the Coast Guard installation at Kodiak, Alaska;

"(2) in implementing the demonstration project, shall utilize, to the maximum extent possible, the contracting authority of the Small Business Administration's section 8(a) program;

"(3) shall, to the maximum extent possible, acquire or construct such housing through contracts with small business concerns qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) that have their principal place of business in the State of Alaska; and

"(4) shall report to Congress by September 1 of each year on the progress of activities under the demonstration project.".

(d) EXTENSION.—Section 689 of title 14, United States Code, is amended by striking "2001" and inserting "2007".

SEC. 403. INVENTORY OF VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR.

(a) INVENTORY.—The Secretary of Transportation shall develop, maintain, and periodically update an inventory of vessels that are documented under chapter 121 of title 46, United States Code, are 200 feet or more in length, and have the capability to lay, maintain, or repair a submarine cable, without regard to whether a particular vessel is classified as a cable ship or cable vessel.

(b) VESSEL INFORMATION.—For each vessel listed in the inventory, the Secretary shall include in the inventory—

(1) the name, length, beam, depth, and other distinguishing characteristics of the vessel;

(2) the abilities and limitations of the vessel with respect to the laying, maintaining, and repairing of a submarine cable; and

(3) the name and address of the person to whom inquiries regarding the vessel may be made.

(c) PUBLICATION.—The Secretary shall—

(1) not later than 60 days after the date of enactment of this Act, publish in the Federal Register a current inventory developed under subsection (a); and

(2) every six months thereafter, publish in the Federal Register an updated inventory.

SEC. 404. VESSEL ESCORT OPERATIONS AND TOWING ASSISTANCE.

(a) IN GENERAL.—Except in the case of a vessel in distress, only a vessel of the United States (as that term is defined in section 2101 of title 46, United States Code) may perform the following escort vessel operations within the navigable waters of the United States:

(1) Operations that commence or terminate at a port or place in the United States.

(2) Operations required by United States law or regulation.

(3) Operations provided in whole or in part within or through navigation facilities owned, maintained, or operated by the United States Government or the approaches to those facilities, other than facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

(b) ADDITION TO TOWING VESSEL.—In the case of a vessel being towed under section 4370 of the Revised Statutes of the United States (46 App. U.S.C. 316(a)), an escort vessel is any vessel assigned and dedicated to the vessel being towed in addition to any towing vessel required under that section.

(c) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall affect or be construed or interpreted to affect or modify section 4370 of the Revised Statutes of the United States (46 U.S.C. 316(a)).

(d) DEFINITION.—In this section, the term "escort vessel" means any vessel that is assigned and dedicated to assist another vessel, whether or not tethered to that vessel, solely as a safety precaution to assist in controlling the speed or course of the assisted vessel in the event of a steering or propulsion equipment failure, or any other similar emergency circumstance, or in restricted waters where additional assistance in maneuvering the vessel is required to ensure its safe operation.

(e) PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than $10,000 for each day during which the violations occurs.

SEC. 405. SEARCH AND RESCUE CENTER STANDARDS.

(a) IN GENERAL.—Title 14, United States Code, is amended—

(1) by redesignating the second section 673 and section 674 in order as sections 674 and 675; and

(2) by adding at the end of chapter 17 the following:

"§ 676. Search and rescue center standards

"(a) The Secretary shall establish, implement, and maintain the minimum standards necessary for the safe operation of all Coast Guard search and rescue center facilities, including with respect to the following:

"(1) The lighting, acoustics, and temperature in the facilities.

"(2) The number of individuals on a shift in the facility assigned search and rescue responsibilities (including communications), which may be adjusted based on seasonal workload.

"(3) The length of time an individual may serve on watch to minimize fatigue, based on the best scientific information available.

"(4) The scheduling of individuals having search and rescue responsibilities to minimize fatigue of the individual when on duty in the facility.

"(5) The workload of each individual engaged in search and rescue responsibilities in the facility.

"(6) Stress management for the individuals assigned search and rescue responsibilities in the facilities.

"(7) The design of equipment and facilities to minimize fatigue and enhance search and rescue operations.

"(8) The acquisition and maintenance of interim search and rescue command center communications equipment.

"(9) Any other requirements that the Secretary believes will increase the safe operation of the search and rescue centers.

"(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary should establish, implement, and maintain minimum standards necessary to ensure that an individual on duty or watch in a Coast Guard search and rescue command center facility does not work more than 12 hours in a 24-hour period, except in an emergency or unforeseen circumstances.

"(c) DEFINITION.—For the purposes of this section, the term 'search and rescue center facility' means a Coast Guard shore facility that maintains a search and rescue mission coordination and communications watch.

"(d) REPORT TO CONGRESS.—The Secretary shall provide a quarterly written report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, describing the status of implementation of the standards described in subsection (b), including a list of the facilities at which such standards have or have not been implemented.".

(b) PRESCRIPTION OF STANDARDS.—The Secretary shall prescribe the standards required under section 675(a) of title 14, United States Code, as enacted by subsection (a) of this section, before January 1, 2003.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 17 of title 14, United States Code, is amended by striking the second item relating to a section 673 and the item relating to a section 674 and inserting the following:

"674. Small boat station capability.
"675. Small boat station closures.
"676. Search and rescue center standards.".

SEC. 406. VHF COMMUNICATIONS SERVICES.

(a) The Secretary of the department in which the Coast Guard is operating may authorize a person providing commercial VHF communications services to place commercial VHF communications equipment on real property under the administrative control of the Coast Guard (including towers) subject to any terms agreed to by the parties. The Secretary and that commercial VHF communications service provider also may enter into an agreement providing for VHF communications services to the Coast Guard (including digital selective calling and radio direction finding services) at a discounted rate or price based on providing such access to real property under the administrative control of the Coast Guard.

(b) Commercial VHF communication equipment placed on real property under the administrative control of the Coast Guard under this section shall not interfere in any manner with any current or future Coast Guard communication equipment.

(c) Nothing in the section shall affect the rights or obligations of the United States under section 704(c) of the Telecommunications Act of 1996 (47 U.S.C. 332 note) with respect to the availability of property or under section 359(d) of the Communications Act of 1934 (47 U.S.C. 357(d)) with respect to charges for transmission of distress messages.

SEC. 407. LOWER COLUMBIA RIVER MARITIME FIRE AND SAFETY ACTIVITIES.

There is authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating $987,400 for fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by nonprofit organizations that act in cooperation with the Coast Guard, to remain available until expended. Organizations receiving appropriated funds must have a multiyear record of spill and marine fire response in Federal navigable waterways. Federal funds shall not exceed 25 percent of such an organization's total budget.

SEC. 408. CONFORMING REFERENCES TO THE FORMER MERCHANT MARINE AND FISHERIES COMMITTEE.

(a) LAWS CODIFIED IN TITLE 14, UNITED STATES CODE.—(1) Sections 194(b)(2) and 194(b)(5) of title 14, United States Code, are amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(2) Section 663 of title 14, United States Code, is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(3) Section 664(c) of title 14, United States Code, is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(b) LAWS CODIFIED IN TITLE 33, UNITED STATES CODE.—(1) Section 3(d)(3) of the International Navigational Rules Act of 1977 (33 U.S.C. 1602(d)(3)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(2) Section 5004(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2734(2)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(c) LAWS CODIFIED IN TITLE 46, UNITED STATES CODE.—(1) Section 6307(a) of title 46, United States Code, is amended by strik-

ing "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(2) Section 901g(b)(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241k(b)(3)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(3) Section 913(b) of the International Maritime and Port Security Act (46 App. U.S.C. 1809(b)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

SEC. 409. RESTRICTION ON VESSEL DOCUMENTATION.

Section 12108(a) of title 46, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following: "(2) was built in the United States;";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following:

"(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and".

SEC. 410. HYPOTHERMIA PROTECTIVE CLOTHING REQUIREMENT.

The Commandant of the Coast Guard shall ensure that all Coast Guard personnel are equipped with adequate safety equipment, including hypothermia protective clothing where appropriate, while performing search and rescue missions.

SEC. 411. RESERVE OFFICER PROMOTIONS.

(a) Section 729(i) of title 14, United States Code, is amended by inserting "on the date a vacancy occurs, or as soon thereafter as practicable in the grade to which the officer was selected for promotion or, if promotion was determined in accordance with a running mate system," after "grade".

(b) Section 731(b) of title 14, United States Coast Code, is amended by striking the period at the end and inserting ", or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he or she completes the following amount of service computed from the date of rank in the grade in which he or she is serving:

"(1) two years in the grade of lieutenant (junior grade);

"(2) three years in the grade of lieutenant;

"(3) four years in the grade of lieutenant commander;

"(4) four years in the grade of commander; and

"(5) three years in the grade of captain.".

(c) Section 736(a) of title 14, United States Code, is amended by inserting "the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event" after "subchapter,".

SEC. 412. REGULAR LIEUTENANT COMMANDERS AND COMMANDERS; CONTINUATION UPON FAILURE OF SELECTION FOR PROMOTION.

Section 285 of title 14, United States Code, is amended—

(1) by striking "Each officer" and inserting "(a) Each officer"; and

(2) by adding at the end the following:

"(b) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.

"(c)(1) An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.

"(2) Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b) but is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.".

SEC. 413. RESERVE STUDENT PRE-COMMISSIONING ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 21 of title 14, United States Code, is amended by inserting after section 709 the following new section:

"§ 709a. Reserve student pre-commissioning assistance program

"(a) The Secretary may provide financial assistance to an eligible enlisted member of the Coast Guard Reserve, not on active duty, for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

"(1) a baccalaureate degree in not more than 5 academic years; or

"(2) a post-baccalaureate degree.

"(b)(1) To be eligible for financial assistance under this section, an enlisted member of the Coast Guard Reserve shall—

"(A) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

"(B) enter into a written agreement with the Coast Guard described in paragraph (2).

"(2) A written agreement referred to in paragraph (1)(B) is an agreement between the member and the Secretary in which the member agrees—

"(A) to accept an appointment as a commissioned officer in the Coast Guard Reserve, if tendered;

"(B) to serve on active duty for up to five years; and

"(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Coast Guard Reserve until the eighth anniversary of the date of the appointment.

"(c) Expenses for which financial assistance may be provided under this section are the following:

"(1) Tuition and fees charged by the institution of higher education involved.

"(2) The cost of books.

"(3) In the case of a program of education leading to a baccalaureate degree, laboratory expenses.

"(4) Such other expenses as are deemed appropriate by the Secretary.

"(d) The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed $25,000 for any academic year.

"(e) Financial assistance may be provided to a member under this section for up to 5 consecutive academic years.

"(f) A member who receives financial assistance under this section may be ordered to active duty in the Coast Guard Reserve by the Secretary to serve in a designated enlisted grade for such period as the Secretary prescribes, but not more than 4 years, if the member—

"(1) completes the academic requirements of the program and refuses to accept an appointment as a commissioned officer in the Coast Guard Reserve when offered;

"(2) fails to complete the academic requirements of the institution of higher education involved; or

"(3) fails to maintain eligibility for an original appointment as a commissioned officer.

"(g)(1) If a member requests to be released from the program and the request is accepted by the Secretary, or if the member fails because of misconduct to complete the period of active duty specified, or if the member fails to fulfill any term or condition of the written agreement required to be eligible for financial assistance under this section, the financial assistance shall be terminated. The Secretary may request the member to reimburse the United States in an amount that bears the same ratio to the total costs of the education provided to that member as the unserved portion of active duty bears to the total period of active duty the member agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty. An obligation to reimburse the United States imposed under this paragraph is a debt owed to the United States.

"(2) The Secretary may waive the service obligated under subsection (f) of a member who becomes unqualified to serve on active duty due to a circumstance not within the control of that member or who is not physically qualified for appointment and who is determined to be unqualified for service as an enlisted member of the Coast Guard Reserve due to a physical or medical condition that was not the result of the member's own misconduct or grossly negligent conduct.

"(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a written agreement entered into under subsection (b) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

"(h) As used in this section, the term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 21 of title 14, United States Code, is amended by adding the following new item after the item relating to section 709:

"709a. Reserve student pre-commissioning assistance program.".

SEC. 414. CONTINUATION ON ACTIVE DUTY BEYOND THIRTY YEARS.

Section 289 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain the officer under this subsection.".

SEC. 415. PAYMENT OF DEATH GRATUITIES ON BEHALF OF COAST GUARD AUXILIARISTS.

Section 823a(b) of title 14, United States Code, is amended by inserting after paragraph (8) the following:

"(9) On or after January 1, 2001, section 651 of Public Law 104–208.".

SEC. 416. ALIGN COAST GUARD SEVERANCE PAY AND REVOCATION OF COMMISSION AUTHORITY WITH DEPARTMENT OF DEFENSE AUTHORITY.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended—

(1) in section 281—

*(A) by striking "**three**" in the section heading and inserting "**five**"; and*

(B) by striking "three" in the text and inserting "five";

(2) in section 283(b)(2)(A), by striking "severance" and inserting "separation";

(3) in section 286—

*(A) by striking "**severance**" in the section heading and inserting "**separation**"; and*

(B) by striking subsection (b) and inserting the following:

"(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

"(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under

subsection (d)(1) or (d)(2) of section 1174 of title 10 as determined under regulations promulgated by the Secretary.

"(d) Notwithstanding subsections (a) and (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.";

(4) in section 286a—

*(A) by striking "**severance**" in the section heading and inserting "**separation**" in its place; and*

(B) by striking subsections (a), (b), and (c) and inserting the following:

"(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

"(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

"(c) In determining a member's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded."; and

(5) in section 327—

*(A) by striking "**severance**" in the section heading and inserting "**separation**";*

(B) by striking subsection (a)(2) and inserting the following:

"(2) for discharge with separation benefits under section 286(c) of this title.";

(C) by striking subsection (a)(3);

(D) by striking subsection (b)(2) and inserting the following:

"(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge."; and

(E) by striking subsection (b)(3).

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 14, United States Code, is amended—

(1) in the item relating to section 281, by striking "three" and inserting "five";

(2) in the item relating to section 286, by striking "severance" and inserting "separation";

(3) in the item relating to section 286a, by striking "severance" and inserting "separation"; and

(4) in the item relating to section 327, by striking "severance" and inserting "separation" in its place.

(c) EFFECTIVE DATE.—The amendments made by paragraphs (2), (3), (4), and (5) of subsection (a) shall take effect four years after the date of enactment of this Act, except that subsection (d) of section 286 of title 14, United States Code, as amended by paragraph (3) of subsection (a) of this section, shall take effect on the date of enactment of this Act and shall apply with respect to conduct on or after that date. The amendments made to the table of sections of chapter 11 of title 14, United States Code, by paragraphs (2), (3), and (4) of subsection (b) of this section shall take effect four years after the date of enactment of this Act.

SEC. 417. LONG-TERM LEASE AUTHORITY FOR LIGHTHOUSE PROPERTY.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by inserting after section 672 the following:

"§ 672a. Long-term lease authority for lighthouse property

"(a) The Commandant of the Coast Guard may lease to non-Federal entities, including private individuals, lighthouse property under the administrative control of the Coast Guard for terms not to exceed 30 years. Consideration for the use and occupancy of lighthouse property leased under this section, and for the value of any utilities and services furnished to a lessee of such property by the Commandant, may consist, in whole or in part, of non-pecuniary remuneration including the improvement, alteration, restoration, rehabilitation, repair, and maintenance of the leased premises by the lessee. Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b) shall not apply to leases issued by the Commandant under this section.

"(b) Amounts received from leases made under this section, less expenses incurred, shall be deposited in the Treasury.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 672 the following:

"672a. Long-term lease authority for lighthouse property.".

SEC. 418. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS.

(a) IN GENERAL.—Section 3 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903) is amended—

(1) in subsection (c)(1)(D), by striking "and";

(2) in subsection (c)(1)(E), by striking "United States." and inserting "United States; and"; and

(3) by inserting after subsection (c)(1)(E) the following:

"(F) a vessel located in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999, and (i) is entering the United States, (ii) has departed the United States, or (iii) is a hovering vessel as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).".

(b) MARITIME DRUG LAW ENFORCEMENT AMENDMENT.—Section 4 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1904) is amended—

(1) by inserting "(a)" before "Any property"; and

(2) by adding at the end the following:

"(b) Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under this Act, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of an offense under this Act:

"(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

"(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

"(B) the presence of any compartment or equipment which is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

"(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

"(D) the presence of engines that are excessively overpowered in relation to the design and size of the vessel;

"(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

"(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

"(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

"(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

"(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

"(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

"(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

"(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

"(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on a person aboard the vessel, of a quantity or other nature which reasonably indicates manufacturing or distribution activity.

"(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

"(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.".

SEC. 419. WING-IN-GROUND CRAFT.

(a) SMALL PASSENGER VESSEL.—Section 2101(35) of title 46, United States Code, is amended by inserting "a wing-in-ground craft, regardless of tonnage, carrying at least one passenger for hire, and" after "'small passenger vessel' means".

(b) WING-IN-GROUND CRAFT.—Section 2101 of title 46, United States Code, is amended by adding at the end the following:

"(48) 'wing-in-ground craft' means a vessel that is capable of operating completely above the surface of the water on a dynamic air cushion created by aerodynamic lift due to the ground effect between the vessel and the water's surface.".

SEC. 420. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS FOR VESSELS.

Section 31321(a)(4) of title 46, United States Code, is amended—

(1) by striking "(A)"; and

(2) by striking subparagraph (B).

SEC. 421. DELETION OF THUMBPRINT REQUIREMENT FOR MERCHANT MARINERS' DOCUMENTS.

Section 7303 of title 46, United States Code, is amended by striking "the thumbprint,".

SEC. 422. TEMPORARY CERTIFICATES OF DOCUMENTATION FOR RECREATIONAL VESSELS.

(a) Section 12103(a) of title 46, United States Code, is amended by inserting ", or a temporary certificate of documentation," after "certificate of documentation".

(b)(1) Chapter 121 of title 46, United States Code, is amended by adding after section 12103 the following:

"§ 12103a. Issuance of temporary certificate of documentation by third parties

"(a) The Secretary of the department in which the Coast Guard is operating may delegate, subject to the supervision and control of the Secretary and under terms set out by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel if the applicant for the certificate of documentation meets the requirements set out in sections 12102 and 12103 of this chapter.

"(b) A temporary certificate of documentation issued under section 12103(a) and subsection (a) of this section is valid for up to 30 days from issuance.".

(2) The table of sections for chapter 121 of title 46, United States Code, is amended by inserting after the item relating to section 12103 the following:

"12103a. Issuance of temporary certificate of documentation by third parties.".

SEC. 423. MARINE CASUALTY INVESTIGATIONS INVOLVING FOREIGN VESSELS.

Section 6101 of title 46, United States Code, is amended—

(1) by redesignating the second subsection (e) as subsection (f); and

(2) by adding at the end the following:

"(g) To the extent consistent with generally recognized practices and procedures of international law, this part applies to a foreign vessel involved in a marine casualty or incident, as defined in the International Maritime Organization Code for the Investigation of Marine Casualties and Incidents, where the United States is a Substantially Interested State and is, or has the consent of, the Lead Investigating State under the Code.".

SEC. 424. CONVEYANCE OF COAST GUARD PROPERTY IN HAMPTON TOWNSHIP, MICHIGAN.

(a) REQUIREMENT TO CONVEY.—

(1) IN GENERAL.—Notwithstanding any other law, the Secretary of the department in which the Coast Guard is operating may convey to BaySail, Inc. (a nonprofit corporation established under the laws of the State of Michigan; in this section referred to as "BaySail"), without monetary consideration, all right, title, and interest of the United States in and to property adjacent to Coast Guard Station Saginaw River, located in Hampton Township, Michigan, as identified under paragraph (2). No submerged lands may be conveyed under this section.

(2) IDENTIFICATION OF PROPERTY.—The Secretary, in consultation with the Commandant of the Coast Guard, shall identify, describe, and determine the property to be conveyed under this section.

(3) SURVEY.—The exact acreage and legal description of the property conveyed under paragraph (1), as identified under paragraph (2), and any easements or rights-of-way reserved by the United States under subsection (b), shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by BaySail.

(b) TERMS AND CONDITIONS OF CONVEYANCE.—The conveyance of property under this section shall be made subject to any terms and conditions the Secretary considers necessary, including the reservation of easements and other rights on behalf of the United States.

(c) REVERSIONARY INTEREST.—

(1) IN GENERAL.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized by subsection (a), the real property conveyed pursuant to this section, at the option of the Secretary, shall revert to the United States and be placed under the administrative control of the Secretary if—

(A) BaySail sells, conveys, assigns, exchanges, or encumbers the property conveyed or any part thereof;

(B) BaySail fails to maintain the property conveyed in a manner consistent with the terms and conditions under subsection (b);

(C) BaySail conducts any commercial activity at the property conveyed, or any part thereof, without approval of the Secretary; or

(D) at least 30 days before the reversion, the Secretary provides written notice to the owner that the property or any part thereof is needed for national security purposes.

(2) ADDITIONAL PERIOD.—The Secretary may, before the last day of the 5-year period described in paragraph (1), authorize an additional 5-year period during which paragraph (1) shall apply.

SEC. 425. CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN.

Section 1005(c) of the Coast Guard Authorization Act of 1996 (110 Stat. 3957) is amended by striking "the Traverse City Area Public School District" and inserting "a public or private nonprofit entity for an educational or recreational purpose".

SEC. 426. ANNUAL REPORT ON COAST GUARD CAPABILITIES AND READINESS TO FULFILL NATIONAL DEFENSE RESPONSIBILITIES.

Not later than February 15 each year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, prepared in conjunction with the Commandant of the Coast Guard, setting forth the capabilities and readiness of the Coast Guard to fulfill its national defense responsibilities.

SEC. 427. EXTENSION OF AUTHORIZATION FOR OIL SPILL RECOVERY INSTITUTE.

Section 5001(i) of the Oil Pollution Act of 1990 (33 U.S.C. 2731(i)) is amended by striking "10 years" and all that follows through the period at the end and inserting "September 30, 2012.".

SEC. 428. PROTECTION AGAINST DISCRIMINATION.

(a) IN GENERAL.—Section 2114(a) of title 46, United States Code, is amended to read as follows:

"(a)(1) A person may not discharge or in any manner discriminate against a seaman because—

"(A) the seaman in good faith has reported or is about to report to the Coast Guard or other appropriate Federal agency or department that the seaman believes that a violation of a maritime safety law or regulation prescribed under that law or regulation has occurred; or

"(B) the seaman has refused to perform duties ordered by the seaman's employer because the seaman has a reasonable apprehension or expectation that performing such duties would result in serious injury to the seaman, other seamen, or the public.

"(2) The circumstances causing a seaman's apprehension of serious injury under paragraph (1)(B) must be of such a nature that a reasonable person, under similar circumstances, would conclude that there is a real danger of an injury or serious impairment of health resulting from the performance of duties as ordered by the seaman's employer.

"(3) To qualify for protection against the seaman's employer under paragraph (1)(B), the employee must have sought from the employer, and been unable to obtain, correction of the unsafe condition.".

(b) APPROPRIATE RELIEF.—Section 2114(b) of such title is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(3) an award of costs and reasonable attorney's fees to a prevailing plaintiff not exceeding $1,000; and

"(4) an award of costs and reasonable attorney's fees to a prevailing employer not exceeding $1,000 if the court finds that a complaint filed under this section is frivolous or has been brought in bad faith.".

SEC. 429. ICEBREAKING SERVICES.

The Commandant of the Coast Guard shall not plan, implement, or finalize any regulation or take any other action which would result in the decommissioning of any WYTL-class harbor tugs unless and until the Commandant certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that sufficient replacement capability has been procured by the Coast Guard to remediate any degradation in current icebreaking services that would be caused by such decommissioning.

SEC. 430. FISHING VESSEL SAFETY TRAINING.

(a) IN GENERAL.—The Commandant of the Coast Guard may provide support, with or without reimbursement, to an entity engaged in fishing vessel safety training, including—

(1) assistance in developing training curricula;

(2) use of Coast Guard personnel, including active duty members, members of the Coast Guard Reserve, and members of the Coast Guard Auxiliary, as temporary or adjunct instructors;

(3) sharing of appropriate Coast Guard informational and safety publications; and

(4) participation on applicable fishing vessel safety training advisory panels.

(b) NO INTERFERENCE WITH OTHER FUNCTIONS.—In providing support under subsection (a), the Commandant shall ensure that the support does not interfere with any Coast Guard function or operation.

SEC. 431. LIMITATION ON LIABILITY OF PILOTS AT COAST GUARD VESSEL TRAFFIC SERVICES.

(a) IN GENERAL.—Chapter 23 of title 46, United States Code, is amended by adding at the end the following:

"§ 2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots

"Any pilot, acting in the course and scope of his or her duties while at a United States Coast Guard Vessel Traffic Service, who provides information, advice, or communication assistance while under the supervision of a Coast Guard officer, member, or employee shall not be liable for damages caused by or related to such assistance unless the acts or omissions of such pilot constitute gross negligence or willful misconduct.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 23 of title 46, United States Code, is amended by adding at the end the following:

"2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots.".

SEC. 432. ASSISTANCE FOR MARINE SAFETY STATION ON CHICAGO LAKEFRONT.

(a) ASSISTANCE AUTHORIZED.—The Coast Guard may transfer funds, appropriated by Public Law 107–87 for the construction of a Coast Guard Marine Safety and Rescue Station in Chicago, Illinois, to the City of Chicago to pay the Federal share of the cost of a project to demolish the Old Coast Guard Station, located at the north end of the inner Chicago Harbor breakwater at the foot of Randolph Street, and to plan, engineer, design, and construct a new facility at that site for use as a marine safety station on the Chicago lakefront.

(b) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of a project carried out with assistance under this section may not exceed one-third of the total cost of the project or $2,000,000, whichever is less.

(2) NON-FEDERAL SHARE.—There shall not be applied to the non-Federal share of a project carried out with assistance under this section—

(A) the value of land and existing facilities used for the project; and

(B) any costs incurred for site work performed before the date of the enactment of this Act, including costs for reconstruction of the east breakwater wall and associated utilities.

SEC. 433. EXTENSION OF TIME FOR RECREATIONAL VESSEL AND ASSOCIATED EQUIPMENT RECALLS.

Section 4310(c) of title 46, United States Code, is amended—

(1) in each of paragraphs (2)(A) and (2)(B) by striking "5" and inserting "10"; and

(2) in each of paragraphs (1)(A), (1)(B), and (1)(C) by inserting "by first class mail or" before "by certified mail".

SEC. 434. REPAIR OF MUNICIPAL DOCK, ESCANABA, MICHIGAN.

The Secretary of Transportation may transfer to the City of Escanaba, Michigan, up to $300,000 of funds appropriated for Coast Guard acquisition, construction, and improvements by Public Law 107–87, for the repair of the North wall of the municipal dock, Escanaba, Michigan.

SEC. 435. VESSEL GLOBAL EXPLORER.

The Secretary of Transportation shall amend the certificate of documentation of the vessel GLOBAL EXPLORER (United States official number 556069) to state that the vessel was built in the year 2002 in Gulfport, Mississippi.

SEC. 436. ALEUTIAN TRADE.

(a) LOADLINES.—Section 5102(b)(5)(B)(ii) of title 46, United States Code, is amended by inserting "is not" after "(ii)".

(b) IMPLEMENTATION.—Except as provided in subsection (c), a fish tender vessel that before January 1, 2003, transported cargo (not including fishery related products) in the Aleutian trade is sub-

ject to chapter 51 of title 46, United States Code (as amended by subsection (a) of this section).

(c) EXCEPTION.—

(1) IN GENERAL.—Before December 31, 2006, the BOWFIN (United States official number 604231) is exempt from chapter 51 of title 46, United States Code (as amended by subsection (a) of this section) when engaged in the Aleutian trade, if the vessel does not undergo a major conversion.

(2) ENSURING SAFETY.—Before the date referred to in paragraph (1), a Coast Guard official who has reason to believe that the vessel referred to in paragraph (1) operating under this subsection is in a condition or is operated in a manner that creates an immediate threat to life or the environment or is operated in a manner that is inconsistent with section 3302 of title 46, United States Code, may direct the master or individual in charge to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.

SEC. 437. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY REVISION.

(a) TRANSFER.—As soon as practicable after the date of enactment of this Act, the Administrator of General Services may transfer to the Secretary, without consideration, administrative jurisdiction over, and management of, the public land.

(b) BOUNDARY REVISION.—The boundary of the Lakeshore is revised to include the public land transferred under subsection (a).

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) ADMINISTRATION.—The Secretary may administer the public land transferred under section (a)—

(1) as part of the Lakeshore; and

(2) in accordance with applicable laws (including regulations).

(e) ACCESS TO AIDS TO NAVIGATION.—The Secretary of Transportation, in consultation with the Secretary, may access the front and rear range lights on the public land for the purposes of servicing, operating, maintaining, and repairing those lights.

(f) DEFINITIONS.—In this section:

(1) LAKESHORE.—The term "Lakeshore" means the Pictured Rocks National Lakeshore in the State of Michigan.

(2) MAP.—The term "map" means the map entitled "Proposed Addition to Pictured Rocks National Lakeshore", numbered 625/80048, and dated April 2002.

(3) PUBLIC LAND.—The term "public land" means the approximately .32 acres of United States Coast Guard land and improvements to the land, including the United States Coast Guard Auxiliary Operations Station and the front and rear range lights, as depicted on the map.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $225,000 to restore, preserve, and maintain the public land transferred under subsection (a).

SEC. 438. LORAN–C.

There are authorized to be appropriated to the Department of Transportation, in addition to funds authorized for the Coast Guard for operation of the LORAN–C system, for capital expenses related to LORAN–C navigation infrastructure, $25,000,000 for fiscal year 2003. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the Department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

SEC. 439. AUTHORIZATION OF PAYMENT.

(a) IN GENERAL.—The Secretary of the Treasury shall pay the sum of $71,000, out of funds in the Treasury not otherwise appropriated, to the State of Hawaii, such sum being the damages arising out of the June 19, 1997, allision by the United States Coast Guard Cutter RUSH with the ferry pier at Barber's Point Harbor, Hawaii.

(b) FULL SETTLEMENT.—The payment made under subsection (a) is in full settlement of all claims by the State of Hawaii against the United States arising from the June 19, 1997, allision.

SEC. 440. REPORT ON OIL SPILL RESPONDER IMMUNITY.

(a) REPORT TO CONGRESS.—Not later than January 1, 2004, the Secretary of the department in which the Coast Guard is operating, jointly with the Secretary of Commerce and the Secretary of the Interior, and after consultation with the Administrator of the Environmental Protection Agency and the Attorney General, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the immunity from criminal and civil penalties provided under existing law of a private responder (other than a responsible party) in the case of the incidental take of federally listed fish or wildlife that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by that responder during an oil spill removal activity where the responder was acting in a manner consistent with the National Contingency Plan or as otherwise directed by the Federal On-Scene Coordinator for the spill, and on the circumstances under which such penalties have been or could be imposed on a private responder. The report shall take into consideration the procedures under the Inter-Agency Memorandum for addressing incidental takes.

(b) DEFINITIONS.—In this section—

(1) the term "Federal On-Scene Coordinator" has the meaning given that term in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321);

(2) the term "incidental take" has the meaning given that term in the Inter-Agency Memorandum;

(3) the term "Inter-Agency Memorandum" means the Inter-Agency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities under the Federal Water Pollution Control Act's National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act, effective on July 22, 2001;

(4) the terms "National Contingency Plan", "removal", and "responsible party" have the meanings given those terms under

section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701); and

(5) the term "private responder" means a nongovernmental entity or individual that is carrying out an oil spill removal activity at the direction of a Federal agency or a responsible party.

SEC. 441. FISHING AGREEMENTS.

(a) IN GENERAL.—Section 10601(a) of title 46, United States Code, is amended—

(1) by inserting after "on a voyage, the" the following: "owner, charterer, or managing operator, or a representative thereof, including the"; and

(2) by inserting a comma after "individual in charge".

(b) CLERICAL AND CONFORMING AMENDMENTS.—Section 10601 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "enployed" and inserting "employed";

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

(c) APPLICATION.—An agreement that complies with the requirements of section 10601(a) of title 46, United States Code, as herein amended, and that is not the subject of an action prior to June 20, 2002, alleging a breach of subsections (a) or (b) of section 10601 as in effect on such date, is hereby deemed to have been in compliance with such subsections.

SEC. 442. ELECTRONIC PUBLISHING OF MARINE CASUALTY REPORTS.

(a) IN GENERAL.—Section 6101 of title 46, United States Code, is amended by adding at the end the following:

"(g)(1) The Secretary shall publish all major marine casualty reports prepared in accordance with this section in an electronic form, and shall provide information electronically regarding how other marine casualty reports can be obtained.

"(2) For purposes of this paragraph, the term 'major marine casualty' means a casualty involving a vessel, other than a public vessel, that results in—

"(A) the loss of 6 or more lives;

"(B) the loss of a mechanically propelled vessel of 100 or more gross tons;

"(C) property damage initially estimated at $500,000 or more; or

"(D) serious threat, as determined by the Commandant of the Coast Guard with concurrence by the Chairman of the National Transportation Safety Board, to life, property, or the environment by hazardous materials.

"(h) The Secretary shall, as soon as possible, and no later than January 1, 2005, publish all marine casualty reports prepared in accordance with this section in an electronic form.".

(b) APPLICATION.—The amendment made by subsection (a) applies to all marine casualty reports completed after the date of enactment of this Act.

SEC. 443. SAFETY AND SECURITY OF PORTS AND WATERWAYS.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended—

(1) by striking "safety and protection of the marine environment" in section 2(a) (33 U.S.C. 1221(a)) and inserting "safety, protection of the marine environment, and safety and security of United States ports and waterways"; and

(2) by striking "safety and protection of the marine environment," in section 5(a) (33 U.S.C. 1224(a)) and inserting "safety, protection of the marine environment, and the safety and security of United States ports and waterways,".

SEC. 444. SUSPENSION OF PAYMENT.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 424 the following:

"§ 424a. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution

"Under procedures prescribed by the Secretary, the Secretary may suspend the payment of the retired pay of a member or former member during periods in which the member willfully remains outside the United States to avoid criminal prosecution or civil liability. The procedures shall address the types of criminal offenses and civil proceedings for which the procedures may be used, including the offenses specified in section 8312 of title 5, and the manner by which a member, upon the return of the member to the United States, may obtain retired pay withheld during the member's absence.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by inserting after the item relating to section 424 the following:

"424a. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution.".

SEC. 445. PROHIBITION ON NAVIGATION FEES.

Section 4 of the Rivers and Harbors Appropriation Act of 1884 (33 U.S.C. 5) is amended as follows:

(1) The existing text is designated as subsection (a).

(2) The following is added at the end:

"(b) No taxes, tolls, operating charges, fees, or any other impositions whatever shall be levied upon or collected from any vessel or other water craft, or from its passengers or crew, by any non-Federal interest, if the vessel or water craft is operating on any navigable waters subject to the authority of the United States, or under the right to freedom of navigation on those waters, except for—

"(1) fees charged under section 208 of the Water Resources Development Act of 1986 (33 U.S.C. 2236); or

"(2) reasonable fees charged on a fair and equitable basis that—

"(A) are used solely to pay the cost of a service to the vessel or water craft;

"(B) enhance the safety and efficiency of interstate and foreign commerce; and

"(C) do not impose more than a small burden on interstate or foreign commerce.".

TITLE V—AUTHORIZATION OF APPROPRIATIONS FOR THE COAST GUARD

SEC. 501. SHORT TITLE.

This title may be cited as the "Coast Guard Authorization Act for Fiscal Year 2003".

SEC. 502. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 2003 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, $4,327,456,000, of which $25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $725,000,000, of which $20,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $22,000,000, to remain available until expended, of which $3,500,000 is authorized to be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $889,000,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $18,000,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $17,000,000, to remain available until expended.

SEC. 503. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 45,500 as of September 30, 2003.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training for fiscal year 2003, 2,250 student years.

(2) For flight training for fiscal year 2003, 125 student years.

(3) For professional training in military and civilian institutions for fiscal year 2003, 300 student years.

(4) For officer acquisition for fiscal year 2003, 1,150 student years.

And the House agree to the same.

From the Committee on Transportation and Infrastructure, for consideration of the Senate bill and the House amendment, and modifications committed to conference:

DON YOUNG,
HOWARD COBLE,
FRANK A. LOBIONDO,
JIM OBERSTAR,
CORRINE BROWN,

From the Committee on Ways and Means, for consideration of secs. 112 and 115 of the Senate bill, and sec. 108 of the House amendment, and modifications committed to conference:

WILLIAM THOMAS,
PHIL CRANE,
CHARLES B. RANGEL,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
DANIEL INOUYE,
JOHN F. KERRY,
JOHN BREAUX,
RON WYDEN,
MAX CLELAND,
BARBARA BOXER,
JOHN MCCAIN,
TED STEVENS,
TRENT LOTT,
KAY BAILEY HUTCHISON,
OLYMPIA SNOWE,
GORDON SMITH,
BOB GRAHAM,
CHUCK GRASSLEY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1214) to ensure the security of maritime transportation in the United States against acts of terrorism, and for other purposes, submit the following joint statement to the Senate and the House in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical correction, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

Section 1 of the Senate bill states that the Act may be cited as the "Port and Maritime Security Act of 2001."

Section 1 of the House amendment states that the Act may be cited as the "Maritime Transportation Antiterrorism Act of 2002."

The Conference substitute states that the Act may be cited as the "Maritime Transportation Security Act of 2002."

TITLE I—MARITIME TRANSPORTATION SECURITY

SECTION 101. FINDINGS

Section 101 of the Senate bill states a number of Congressional findings in regard to the Port and Maritime Security Act of 2001.

The House bill does not contain a comparable provision.

The Conference substitute adopts the Senate provision with an amendment.

SECTION 102. PORT SECURITY

Senate bill

Definitions

Section 123 of the Senate bill contains various definitions of terms in S. 1214.

Initial security evaluations and port vulnerability assessments

Section 103 of the Senate bill requires the Secretary of Transportation, after consultation with appropriate public and private sector officials and organizations, to develop standards and procedures for conducting initial security evaluations and port vulnerability assessments.

National maritime transportation security plan

Section 203 of the Senate bill requires the Secretary of Transportation to prepare and publish a National Maritime Transportation Security Plan for prevention and response to maritime crime and terrorism.

Area maritime security committees and area maritime security plans

Section 204 of the Senate bill establishes Area Maritime Security Plans.

Maritime facility security plans

Section 105 of the Senate bill requires the Secretary of Transportation, after consultation with the Secretary of the Treasury and the Attorney General, to issue regulations establishing requirements for the submission of a Maritime Facility Security Plan by each port authority, waterfront facility operator, or operator of a public or commercial structure located within a marine environment.

Vessel security plans

Section 205 of the Senate bill authorizes the Secretary of Transportation to issue regulations establishing requirements for vessel security plans and programs for vessels calling on United States ports.

Protection of security-related information

Section 206 of the Senate bill prohibits the security plan information developed under this Act from disclosure.

Employment investigations and restrictions for security-sensitive positions

Section 106 of the Senate bill requires the Secretary of Transportation to control access to areas in the Maritime Facility Security Plan for each waterfront facility and to limit access to security-sensitive information. The regulations may also require employment history and criminal background checks for individuals with unrestricted access to controlled areas or sensitive information.

Maritime safety and security teams

Section 117 of the Senate bill requires the Secretary of Transportation to establish Maritime Safety and Security Teams to safeguard the public and protect vessels, harbors, ports, and other waterfront facilities.

Port security infrastructure improvement

Section 111 of the Senate bill amends the Merchant Marine Act of 1936 to provide loan guarantees and grants for port security infrastructure improvements.

Research and development for crime and terrorism prevention and detection technology

Section 118 of the Senate bill requires the Secretary of Transportation to establish a grant program to fund eligible projects for the development, testing, and transfer of technology to enhance security at United States ports.

International port security

Section 108 of the Senate bill gives the Secretary of Transportation additional authority to address security risks arising from foreign ports, such as enhanced enforcement against vessels arriving from these ports, travel advisories for passengers, suspension of the right of a United States vessel to enter these ports, and authority to assist foreign port authorities to maintain an appropriate level of security.

Enhanced crewmember identification

Section 208 of the Senate bill authorizes the Secretary of Transportation, in consultation with the Attorney General, to require crewmembers aboard vessels calling on the United States ports to carry and present upon demand such identification as the Secretary determines.

National maritime security advisory committee

Section 102 of the Senate bill amends the Ports and Waterways Safety Act to require the Secretary of Transportation to establish a National Maritime Advisory Committee.

Area maritime security committees and area maritime security plans

Section 204 of the Senate bill requires the Secretary of Transportation to establish Area Maritime Security Committees comprised of members appointed by the Secretary.

Establishment of local port security committees

Section 104 of the Senate bill requires the Secretary of Transportation to establish local port security committees at each U.S. seaport.

Maritime domain awareness

Section 107 of the Senate bill directs the Secretary of Transportation to conduct a study on ways to enhance Maritime Domain Awareness through improved collection and coordination of maritime intelligence.

House amendment

Section 101 of the House amendment creates a new subtitle VI of title 46, United States Code, to establish a comprehensive na-

tional system of antiterrorism security enhancements. Chapter 701 of this subtitle contains provisions related to port security.

Definitions

New Section 70101 of chapter 701 provides the definitions of seven terms used throughout the new chapter.

United States facility vulnerability assessments

Section 70102 requires the Secretary of Transportation to conduct port vulnerability assessments for U.S. ports, including an assessment of the vulnerability of each facility in a port, at which there is a risk of a catastrophic emergency.

Catastrophic emergency planning

Section 70103 establishes the national maritime transportation antiterrorism planning system. The Secretary is required to prepare a National Maritime Transportation Antiterrorism Plan to assign the duties and responsibilities of the various Federal, state, and local governmental agencies. Area Maritime Transportation Antiterrorism Plans are developed by Federal maritime antiterrorism coordinators, who are Coast Guard officials designated in the National Plan, in consultation with local harbor safety advisory committees. Vessel and facility antiterrorism plans must be developed by owners and operators of vessels and facilities that the Secretary believes may be involved in a catastrophic emergency.

Antiterrorism response

Section 70104 of chapter 701 requires the Secretary of Transportation to cooperate with the Director of Federal Emergency Management Agency (FEMA) to coordinate maritime terrorism response actions.

Transportation security cards

Section 70105 establishes a national standard for issuance of biometric transportation security cards whose purpose is to control access to secure terminal areas to only authorized personnel. The Secretary is required to issue an individual a transportation security card unless the Secretary decides that the individual poses a terrorism security risk to the United States warranting denial of the card.

Maritime antiterrorism teams

Section 70106 establishes Coast Guard maritime antiterrorism teams to protect vessels, ports, facilities, and cargo on United States' waters.

Grants

Section 70107 allows the Under Secretary of Transportation for Security to provide financial assistance for enhanced facility security to implement a maritime antiterrorism plan approved by the Coast Guard or an interim measure required by the Coast Guard.

Foreign port assessment

Section 70108 requires the Secretary to assess the effectiveness of the antiterrorism measures maintained at all foreign ports from which vessels depart on a voyage to the United States or which pose a high risk of terrorism to the United States.

Notifying foreign authorities

Section 70109 of chapter 701 requires the Secretary, after conducting a foreign port assessment, to contact the foreign government if he finds that a port in that foreign country does not maintain effective antiterrorism measures.

Actions when foreign ports not maintaining effective antiterrorism measures

If the Secretary finds that a foreign port does not maintain effective antiterrorism measures, section 70110 allows him to prescribe conditions of entry into the United States for any vessel arriving from that port. The Secretary may also deny entry into the United States to any vessel that does not meet these conditions.

Crew and passenger manifests

Section 70111 requires that the operators of commercial vessels arriving in the United States from a foreign port provide the Under Secretary of Transportation for Security with a passenger and crew manifest.

Automatic identification system

Section 107 of the House amendment establishes a phase in schedule for most commercial vessels to be equipped with a position-indicating transponder and an appropriate situation display for accessing the information made available by the transponder system.

Civil penalty

Section 70112 establishes a civil penalty of not more than $25,000 for each violation of this new chapter.

Conference substitute

Section 102 of the Conference substitute creates a new subtitle VI of title 46, United States Code, to establish a comprehensive national system of transportation security enhancements. Chapter 701 of this subtitle contains provisions related to port security.

Definitions

New section 70101 provides definitions for six terms to be used in new chapter 701. The term "Secretary" is defined as the Secretary of the department in which the Coast Guard is operating. The term "transportation security incident" is defined as a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption.

United States facility and vessel vulnerability assessments

Section 70102 requires the Secretary to conduct initial assessments of vessel types and facilities, located on or adjacent to the

waters subject to the jurisdiction of the U.S., and to identify which of these vessels or facilities pose a high risk of being involved in a transportation security incident. Based on the information gathered in the initial assessments, the Secretary is required to conduct a detailed vulnerability assessment for facilities and vessels that may be involved in a transportation security incident. The Secretary may also accept an alternative assessment prepared by or on behalf of a vessel or facility owner or operator if that assessment satisfies certain criteria.

Maritime transportation security plans

Section 70103 of new chapter 701 requires the Secretary to establish the National Maritime Transportation Security Plan for deterring and responding to a transportation security incident. The National Maritime Transportation Security Plan must include a risked-based system for evaluating the potential threat to security zones designated by the Secretary on the waters subject to the jurisdiction of the U.S. Each Federal Maritime Security Coordinator, after soliciting advice from the Area Security Advisory Committee, is required to submit to the Secretary an Area Maritime Transportation Security Plan for each individual area established under the National Maritime Transportation Security Plan. Finally, section 70103 requires owners and operators of vessels and facilities, which the Secretary believes may be involved in a transportation security incident, to develop vessel and facility security plans. Section 70103(c)(3)(D) regarding antiterrorism measures is not intended to require vessel operators to contract in advance or otherwise arrange for antiterrorism response resources. The Conferees consider antiterrorism response the responsibility of local, state and Federal law enforcement agencies.

The Conferees urge the Secretary to review and approve the vessel and facility security plans in a timely manner. Vessel and facility owners should not be required to cease their operations due to the failure of the Secretary to approve their vessel or facility transportation security plans in a reasonable time period.

Nothing in new section 70103(d) should prevent the Secretary from making the facility security plans, vessels security plans, and port vulnerability assessments available to the owners or operators of the vessel or facilities that are the subject of the plans or assessments.

Transportation security incident response

Section 70104 requires the Secretary to establish a system of security incident response plans developed for vessels and facilities that may be involved in a transportation security incident. Tank vessels are currently required under the Oil Pollution Act of 1990 to have oil spill response plans. The Secretary may allow these plans to be used to address oil spilled from vessels involved in a transportation security incident. Similarly, some states, such as Alaska, Washington, Oregon, and California, require non-tank vessels to have oil spill response plans. The Secretary may also allow these state approved plans to be used to address oil spilled from these non-tank vessels involved in a transportation security incident.

Transportation security cards

Section 70105 establishes a national standard for issuance of transportation security cards whose purpose is to control access to ensure terminal areas to only authorized personnel.

The Conferees expect the Secretary to take appropriate action to ensure that transportation security cards are processed in an expeditious manner in order to prevent undue disruptions at our nation's ports. In particular, the Conferees are aware of the concerns raised by the operators of towing vessels, particularly those operating on the inland waterways of the United States, about the potential for delay in the issuance of transportation security cards. Any undue delay by the Secretary in processing applications and issuing the required cards upon approval could severely impact the ability of vessel owners to crew vessels and could severely disrupt operating schedules.

In an effort to prevent disruptions to port and maritime operations, the Conference agreement includes statutory language to provide flexibility to the Secretary in administering the transportation security card program to take into account the unique circumstances and risks presented by particular segments of the transportation industry. The Conferees encourage the Secretary to work with all affected parties, including the inland and coastal tug, towboat, and barge industry, to ensure timely processing of applications and to address those cases where the Secretary is unable to issue a transportation security card within seventy-two hours of receipt of the application.

Maritime safety and security teams

Section 70106 establishes Coast Guard maritime safety and security teams to protect vessels, ports, facilities, and cargo on United States' waters. The Conferees believe that Coast Guard vessels used by the maritime safety and security teams should be sized and comprised of hull materials tailored to enhance the performance for the varying roles of maritime security. The hull material and shape should fit the specific mission requirements. No hull composition should be excluded without an independent analysis. Maritime safety and security team vessels must be able to intercept suspect boats before they threaten America's ports and waterways.

Grants

Section 70107 provides financial assistance for enhanced security to implement facility or area maritime security plans approved by the Coast Guard or an interim security measure required by the Coast Guard.

The Conferees believe that water-based security barriers or caissons should be eligible for Federal financial assistance for vessel and facility security upgrades authorized under section 70107.

This section authorizes matching grants for various types of security upgrades at U.S. ports and U.S. maritime areas including reimbursements for security enhancements that have corrected security vulnerabilities since September 11, 2001, that are consistent with their Area Maritime Transportation Security Plans and facility security plans.

The economies and quality of life in Alaska and Hawaii are directly related to the functionality and operability of their ports. These states are reliant on maritime transportation and are lacking readily available or economically comparable alternative modes for transporting general commodities. The Conferees encourage the Secretary to give consideration to these features.

This section also provides $15 million for each of fiscal years 2003 through 2008 for research and development grants for port security.

The Center for Commercial Deployment of Transportation Technologies program is sponsored by the U.S. Maritime Administration and the U.S. Department of Defense under a cooperative agreement with the California State University Long Beach. The program involves the development of dual use transportation and transformational technologies and can help secure the international intermodal transportation system. The Conferees encourage the Secretary of Transportation and the Secretary of Defense to obligate any current and prior year appropriations under the continuing cooperative agreement with minimal administrative surcharge.

This section also provides reporting requirements that would mandate proposed levels of funding to ensure compliance with security plans. The reports would be required annually to assess overall levels of security.

Foreign port assessment

New section 70108 of title 46 requires the Secretary to assess the effectiveness of the antiterrorism measures maintained at a foreign port from which vessels depart on a voyage to the United States or which poses a high risk of introducing terrorism to international maritime commerce.

Notifying foreign authorities

Section 70109 requires the Secretary, after conducting a foreign port assessment, to contact the foreign government if he finds that a port in that foreign country does not maintain effective antiterrorism measures. Section 70109(b) requires the Secretary to make available a port security training program for ports in foreign counties that are found under section 70108 to lack adequate security measures. Inter-American Port Security Training Program (IAPSTP) is administered by the U.S. Maritime Administration under the authority of the U.S. Department of State. Currently, the program works with the Organization of American States to transfer technical information and security expertise related to port security and to develop cooperative regional efforts among the public and private sector that protect the flow of international maritime trade. The program also works with member nations to develop recommendations pertaining to strategic regional approaches to seaport crime, international port and cargo security standards, and other multilateral cooperative endeavors. The Conferees believe that expanding IAPSTP to include nations that lack adequate port security measures will help increase worldwide understanding of maritime and port security. Expansion of the program to other na-

tions can lead to increased multilateral approaches to improving port and cargo security.

Actions when foreign ports not maintaining effective antiterrorism measures

If the Secretary finds that a foreign port does not maintain effective antiterrorism measures, section 70110 allows him to prescribe conditions of entry into the United States for any vessel arriving from that port. The Secretary may also deny entry into the United States to any vessel that does not meet these conditions.

Enhanced crew member identification

Section 70111 requires crew members on vessels calling at U.S. ports to carry and present on demand any identification that the Secretary decides is necessary.

Maritime security advisory committees

Section 70112 requires the Secretary to establish a National Maritime Security Advisory Committee and Area Maritime Security Advisory Committees for any port area of the United States. The Committees may advise, consult, and make recommendations to the Secretary on ways to enhance security and safety at U.S. seaports.

Maritime intelligence

Section 70113 requires the Secretary to implement a system to collect, integrate, and analyze information concerning vessels operating in waters subject to the jurisdiction of the U.S. The Secretary may collect information from public and private entities to the extent that the information is not provided by other Federal departments and agencies.

The Conferees want to emphasize the importance of establishing a risk-based system for evaluating the potential threat of vessels entering the U.S. A majority of the domestic and international vessels entering U.S. ports are not subject to any screening procedures. This lack of physical screening increases the risk of terrorist activities in U.S. ports and the need to develop a system which can identify and assess the vessels that pose the greatest threat to U.S. national security. The Conferees are aware that a terrorism risk profiling system has been developed that assigns incoming vessels a risk rating. This rating is based on an integrated data analysis that links vessel characteristics and ownership details to political and strategic information related to international terrorism. A vessel screening system which provides shipping intelligence and analysis can be utilized to identify those vessels requiring close inspection by the Coast Guard and other agencies. We urge the Coast Guard and port authorities to include vessel risk profiling in their enhanced security procedures.

The Conferees are concerned about the lack of coordination between Federal agencies that collect and analyze intelligence data and urge the various Federal agencies involved in port security to work together to assure that American ports are protected from a terrorist threat.

The Conferees also note that section 108 of this Act requires the sharing of cargo information and urge that cargo information be integrated into any screening system implemented.

Automatic identification systems

Section 70114 requires that certain vessels be equipped with and operate an automatic identification system (AIS) under regulations prescribed by the Secretary. The AIS includes a position indicating transponder and an electronic charting or situation display for accessing the information made available by the transponder system. This will allow a vessel operator to more easily identify the position and hearing of their vessel and other vessels navigating in the area. It will also allow shore-based Coast Guard facilities to more easily monitor the location and heading of vessels in their area.

Long-range vessel tracking system

Section 70115 authorizes the Secretary to develop and implement a long-range automated secure vessel tracking system for all vessels on voyages in U.S. waters that are equipped with the Global Maritime Distress and Safety System or equivalent satellite technology. The Secretary may use existing maritime organizations to collect and monitor tracking information under the system.

Secure systems of transportation

Section 70116 requires the Secretary, in consultation with the Transportation Security Oversight Board, to establish a program to evaluate and certify secure systems of international intermodal transportation.

In establishing secure systems of transportation standards, the Conferees encourage the Secretary to consider the possible role of third party experts who meet regulatory requirements to be established by the Secretary of Transportation to perform pre-loading security audits at the load site of the exporter.

Civil penalty

Section 70117 establishes a civil penalty of not more than $25,000 for each violation of this new chapter.

SECTION 103. INTERNATIONAL SEAFARER IDENTIFICATION

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

Section 103 of the Conference substitute encourages the Secretary of the Department in which the Coast Guard is operating to undertake negotiations on an international agreement that provides for an international system for identifying seafarers. If the Secretary is unable to negotiate this agreement within 24 months, he is required to submit to Congress a draft of legislation which would establish a system for identifying seafarers.

SECTION 104. EXTENSION OF SEAWARD JURISDICTION

Section 119 of the Senate bill extends the territorial jurisdiction of the United States from 3 miles off the shore, to 12 miles.

This extension of jurisdiction is consistent with Presidential Proclamation 5928 of December 27, 1988, and is also consistent with the Law of the Sea. The section also creates civil penalties for violating this Act not to exceed $25,000 for each violation.

Section 103 of the House amendment is very similar to the Senate provision.

The Conference substitute adopts the House amendment.

To better protect our ports and waterways and effectively counter the threat posed by maritime terrorism, the United States must be able to exercise broad powers in the maritime environment. International law, both conventional and customary, provides coastal States with broad security powers in the maritime environment. Both the Convention on the Territorial Sea and Contiguous Zone, 1958 (TSC), to which the United States is a party, and the 1982 United Nations Convention on the Law of the Sea (LOS), clearly recognize coastal States' sovereignty in their territorial sea. Article 14(4) of the TSC states that innocent passage "shall take place in conformity with these articles and with other rules of international law." The "other rules of international law" include customary international law. The United States, although not a party to the 1982 United Nations Convention on the Law of the Sea (LOS), has consistently maintained that specific provisions, including Article 21, represent customary international law. Therefore, the Conferees note that Section 33 U.S.C. 1223(d) of the Ports and Waterways Safety Act (33 U.S.C. 1221, et seq.) (PWSA), which limits application of the PWSA with respect to foreign vessels in innocent passage to actions authorized by "international treaty, convention or agreement, to which the United States is a party", also allows for such actions to be taken under PWSA which are consistent with customary international law.

SECTION 105. SUSPENSION OF LIMITATION ON STRENGTH OF COAST GUARD

Section 120 of the Senate bill suspends the effectiveness of any end-strength and grade distribution for the Coast Guard for any fiscal year that there is in effect a declaration of war or national emergency, for a period not to exceed six months after the end of the war or national emergency.

Section 104 of the House amendment is identical to the Senate bill.

The Conference substitute adopts the Senate provision.

SECTION 106. EXTENSION OF THE DEEPWATER PORT ACT TO NATURAL GAS

Section 201 of the Senate bill allows natural gas to be included in the Deepwater Port Act which establishes a system for permitting and licensing deepwater terminals. Currently, only oil facilities are included in this Federal law.

Section 105 of the House amendment includes the identical provision of the Senate bill with several additional subsections. These technical provisions ensure the proper application and administration of the Deepwater Port Act to offshore natural gas facilities and enable the timely development of offshore natural gas facilities.

The Conference substitute adopts the House provisions along with an amendment which includes an expanded definition of a deepwater port for natural gas and clarifies the scope of application of the Deepwater Port Act.

The Deepwater Port Act, as enacted in 1974, established a system for permitting and licensing deepwater terminals for the handling and transfer of oil in water beyond the territorial limits of the U.S. The Deepwater Port Modernization Act, enacted in 1996, streamlined the regulation of these facilities, repealed the previous limitation on uses of a deepwater port, and authorized uses not inconsistent with the purposes of the Act. Under the current law and applicable regulations, an existing deepwater port may be authorized to transport commodities other than oil, including natural gas, upon the approval of any necessary amendments to its operations manual. Section 106 of the Conference substitute allows a deepwater port to be licensed for purposes of natural gas importation, storage and handling, regardless of whether the port is also used for the transportation of crude oil.

The Conferees do not intend these amendments to the Deepwater Port Act of 1974 to apply to the production or gathering of oil or natural gas from the Continental Shelf or facilities used exclusively in the production or gathering of oil or natural gas from the Continental Shelf.

SECTION 107. ASSIGNMENT OF COAST GUARD PERSONNEL AS SEA MARSHALS AND ENHANCED USE OF OTHER SECURITY PERSONNEL

Section 202 of the Senate bill amends the Ports and Waterways Safety Act to allow the dispatch of properly trained and qualified armed Coast Guard personnel on facilities and vessels to deter or respond to acts of terrorism. This provision also requires the owner and operator of a commercial structure or a vessel to provide the appropriate level of security, as necessary, including armed security. The bill further requires that the Secretary of Transportation issue a report on the use of non-Coast Guard personnel as sea marshals.

Section 106 of the House amendment is similar to the Senate provision except that the House provision does not include the requirement for private facility and vessel security.

The Conference substitute amends the Ports and Waterways Safety Act to allow for the dispatch of properly trained and qualified armed Coast Guard personnel on facilities and vessels to deter or respond to acts of terrorism or transportation security incidents. The substitute also requires that the Secretary of the department in which the Coast Guard is operating to report to Congress on the use of non-Coast Guard personnel as sea marshals.

SECTION 108. TECHNICAL AMENDMENTS CONCERNING THE TRANSMITTAL OF CERTAIN INFORMATION TO THE CUSTOMS SERVICE

Section 115 of the Senate bill amends the Tariff Act of 1930 to require a carrier, including a non-vessel owning common carrier, to provide by electronic transmission cargo manifest information in advance of port entry or clearance. The section outlines the cargo and route information that must be transmitted. The section also prohibits the export of cargo unless properly documented and pre-

vents a marine terminal operator from loading any cargo that is not documented.

Section 108 of the House amendment amends the Tariff Act of 1930 to require that each land, air, or vessel carrier, which enters the U.S., provide by electronic transmission cargo information in advance of entry in such manner, time, and form as prescribed under regulations by the Secretary of the Treasury. The Secretary of the Treasury is also required to provide this advance cargo information to any appropriate Federal agency.

The Conference substitute contains amendments to section 431A of the Tariff Act of 1930, as added by section 343(b) of the Trade Act of 2002, Public Law 107–210, including a requirement that the Secretary of the Treasury provide the appropriate Federal departments and agencies with cargo information obtained pursuant to this section. The Conference substitute also amends section 343(a) of Public Law 107–210.

SECTION 109. MARITIME SECURITY PROFESSIONAL TRAINING

Section 110 of the Senate bill requires the Secretary of Transportation to develop standards and a curriculum to allow for the training and certification of maritime security professionals. The section further authorizes the Secretary to make training opportunities available to any law enforcement or maritime security personnel in the United States.

Section 101 of the House bill authorizes $4 million for each of fiscal years 2003, 2004, and 2005 to be used for maritime security training grants. These grants must be used by these educational institutions for the development and implementation of a comprehensive port and maritime security education program.

The Conference substitute adopts the Senate provision with an amendment to authorize $5.5 million for each of fiscal years 2003 through 2008 for maritime training.

The Conferees believe that proper training is an essential element of any effective strategy to combat terrorism and enhance the security of our Nation's ports and waterways. Effective training requires both undergraduate and professional level training curriculums. An essential element of undergraduate studies is to ensure that licensed maritime professionals have a full understanding of security procedures, principles, and methods along with a thorough grasp of intermodal transportation and logistics requirements. These trained individuals will be the first line of defense against a waterborne security threat. This training should also produce maritime professionals who will be able to implement methods of tracking an identification of containerized cargo that could potentially threaten the security of our country.

Effective professional level training curriculum involves two elements. The first is advanced and refresher training of licensed maritime and other transportation professionals in port and transportation security. The second element is to provide security and law enforcement professionals, charged with port security responsibilities, with the necessary background in methods and operation of a safe and efficient intermodal transportation system.

SECTION 110. ADDITIONAL REPORTS

Section 121 of the Senate bill requires the Secretary of Transportation to report to Congress on the need for additional security measures to protect the flow of commerce, on the status of port security, and on the steps taken to improve port security. This section would also require the Secretary of Transportation to report on the development of maritime security training programs established under the Senate passed bill. Finally, the section would require the Commissioner of the U.S. Customs Service to report to Congress on the expenditure of funds to improve cargo screening.

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment.

SECTION 111. PERFORMANCE STANDARDS

Section 207 of Senate bill requires the Secretary of Transportation and the Secretary of the Treasury to establish a joint task force to work with ocean shippers in the development of a system to track data for shipments, containers, and contents.

By not later that June 30, 2003, section 101 of the House amendment requires the Under Secretary of Transportation for Security, in consultation with the Transportation Security Oversight Board, to develop and maintain an antiterrorism cargo identification, tracking, and screening system for containerized cargo shipped to and from the United States. This section also requires the Under Secretary to develop performance standards to enhance the physical security of shipping containers, including standards for seals and locks as well as systems to detect any tampering or breaking of the seal or container integrity.

The Conference substitute adopts the House provision with an amendment which substitutes the Under Secretary of Transportation with the Secretary of the Department in which the U.S. Coast Guard is operating and extends the compliance date to January 1, 2004.

In seeking to provide the greatest protection for ports and the communities that surround them against terrorist attacks, the Conferees believe it is essential that the Federal government and local port authorities be encouraged to use state of the art technology as part of a comprehensive approach to security. The Conferees also want to encourage the private sector to continually advance state of the art technology as a means of enhancing detection capabilities and thus enhancing detection capabilities and thus enhancing deterrence over time.

The Conferees are interested in those projects that incorporate technologies capable of automatically detecting weapons of mass destruction, shielded nuclear material, explosives, and chemical weapons in fully loaded cargo containers without the need for humans to open and manually inspect the containers. The Conferees understand that pulsed fast neutron technology is capable of meeting this threshold. The Conferees also hope that other technologies will be identified and developed as part of the ongoing process of advancing technology and ultimately enhancing port security.

The Conferees also want to emphasize the importance of using readily available and less costly off the shelf technologies to protect transportation systems. These previously developed and thoroughly tested technologies often prove to be just as effective as unproven and expensive new technologies without the years of waiting. Private companies already provide the various levels of government with automatic vehicle identification sensors, electronic seal sensors, a chain of custody tracking system, entrance and exit security control systems, and trusted traveler identification and screening.

In order to better respond to the security threat posed by the high volume of international shipping containers entering the U.S., the Conferees believe that the Secretary must, at a minimum, obtain certain types of information on all cargos and containers entering the country. While securing information about the nature and ownership of the specific cargo is vital, the Secretary is encouraged to collect specific information on the individual containers aboard the vessel. This information should include the owner and any lease, lien, or security interest holder of the container whenever this information is sufficient to affect the control of the container.

SECTION 112. REPORT ON FOREIGN-FLAG VESSELS

Section 108(d) of the Senate bill requires the Secretary of Transportation to report to Congress a list of all nations whose flag vessels have entered the United States ports in the previous year. The report must also contain a breakdown of countries whose vessel registration or classification procedures have been found by the Secretary to be noncompliant with international classifications and whose laws or regulations are not sufficient to allow tracking of ownership registration histories of registered flag vessels.

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment replacing the "Secretary of Transportation" with the Secretary of the department in which the Coast Guard is operating.

SECTION 113. REVISION OF PORT SECURITY PLANNING GUIDE

Section 113 of the Senate bill directs the Secretary of Transportation to publish a revised version of the document "Port Security: A National Planning Guide," within three years after the enactment of the Senate passed bill and to make the document available on the Internet.

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

TITLE II—MARITIME POLICY IMPROVEMENT

SECTION 201. SHORT TITLE

The Senate bill contains no comparable provision.

Section 201 of the House amendment states that this title may be cited as the "Maritime Policy Improvement Act of 2002."

The Conference substitute adopts the House provision.

SECTION 202. VESSEL COASTAL VENTURE

The Senate bill contains no comparable provision.

Section 202 of the House amendment amends section 1120(g) of the Coast Guard Authorization Act of 1996 (Public Law 104–324) to deem the vessel COASTAL VENTURE to have been constructed in the United States.

The Conference substitute adopts the House provision.

SECTION 203. EXPANSION OF AMERICAN MERCHANT MARINE MEMORIAL WALL OF HONOR

The Senate bill contains no comparable provision.

Section 203 of the House amendment authorizes the Secretary of Transportation to make a grant to the American Merchant Marine Veterans Memorial Committee to construct an addition to the American Merchant Marine Memorial Wall of Honor in San Pedro, California.

The Conference substitute adopts the House provision.

SECTION 204. DISCHARGE OF AGRICULTURAL CARGO RESIDUE

The Senate bill contains no comparable provision.

Section 204 of the House amendment requires the discharge from a vessel of any agricultural cargo residue material in the form of hold washings to be governed exclusively under the provisions of MARPOL Annex V (MARPOL V).

The Conference substitute adopts the House provision.

The substitute requires the discharge from a vessel of any agricultural cargo residue material in the form of hold washings to be governed exclusively under the provisions of MARPOL Annex V (MARPOL V) as implemented by the Act to Prevent Pollution from Ships (APPS) (section 1901 et seq., title 33, United States Code). Agricultural cargo residue material refers to residue from agricultural cargo carried in bulk, such as corn, wheat, rice, soybeans, and grains, routinely carried on ships.

In 2000, the Coast Guard announced a plan to change its enforcement policy to apply other laws to U.S. flag vessels to regulate the discharge of agricultural cargo residue material that has traditionally been governed by MARPOL V. This proposed change would place an unwarranted burden on U.S. flag bulk grain vessels which are required by agriculture inspection rules to wash their cargo holds. This is routinely done on the high seas, and based on industry practices, it is not anticipated that the discharge of agricultural cargo residue material will take place in marine sanctuaries designated by the Secretary of Commerce pursuant to section 1431 et seq., title 16, United States Code. The discharge of agricultural cargo residue is consistent with MARPOL V, and is not expected to have an adverse impact on the marine environment. Section 204 is not intended in any way to undermine other provisions of MARPOL V, as implemented by APPS, which provides that when agricultural cargo residue is mixed with other MARPOL regulated discharges having other requirements, then the more stringent discharge requirements apply.

SECTION 205. RECORDING AND DISCHARGING MARITIME LIENS

The Senate bill contains no comparable provision.

Section 205 of the House amendment would extend the provisions of current law for preferred mortgages to a valid lien against a vessel not covered by a preferred mortgage.

The Conference substitute adopts the House provision with an amendment.

SECTION 206. TONNAGE OF R/V DAVIDSON

The Senate bill contains no comparable provision.

Section 206 of the House amendment deems the research vessel DAVIDSON to be less than 100 gross tons, for purposes of applying the optional regulatory measurement under section 14305 of title 46, United States Code.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 207. MISCELLANEOUS CERTIFICATES OF DOCUMENTATION

The Senate bill contains no comparable provision.

Section 207 of the house amendment waives certain coastwise trade laws for individually listed vessels.

The Conference substitute adopts the House provision with an amendment.

SECTION 208. EXEMPTION FOR VICTORY SHIPS

The Senate bill contains no comparable provision.

Section 208 of the House amendment adds the vessels SS *RED OAK VICTORY* and SS *AMERICAN VICTORY* to a list of three vessels subject to section 3302(l) of title 46, United States Code.

The Conference substitute adopts the House provision with an amendment. The amendment adds the vessel LST–325 to this list of vessels.

SECTION 209. CERTIFICATES OF DOCUMENTATION FOR 3 BARGES

The Senate bill contains no comparable provision.

Section 209 of the House amendment waives the coastwise trade laws of the United States for three barges as long as these barges are only used in firework displays.

The Conference substitute adopts the House provision with a technical amendment

SECTION 210. CERTIFICATE OF DOCUMENTATION FOR THE EAGLE

The Senate bill contains no comparable provision.

Section 210 of the House amendment waives certain U.S. coastwise trade laws for the vessel EAGLE under certain specific circumstances.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 211. WAIVER FOR VESSELS IN NEW WORLD CHALLENGE RACE

The Senate bill contains no comparable provision.

Section 211 of the House amendment allows ten sailboats participating in the New World Challenge Race to transport non-paying guests, before and during stops of that race.

The Conference substitute adopts the House provision.

SECTION 212. VESSEL ASPHALT COMMANDER

The Senate bill contains no comparable provision.

Section 212 of the House amendment allows the owner of the ASPHALT COMMANDER to place this U.S.-flag vessel under a foreign registry.

The Conference substitute adopts the House provision.

SECTION 213. COASTWISE TRADE AUTHORIZATION

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute allows certain foreign-built launch barges to transport topside modules in the coastwise trade of the United States.

Under the current launch barge exemption provision in the thirteenth proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), certain large capacity foreign-built launch barges documented under U.S. law and built as of June 7, 1988, may be used to transport platform jackets between coastwise points in the United States if there are no U.S.-built launch barges with adequate capacity available for use in domestic trade. The Conference substitute (1) grants a limited one-time waiver of the requirements of this launch barge exemption provision, (2) clarifies that U.S.-built, U.S. documented, U.S. citizen-owned vessels have priority over foreign-built vessels to provide these services, and (3) expands the term "platform jacket" to include certain drilling rig components that, considered separately and not as part of a bundle of two or more such components, also require (subject to the priority for U.S.-qualified vessels) large capacity launch barges for coastwise transportation. In conjunction with the Conference substitute, the Maritime Administration is encouraged to take appropriate measures to assure that the requirements for coastwise transportation of platform jackets and components are ascertained and made known to qualified U.S. flag operators sufficiently in advance to establish building programs and otherwise determine the availability of qualified U.S. flag vessels.

This is similar to a provision enacted in Section 601(b) of the Coast Guard Authorization Act of 1993 (P.L. 103–206), to permit the use of designated foreign-built, non-self-propelled, unmanned launch barges to transport platform jackets from the Gulf Coast of the United States to complete projects at specified hydrocarbon sites on the U.S. outer continental shelf. All of the launch barges designated under the Conference substitute were built as of June 7, 1988, as required under current law by the launch barge exemption provision, and there are currently no coastwise-qualified vessels with adequate capacity to conduct the specified operations. In the event that one or more launch barges built in the United States are available to provide the service in accordance with accepted engineer and reasonable scheduling requirements, the Conference

substitute makes clear that a U.S.-built, coastwise-qualified launch barge must be used if it has the capacity to transport and launch a particular platform jacket involved in that project.

SECTION 214. JONES ACT WAIVER FOR DELAYED VESSEL DELIVERY

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute temporarily authorizes the Secretary to waive the coastwise laws of the United States for not more than three foreign built self-propelled tank vessels under certain circumstances related to the late delivery from a United States shipyard of a coastwise eligible self-propelled tank vessel. The Secretary must determine that the parties to the contract are making a bona fide effort to construct a self-propelled tank vessel in a timely manner, the contract must be executed within 24 months of the date of enactment of the Maritime Transportation Security Act of 2002, the vessel for which the waiver is granted must meet otherwise applicable requirements of law regarding ownership and operation of vessels in the coastwise trade, the shipyard must own a facility capable of constructing the self-propelled tank vessel, the delay in construction of delivery of the self-propelled tank vessel from the shipyard must be due to unusual circumstances, and the Secretary must determine that no other suitable coastwise trade qualified tank vessels (including tank barges) are reasonably available.

In making the determination with respect to reasonable availability, the Secretary shall include as such suitable tank vessels, tank vessels available on a time charter or voyage charter basis and tank vessels available on a less than full capacity basis pursuant to a contract of affreightment. The purpose of subsection (b)(6) is to ensure that the Secretary canvasses the market for available vessels not requiring a waiver prior to granting a waiver under this section. This paragraph is also intended to ensure that the Secretary shall include in reasonably available suitable tank vessel capacity, vessels which may only be available in part or which may not be available for sale or on a bareboat charter basis. The Conferees do not intend the Secretary to grant a waiver pursuant to this section to any person seeking to circumvent the U.S.-build requirement or to avoid contracting for available suitable tank vessel capacity merely because, among other reasons, it will not be under the requester's control or may be only available to such requester at a higher rate than a re-flagged vessel.

A waiver may not be granted to a self-propelled tank vessel with substantially greater capacity than the vessel being constructed. The waiver shall terminate on the earlier of: (1) 48 months after the contract delivery date; (2) 60 days after delivery of the vessel being constructed in the United States shipyard; or (3) the date which the Secretary determines that the delay in construction or delivery of the vessel being constructed is no longer due to unusual circumstances. Additionally, the Secretary may suspend the waiver for any period during which a suitable coastwise trade qualified tank vessels (including tank barges) becomes reasonably available. The provision defines unusual circumstances.

SECTION 215. REALIGNMENT OF POLICY RESPONSIBILITY IN THE DEPARTMENT OF TRANSPORTATION

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute eliminates the position of Associate Deputy Secretary, Department of Transportation, and creates the position of Under Secretary of Transportation for Policy.

TITLE III—COAST GUARD PERSONNEL AND MARINE SAFETY

SECTION 301. SHORT TITLE

The Senate bill contains no comparable provision.

Section 301 of the House amendment states that this title may be cited as the "Coast Guard Personnel and Maritime Safety Act of 2002."

The Conference substitute adopts the House provision.

Subtitle A—Personnel Management

SECTION 311. COAST GUARD BAND DIRECTOR RANK

The Senate bill contains no comparable provision.

Section 311 of the House amendment amends section 336(d) of title 14, United States Code, to authorize the Coast Guard to promote the Coast Guard Band Director from the rank of Commander to the rank of Captain.

The Conference substitute adopts the House provision.

SECTION 312. COMPENSATORY ABSENCE FOR ISOLATED DUTY

The Senate bill contains no comparable provision.

Section 312 of the House amendment amends section 511 of title 14, United States Code, to allow the Secretary of Transportation to grant compensatory absence from duty for Coast Guard military personnel serving at isolated duty stations of the Coast Guard.

The Conference substitute adopts the House provision.

SECTION 313. ACCELERATED PROMOTION OF CERTAIN COAST GUARD OFFICERS

The Senate bill contains no comparable provision.

Section 313 of the House amendment amends section 259, 260(a), and 271(a) of title 14, United States Code, to authorize the Coast Guard to advance officers ahead of their peers within a given promotion zone, without disadvantaging other high performing officers.

The Conference substitute adopts the House provision.

Subtitle B—Marine Safety

SECTION 321. EXTENSION OF TERRITORIAL SEA FOR VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT

The Senate bill contains no comparable provision.

Section 201 of the bill amends section 1203(b) of title 33, United States Code, to require foreign-flag vessels to monitor intership radiotelephone frequencies when operating within the U.S. territorial sea between three and twelve miles offshore.

The Conference substitute adopts the House provision.

SECTION 322. MODIFICATION OF CERTAIN REPORTING REQUIREMENTS

The Senate bill contain no comparable provision.

Section 322 of the House amendment maintains six reports which were eliminated after the enactment of the Federal Reports Elimination and Sunset Act of 1995.

The Conference substitute adopts the House provision with an amendment to terminate an annual report to Congress regarding the Oil Spill Liability Trust Fund.

SECTION 323. OIL SPILL LIABILITY TRUST FUND; EMERGENCY FUND ADVANCEMENT AUTHORITY

The Senate bill contains no comparable provision.

Section 323 of the House amendment amends the Oil Pollution Act of 1990 to authorize the Coast Guard to borrow up to $100 million for additional emergency oil spill cleanup removal from the Oil Spill Liability Trust Fund.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 324. MERCHANT MARINER DOCUMENTATION REQUIREMENTS

The Senate bill contains no comparable provision.

Section 324 of the House amendment amends section 7302 of title 46, United States Code, to authorize the Secretary of Transportation to issue an interim merchant mariner's document valid for a period not to exceed 120 days.

The Conference substitute adopts the House provision.

SECTION 325. PENALTIES FOR NEGLIGENT OPERATIONS AND INTERFERING WITH SAFE OPERATION

The Senate bill contains no comparable provision.

Section 325 of the House amendment raises the maximum civil penalty to $5,000 for the negligent operation of a recreational vessel, or for interfering with the safe operation of a recreational vessel. The penalty for the negligent operation of any other vessel, or for interfering with the safe operation of a commercial vessel, under this amendment will be $25,000.

The Conference substitute adopts the House provision.

Subtitle C—Renewal of Advisory Groups

SECTION 331. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE

The Senate bill does not contain a comparable provision.

Section 331 of the House amendment amends section 4508 of title 46, U.S. Code, to authorize the Coast Guard to extend the Commercial Fishing Industry Vessel Advisory Committee from 2000 to 2005 and make technical changes.

The Conference substitute adopts the House provision.

SECTION 332. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE

The Senate bill does not contain a comparable provision.

Section 332 of the House amendment amends section 18 of the Coast Guard Authorization Act of 1991 (Public Law 102–241), to authorize the Coast Guard to extend the Houston-Galveston Navigation Safety Advisory Committee from 2000 to 2005 and make technical changes.

The Conference substitute adopts the House provision.

SECTION 333. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE

The Senate bill does not contain a comparable provision.

Section 333 of the House amendment amends section 19 of the Coast Guard Authorization Act of 1991 (Public Law 102–241), to authorize the Coast Guard to extend the Lower Mississippi River Waterway Advisory Committee from 2000 to 2005 and make technical changes.

The Conference substitute adopts the House provision.

SECTION 334. NAVIGATION SAFETY ADVISORY COUNCIL

The Senate bill does not contain a comparable provision.

Section 334 of the House amendment amends section 2073 of title 33, U.S. Code, to authorize the Coast Guard to extend the Navigation Safety Advisory Council from 2000 to 2005 and make technical changes.

The Conference substitute adopts the House provision.

SECTION 335. NATIONAL BOATING SAFETY ADVISORY COUNCIL

The Senate bill does not contain a comparable provision.

Section 335 of the House amendment amends section 13110 of title 46, U.S. Code, to authorize the Coast Guard to extend the National Boating Safety Advisory Council from 2000 to 2005 and make technical changes.

The Conference substitute adopts the House provision.

SECTION 336. TOWING SAFETY ADVISORY COMMITTEE

The Senate bill does not contain a comparable provision.

Section 336 of the House amendment amends section 1231(a) of title 33, U.S. Code, to authorize the Coast Guard to extend the Towing Safety Advisory Committee from 2000 to 2005 and make technical changes.

The Conference substitute adopts the House provision.

Subtitle D—Miscellaneous

SECTION 341. PATROL CRAFT

The Senate bill does not contain a comparable provision.

Section 341 of the House amendment authorizes the Coast Guard to accept up to seven excess PC–170 patrol ships from the U.S. Navy.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 342. BOATING SAFETY

The Senate bill does not contain a comparable provision.

Section 342 of the House amendment amends the Sportfishing and Boating Safety Act of 1998 to increase the State Recreational Boating Safety Grant Program by one million dollars and to change the definition of state matching amounts for purposes of the State Boating Safety Grant Program.

The Conference substitute adopts the House provision with an amendment limiting the changes to one year.

SECTION 343. CARIBBEAN SUPPORT TENDER

The Senate bill does not contain a comparable provision.

Section 343 of the House amendment authorizes the Coast Guard to operate and maintain a Caribbean Support Tender to provide technical assistance and law enforcement training for foreign coast guards, navies, and other maritime services.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 344. PROHIBITION OF NEW MARITIME USER FEES

The Senate bill does not contain a comparable provision.

Section 344 of the House amendment extends the expiration date for the prohibition of any new maritime user fees from September 30, 2001, to September 30, 2006.

The Conference substitute adopts the House provision.

SECTION 345. GREAT LAKES LIGHTHOUSES

The Senate bill does not contain a comparable provision.

Section 345 of the House amendment requires the Coast Guard to continue to offer advice and technical assistance to organizations in the Great Lakes region that are dedicated to lighthouse stewardship.

The Conference substitute adopts the House provision with an amendment that makes the assistance for Great Lakes lighthouse preservation efforts be subject to the discretion of the Secretary of the department in which the Coast Guard is operating.

SECTION 346. MODERNIZATION OF NATIONAL DISTRESS AND RESPONSE SYSTEM

The Senate bill does not contain a comparable provision.

Section 346 of the House amendment requires the Coast Guard to report to Congress within 60 days after enactment the agency's implementation of National Transportation Safety Board recommendations following the MORNING DEW accident.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 347. CONVEYANCE OF COAST GUARD PROPERTY IN PORTLAND, MAINE

The Senate bill does not contain a comparable provision.

Section 347 of the House amendment authorizes the transfer of 4.13 acres of land, known as the Naval Reserve Pier property, located in Portland, Maine, to the Gulf of Maine Aquarium Development Corporation.

The Conference substitute adopts the House Provision with a technical amendment.

SECTION 348. ADDITIONAL COAST GUARD FUNDING NEEDS AFTER SEPTEMBER 11, 2001

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute requires the Secretary in the department in which the Coast Guard is operating to submit a report to Congress that compares Coast Guard expenditures by mission area on an annualized basis before and after the terrorist attacks of September 11, 2001. The report must also estimate the annual funding amounts and personnel levels that would restore all Coast Guard mission areas to the readiness levels that existed before September 11, 2001. The substitute also requires a report identifying mission targets for fiscal years 2003, 2004, and 2005, and the specific steps necessary to achieve those targets.

SECTION 349. MISCELLANEOUS CONVEYANCES

The Senate bill does not contain a comparable provision.

Section 349 of the House amendment transfers the Coast Guard Slip Point Light Station in Clallam County, Washington, to Clallam County and the Point Pinos Light, located in Monterey County, California, to the City of Pacific Grove, California.

The Conference substitute adopts the House provision with a technical amendment.

TITLE IV—OMNIBUS MARITIME IMPROVEMENTS

SECTION 401. SHORT TITLE

The Senate bill does not contain a comparable provision.

Section 401 of the House amendment states that this title may be cited as the Omnibus Maritime Improvements Act of 2001.

The Conference substitute adopts the House provision.

SECTION 402. EXTENSION OF COAST GUARD HOUSING AUTHORITIES

The Senate bill does not contain a comparable provision.

Section 402 of the House amendment would extend the present Coast Guard housing authorities from October 1, 2001, to October 1, 2006. The Coast Guard Authorization Act of 1996 provides the Coast Guard with the legal authorities to encourage private sector participation in the acquisition or construction of Coast Guard housing on or near Coast Guard installations. The Coast Guard is currently in the process of developing proposals for several potential housing projects using these new authorities.

This section further authorizes the Coast Guard to implement a demonstration project for the acquisition or construction of mili-

tary family housing and military unaccompanies housing at the Coast Guard installation in Kodiak, Alaska.

The Conference substitute adopts the House provision with an amendment which extends the Coast Guard's housing authorities to October 1, 2007.

SECTION 403. INVENTORY OF VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR

The Senate bill does not contain a comparable provision.

Section 403 of the House amendment requires the Secretary of Transportation to maintain and publish an inventory of U.S.-flag vessels capable of laying, maintaining, or repairing a submarine cable.

The Conference substitute adopts the House provision.

SECTION 404. VESSEL ESCORT OPERATIONS AND TOWING ASSISTANCE

The Senate bill does not contain a comparable provision.

Section 404 of the House amendment requires that a vessel engaged in towing assistance of towing escort be a vessel of the United States, and establishes a civil penalty for a person who violates this section.

The Conference substitute adopts the House provisions with a technical amendment. The U.S. Navy has expressed concern that this section could hamper the ability of the Navy to render timely towing and salvage assistance to naval vessels on a worldwide basis. The Conferees want to clarify that the restrictions in section 404 do not apply to U.S. Naval operations.

SECTION 405. SEARCH AND RESCUE CENTER STANDARDS

The Senate bill does not contain a comparable provision.

Section 405 of the House amendment requires the Secretary to establish standards for the safe operation of Coast Guard search and rescue stations, and prohibits an individual on duty in a search and rescue facility from working more than 12 hours in a 24 hour period, except in an emergency.

The Conference substitute adopts the House provision with an amendment which expresses a sense of Congress that the Secretary should establish, implement and maintain minimum standards necessary to ensure that an individual on duty or watch in a Coast Guard search and rescue command center facility not work more than 12 hours in a 24-hour period. The section also includes a reporting requirement.

SECTION 406. VHF COMMUNICATIONS SERVICES

The Senate bill does not contain a comparable provision.

Section 406 of the House amendment authorizes the Coast Guard to allow private VHF Communications companies to place equipment and VHF towers on Coast Guard property. In exchange, the Coast Guard may receive discounted VHF communications services.

The Conference substitute adopts the House provision with a technical amendment and an additional amendment which states that commercial VHF communication equipment placed on real

property under the administrative control of the Coast Guard shall not interfere in any manner with any current or future Coast Guard communication equipment.

SECTION 407. LOWER COLUMBIA RIVER MARITIME FIRE AND SAFETY ACTIVITIES

The Senate bill does not contain a comparable provision.

Section 407 of the House amendment authorizes $987,400 for the activities of the Lower Columbia River Maritime Fire and Safety Association.

The Conference substitute authorizes $987,400 for the fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by nonprofit or organizations in cooperation with the Coast Guard.

SECTION 408. CONFORMING REFERENCES TO THE FORMER MERCHANT MARINE AND FISHERIES COMMITTEE

The Senate bill does not contain a comparable provision.

Section 408 of the House amendment conforms certain permanent laws of the United States relating to the Coast Guard and maritime transportation by correcting references to the former Merchant Marine and Fisheries Committee of the House of Representatives.

The Conference substitute adopts the House provision.

SECTION 409. RESTRICTION ON VESSEL DOCUMENTATION

The Senate bill does not contain a comparable provision.

Section 409 of the House amendment prohibits a vessel, which has been forfeited to the United States government for a breach of the laws of the United States, from obtaining a certificate of documentation with a fisheries endorsement. This section does not grant the Coast Guard new authority to seize or forfeit vessels.

The Conference substitute adopts the House provision.

SECTION 410. HYPOTHERMIA PROTECTIVE CLOTHING REQUIREMENT

The Senate bill does not contain a comparable provision.

Section 410 of the House amendment requires the Commandant of the Coast Guard to ensure that all Coast Guard personnel are equipped with adequate safety equipment, including hypothermia protective clothing where appropriate, while performing search and rescue missions.

The Conference substitute adopts the House provision.

SECTION 411. RESERVE OFFICER PROMOTIONS

The Senate bill does not contain a comparable provision.

Section 411 of the House amendment makes technical amendments regarding the promotion of Coast Guard Reserve Officers to implement the changes to the Reserve promotion system included in the FY 2001 Department of Defense Authorization Act.

The Conference substitute adopts the House provision.

SECTION 412. REGULAR LIEUTENANT COMMANDERS AND COMMANDERS; CONTINUATION UPON FAILURE OF SELECTION FOR PROMOTION

The Senate bill does not contain a comparable provision.

Section 412 of the House amendment authorizes the Coast Guard to continue commanders and lieutenant commanders scheduled to retire due to failure of selection for promotion.

The Conference substitute adopts the House provision.

SECTION 413. RESERVE STUDENT PRE-COMMISSIONING ASSISTANCE PROGRAM

The Senate bill does not contain a comparable provision.

Section 413 of the House amendment authorizes the Coast Guard to pay an individual's undergraduate or graduate educational tuition when that individual enlists in the Coast Guard Reserve and promises to accept a commission in the Coast Guard Reserve upon completion of the degree.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 414. CONTINUATION ON ACTIVE DUTY BEYOND THIRTY YEARS

The Senate bill does not contain a comparable provision.

Section 414 of the House amendment permits the Coast Guard to offer to captains, who would otherwise be forced to retire after thirty years of duty, the opportunity to continue on active duty. This proposal would allow the Coast Guard to retain these highly experienced individuals at very little additional cost.

The Conference substitute adopts the House provision.

SECTION 415. PAYMENT OF DEATH GRATUITIES ON BEHALF OF COAST GUARD AUXILIARISTS

The Senate bill does not contain a comparable provision.

Section 415 of the House amendment allows the Coast Guard to pay death gratuities to personal representatives of Coast Guard Auxiliarists who die in the line of duty, to the same extent that death gratuities are paid on behalf of Federal employees.

The Conference substitute adopts the House provision.

SECTION 416. ALIGN COAST GUARD SEVERANCE PAY AND REVOCATION OF COMMISSION AUTHORITY WITH DEPARTMENT OF DEFENSE AUTHORITY

The Senate bill does not contain a comparable provision.

Section 416 of the House amendment revises the Coast Guard's severance pay provisions to incorporate the Department of Defense separation pay computations.

The Conference substitute adopts the House provision.

SECTION 417. LONG-TERM LEASE AUTHORITY FOR LIGHTHOUSE PROPERTY

The Senate bill does not contain a comparable provision.

Section 417 of the House amendment authorizes the Coast Guard to lease lighthouse properties for terms not to exceed thirty years.

The Conference substitute adopts the House provision.

SECTION 418. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS

The Senate bill does not contain a comparable provision.

Section 418 of the House amendment amends the Maritime Drug Law Enforcement Act to increase the Coast Guard's drug interdiction jurisdiction from 12 to 24 miles from U.S. shores.

The Conference substitute adopts the House provision.

SECTION 419. WING-IN-GROUND CRAFT

The Senate bill does not contain a comparable provision.

Section 419 of the House amendment grants the Coast Guard statutory authority to regulate wing-in-ground craft and makes them subject to inspection as small passenger vessels.

The Conference substitute adopts the House provision.

SECTION 420. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS FOR VESSELS

The Senate bill does not contain a comparable provision.

Section 420 of the House amendment removes the requirement for filing an original commercial instrument (for example, a ship mortgage) within ten days of the electronic filing of the instrument.

The Conference substitute adopts the House provision.

SECTION 421. DELETION OF THUMBPRINT REQUIREMENT FOR MERCHANT MARINERS' DOCUMENTS

The Senate bill does not contain a comparable provision.

Section 421 of the House amendment eliminates the requirement for a thumbprint to be placed on a merchant mariners' document (MMD). The thumbprint is no longer needed on the document since it now includes a photograph and must be issued every five years. The result of this change would be to provide the Coast Guard with needed additional space on the MMD to describe mariner qualifications.

The Conference substitute adopts the House provision.

SECTION 422. TEMPORARY CERTIFICATES OF DOCUMENTATION FOR RECREATIONAL VESSELS

The Senate bill does not contain a comparable provision.

Section 422 of the House amendment authorizes the Secretary of Transportation to issue temporary certificates of documentation, and to delegate to private third parties the authority to issue the certificates for recreational vessels.

The Conference substitute adopts the House provision.

SECTION 423. MARINE CASUALTY INVESTIGATIONS INVOLVING FOREIGN VESSELS

The Senate bill does not contain a comparable provision.

Section 423 of the House amendment authorizes the Coast Guard to conduct marine casualty investigations involving foreign vessels in areas outside U.S. territorial waters consistent with the practices and procedures of international law.

The Conference substitute adopts the House provision.

SECTION 424. CONVEYANCE OF COAST GUARD PROPERTY IN HAMPTON TOWNSHIP, MICHIGAN

The Senate bill does not contain a comparable provision.

Section 424 of the House amendment requires that the Secretary of Transportation convey the property adjacent to Coast Guard Station Saginaw River, located in Hampton Township, Michigan, to BaySail, Inc., a nonprofit corporation. During the five-year period after the Secretary conveys the property, the property shall revert to the United States if BaySail sells, conveys, assigns, exchanges, or encumbers the property. BaySail also must maintain the property and is not allowed to conduct any commercial activity on the property without the approval of the Secretary.

The Conference substitute adopts the House provision with an amendment which makes the transfer of the property subject to the discretion of the Secretary of the department in which the Coast Guard is operating.

SECTION 425. CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN

The Senate bill does not contain a comparable provision.

Section 425 of the House amendment changes the recipient's name of a previous Coast Guard property transfer in Traverse City, Michigan.

The Conference substitute adopts the House provision.

SECTION 426. ANNUAL REPORT ON COAST GUARD CAPABILITIES AND READINESS TO FULFILL NATIONAL DEFENSE RESPONSIBILITIES

The Senate bill does not contain a comparable provision.

Section 426 of the House amendment requires the Secretary of Transportation to submit an annual report to Congress setting forth the capabilities and readiness of the Coast Guard to fulfill its national defense responsibilities.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 427. EXTENSION OF AUTHORIZATION FOR OIL SPILL RECOVERY INSTITUTE

The Senate bill does not contain a comparable provision.

Section 427 of the House amendment extends the Oil Spill Recovery Institute until September 30, 2012.

The Conference substitute adopts the House provision.

SECTION 428. PROTECTION AGAINST DISCRIMINATION

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute amends section 2114 of title 46, United States Code, to expand the protection of seamen against discrimination. This section does not allow for anyone to discharge or discriminate against any seaman who reports a violation of a maritime law to the Coast Guard or refuses to perform duties which he believes would result in his or another individual's injury.

SECTION 429. ICEBREAKING SERVICES

The Senate bill does not contain a comparable provision.

Section 429 of the House amendment does not allow the Commandant of the Coast Guard to decommission any WYTL-class harbor tugs unless he certifies that sufficient replacement capability has been procured by the Coast Guard to remediate any degradation in current icebreaking services.

The Conference substitute adopts the House provision.

SECTION 430. FISHING VESSEL SAFETY TRAINING

The Senate bill does not contain a comparable provision.

Section 430 of the House amendment allows the Commandant of the Coast Guard to provide support to an entity which engages in fishing vessel safety training.

The Conference substitute adopts the House provision.

SECTION 431. LIMITATION ON LIABILITY OF PILOTS AT COAST GUARD VESSEL TRAFFIC SERVICES

The Senate bill does not contain a comparable provision.

Section 431 of the House amendment limits the liability of pilots working in a Coast Guard Vessel Traffic Service while acting within the scope of their duties and under the supervision of a Coast Guard officer.

The Conference substitute adopts the House provision.

SECTION 432. ASSISTANCE FOR MARINE SAFETY STATION ON CHICAGO LAKEFRONT

The Senate bill does not contain a comparable provision.

Section 432 of the House amendment authorizes the Secretary of Transportation to provide up to $2 million to the City of Chicago, Illinois, to plan and construct a new marine safety station on the Chicago lakefront.

The Conference substitute allows the Coast Guard to transfer funds to the City of Chicago to pay the Federal share to demolish the old Coast Guard station on Chicago Harbor and construct a new facility at this site for use as a marine safety station. The Federal share of this project may not exceed one third of the total cost of the project or two million dollars, whichever is less.

SECTION 433. EXTENSION OF TIME FOR RECREATIONAL VESSEL AND ASSOCIATED EQUIPMENT RECALLS

The Senate bill does not contain a comparable provision.

Section 434 of the House amendment extends the time for a recreational vessel and associated equipment recall from five to ten years.

The Conference substitute adopts the House provision.

SECTION 434. REPAIR OF MUNICIPAL DOCK, ESCANABA, MICHIGAN

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute allows the Secretary of Transportation to transfer up to $300,000 to the City of Escanaba, Michigan, for the repair of the north wall of the municipal dock in Escanaba.

SECTION 435. VESSEL GLOBAL EXPLORER

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute directs the Secretary of the Department in which the Coast Guard is operating to amend the vessel GLOBAL EXPLORER's certificate of documentation to show the vessel's year of construction as 2002.

SECTION 436. ALEUTIAN TRADE

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute amends chapter 51 of title 46, United States Code, regarding vessel load lines. The Aleutian Trade Act of 1990 (Public Law 101–595) provides for continued cargo service to remote communities in Alaska by uninspected fish tender vessels operating in the Aleutian trade while requiring such vessels to meet enhanced safety and manning requirements over a specified period of time. The Act defines Aleutian trade to mean the transportation of all manner of cargo, including fishery related products, for hire on board fish tender vessels to western Aleutian communities receiving weekly common carrier service. The Act extended certain loadline exemptions to those fish tender vessels operating in the Aleutian trade until January 1, 2003. An ambiguity in the statute could be read to continue that exemption beyond this compliance date. Subsection (a) corrects the ambiguity. Subsection (b) clarifies the original intent that after 2003 the loading exemption is only available for fish tender vessels that are not engaged in the transportation of general cargoes in the Aleutian trade. Thus, after 2003, all uninspected fish tender vessels that had previously engaged in the for hire carriage of general cargoes to places receiving weekly common carrier service in the western Aleutian chain will be required to have loadlines. To accommodate the transition, subsection (c) provides additional time for one fish tender vessel operating in the Aleutian trade to be brought into compliance.

SECTION 437. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY REVISION

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute allows the Administrator of the General Services Administration to transfer to the Secretary of the Interior administrative jurisdiction over certain public lands in the State of Michigan.

SECTION 438. LORAN–C

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute authorizes funding for LORAN–C navigation infrastructure.

The LORAN–C system remains the primary navigation tool for many vessels and general aviation aircraft and serves as a ground-based navigation system to backup and complement existing satellite navigation capabilities. In recent years, the Coast Guard has spent substantial resources to modernize the LORAN–C system allowing it to operate beyond its scheduled life span. The Conferees expect the Coast Guard, in cooperation with the Federal Aviation Administration, to continue this modernization to ensure this critical navigation system is available for the forseeable future.

SECTION 439. AUTHORIZATION OF PAYMENT

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute reimburses the State of Hawaii for damages caused by the Coast Guard to the ferry pier at Barber's Point Harbor, Hawaii.

SECTION 440. REPORT ON OIL SPILL RESPONDER IMMUNITY

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute requires the Secretary of the Department in which the Coast Guard is operating, jointly with the Secretaries of Commerce and Interior, to report to Congress on the immunity of a private responder (other than a person responsible for the vessel or facility from which oil is discharged) from liability for criminal and civil penalties for the incidental take of a protected species while carrying out oil spill response actions.

SECTION 441. FISHING AGREEMENTS

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute amends section 10601(a) of title 46, United States Code, by requiring that the owner, charterer, managing operator or a representative thereof, including, but not limited to, the master or individual in charge of a fishing industry vessel, shall make a fishing agreement in writing with each seaman employed on board the vessel.

SECTION 442. ELECTRONIC PUBLISHING OF CASUALTY REPORTS

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute requires the Coast Guard to begin publishing all major marine casualty reports upon enactment of

this Act. Additionally, the Conferees direct the Coast Guard to begin electronically publishing the remaining marine casualty reports by the end of the fiscal year 2005.

The Conferees are concerned that marine casualty reports are currently not available in an electronic format that allows the general public easy access to information in the reports that could lead to improved boating safety. The Conferees acknowledge that one of the purposes of marine casualty reports was for enforcement and that the reports often contain personal information which cannot be released to the general public. The Conferees also understand the Coast Guard's concerns that electronically publishing these reports will strain current resources and require changes to technical procedures and additional human review to ensure that no personal information is inadvertently released. This phase-in period for all marine casualty reports is provided to allow the Coast Guard time to implement the technical and policy procedures needed to electronically publish these reports without inadvertently releasing important personal information.

SECTION 443. SAFETY AND SECURITY OF PORTS AND WATERWAYS

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute amends the Ports and Waterways Safety Act to add the safety and security of United States ports and waterways to this law's traditional focus on marine safety and environment protection.

SECTION 444. SUSPENSION OF PAYMENT

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute allows the Coast Guard to suspend the payment of the retired pay of a member or former member during periods in which the member willfully remains outside the United States to avoid criminal prosecution or civil liability.

SECTION 445. PROHIBITION OF NAVIGATION FEES

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute prohibits any non-Federal interest from assessing or collecting any fee on vessels or water craft operating on navigable waters subject to the authority of the United States, or under the freedom of navigation on those waters. This section does not prohibit those instances in which Federal law has permitted the imposition of fees and recognizes those circumstances under which non-Federal interests may charge reasonable port and harbor fees for services rendered.

TITLE V—AUTHORIZATION OF APPROPRIATIONS FOR THE COAST GUARD

SECTION 501. SHORT TITLE

The Senate bill does not contain a comparable provision.

Section 501 of the House amendment states that this title may be cited as the "Coast Guard Authorization Act for Fiscal Year 2002."

The Conference substitute states that this title may be cited as the "Coast Guard Authorization for Fiscal Year 2003."

SECTION 502. AUTHORIZATION OF APPROPRIATIONS

The Senate bill does not contain a comparable provision.

Section 502 of the House amendment authorizes $5.9 billion for Coast Guard programs and operations during fiscal year 2002. Section 502(1) of the amendment authorizes approximately $4.2 billion for Coast Guard operating expenses for fiscal year 2002, including $623 million for domestic maritime homeland security requirements.

Section 502(2) of this amendment authorizes $717.8 million in fiscal year 2002 for the Coast Guard's acquisition, construction, and improvement (AC&I) account. including $58.5 million for homeland security.

The Conference substitute authorizes approximately $6 billion for Coast Guard programs and operations during fiscal year 2003. Section 502(1) authorizes approximately $4.3 billion for Coast Guard operating expenses for fiscal year 2003.

Section 102(2) authorizes $725 million in fiscal year 2003 for the Coast Guard's acquisition, construction, and improvement (AC&I) account.

Within the AC&I account, the Conferees strongly support the Coast Guard's integrated approach to the Deepwater Modernization Project and believe this effort to recapitalize the service's offshore surface fleet, aviation assets, and command and control system is essential to prepare the Coast Guard to meet future challenges. With an aging fleet of cutters and aircraft, maintenance and personnel costs will rise dramatically unless the fleets are replaced. Further, the multi-mission nature of the Coast Guard requires a modern and flexible fleet that will continue serving national security and other core missions. The Integrated Deepwater System request for proposal and the recently awarded contract with the systems integrator were predicated on a consistent funding level of $500 million per year in 1998 dollars over the 20-year implementation time-line. The Conferees are concerned that this program already appears likely to be underfunded in its first year creating delays and pushing back the implementation schedule just as the program is beginning.

The Conferees also strongly support the need to modernize the National Distress and Response System. This system is crucial for the Coast Guard to improve its capabilities to respond to and aid mariners in distress. The Conferees strongly support the Coast Guard receiving $90 million in fiscal year 2003 to begin this procurement which is scheduled to be completed by the end of the fiscal year 2006.

Another necessary area of funding is for the Coast Guard's share of the cost of altering or removing bridges that cause hazards to navigation, pursuant to the Truman-Hobbs Act of June 21, 1940, as amended (33 U.S.C. 511 et seq.). The Conferees expect that $2,000,000 of the funding provided will be utilized for the construction of a new Chelesa Street Bridge over the Chelsea River in Boston, Massachusetts.

SECTION 503. AUTHORIZED LEVELS OF MILITARY STRENGTH

The Senate bill does not contain a comparable provision.

Section 503 of the House amendment authorizes 44,000 Coast Guard active duty military personnel as of September 30, 2002.

The Conference substitute authorizes 45,500 Cost Guard active duty military personnel as of September 30, 2003.

The Conference substitute authorizes 45,500 Coast Guard active duty military personnel as of September 30, 2003, which is larger than the Administration's request. The Conferees note that even before September 11, 2001, Coast Guard missions and demands were expanding and taxing the service's personnel whose current strength is comparable to the Coast Guard of 1966. As the Coast Guard assumes its expanding homeland security role while at the same time continues to carry out its traditional missions, it will require additional personnel. Therefore, the Conference substitute increases the end-of-year strength numbers beyond those recommended by the Administration to ensure the Coast Guard has the flexibility to increase its personnel levels to meet these new challenges and demands.

From the Committee on Transportation and Infrastructure, for consideration of the Senate bill and the House amendment, and modifications committed to conference:

DON YOUNG,
HOWARD COBLE,
FRANK A. LOBIONDO,
JIM OBERSTAR,
CORRINE BROWN,

From the Committee on Ways and Means, for consideration of secs. 112 and 115 of the Senate bill, and sec. 108 of the House amendment, and modifications committed to conference:

WILLIAM THOMAS,
PHIL CRANE,
CHARLES B. RANGEL,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
DANIEL INOUYE,
JOHN F. KERRY,
JOHN BREAUX,
RON WYDEN,
MAX CLELAND,
BARBARA BOXER,
JOHN MCCAIN,
TED STEVENS,
TRENT LOTT,
KAY BAILEY HUTCHISON,
OLYMPIA SNOWE,
GORDON SMITH,
BOB GRAHAM,
CHUCK GRASSLEY,
Managers on the Part of the Senate.

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