

Public Law 102-587
102d Congress

An Act

To provide Congressional approval of a Governing International Fishery Agreement,
and for other purposes.

Nov. 4, 1992
[H.R. 5617]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Oceans Act of 1992".

Oceans Act
of 1992.
Conservation.
16 USC 1431
note.

**TITLE I—APPROVAL OF GOVERNING INTERNATIONAL
FISHERY AGREEMENT**

SEC. 1001. APPROVAL OF AGREEMENT.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the Government of the Republic of Estonia, as contained in the message to Congress from the President of the United States dated June 24, 1992, is approved by the Congress as a governing international fishery agreement for the purposes of such Act and shall enter into force and effect with respect to the United States on the date of enactment of this title.

Effective date.
16 USC 1823
note.

TITLE II—NATIONAL MARINE SANCTUARIES PROGRAM

SEC. 2001. SHORT TITLE.

This title may be cited as the "National Marine Sanctuaries Program Amendments Act of 1992".

National
Marine
Sanctuaries
Program
Amendments
Act of 1992.
16 USC 1431
note.

**Subtitle A—Amendments to Marine Protection, Research,
and Sanctuaries Act of 1972**

SEC. 2101. FINDINGS, PURPOSES, AND POLICIES.

(a) FINDINGS.—Section 301(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431(a)) is amended—

(1) in paragraph (2) by inserting ", and in some cases international," after "national";

(2) in paragraph (4)—

(A) by inserting ", research," after "conservation"; and

(B) by striking "and" after the semicolon at the end;

(3) in paragraph (5) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(6) protection of these special areas can contribute to maintaining a natural assemblage of living resources for future generations."

(b) **PURPOSES AND POLICIES.**—Section 301(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431(b)) is amended to read as follows:

“(b) **PURPOSES AND POLICIES.**—The purposes and policies of this title are—

“(1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance;

“(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities.

“(3) to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas, especially long-term monitoring and research of these areas;

“(4) to enhance public awareness, understanding, appreciation, and wise use of the marine environment;

“(5) to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

“(6) to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;

“(7) to create models of, and incentives for, ways to conserve and manage these areas;

“(8) to cooperate with global programs encouraging conservation of marine resources; and

“(9) to maintain, restore, and enhance living resources by providing places for species that depend upon these marine areas to survive and propagate.”

SEC. 2102. DEFINITIONS.

(a) **MARINE ENVIRONMENT.**—Section 302(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(3)) is amended by adding “including the exclusive economic zone,” after “jurisdiction,”.

(b) **DAMAGES.**—Section 302(6) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(6)) is amended—

(1) in subparagraph (A)(ii) by striking “and” at the end;

(2) in subparagraph (B) by adding “and” at the end; and

(3) by adding at the end the following:

“(C) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources.”

(c) **RESPONSE COSTS.**—Section 302(7) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(7)) is amended by inserting “or authorized” after “taken”.

(d) **EXCLUSIVE ECONOMIC ZONE.**—Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended (1) by striking the period at the end of paragraph (8) and inserting “; and”; and (2) by adding after paragraph (8) the following:

“(9) ‘exclusive economic zone’ means the exclusive economic zone as defined in the Magnuson Fishery Conservation and Management Act.”

(e) **TECHNICAL CORRECTION.**—Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended—

(1) in paragraph (1) by striking “304(a)(1)(E)” and inserting “304(a)(1)(C)(v)”; and

(2) in paragraph (5) by striking “and” after the semicolon.

SEC. 2103. SANCTUARY DESIGNATION STANDARDS.

(a) **STANDARDS.**—Section 303(a)(2)(B) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(a)(2)(B)) is amended by inserting “or should be supplemented” after “inadequate”.

(b) **FACTORS AND CONSULTATIONS.**—

(1) Section 303(b)(1)(A) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(b)(1)(A)) is amended by inserting “maintenance of critical habitat of endangered species,” after “assemblages,”

(2) Section 303(b)(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(b)(3)) is amended—

(A) by inserting “, governmental,” after “other commercial” and inserting “, governmental,” after “any commercial”;

(B) by adding at the end the following: “The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft a resource assessment section for the report, including information on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations.”; and

(C) by striking “304(a)(1)” and inserting “304(a)(2)”.

SEC. 2104. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

(a) **SANCTUARY PROPOSAL.**—Section 304(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(a)) is amended—

(1) by striking “prospectus” whenever it appears and inserting “documents”;

(2) in paragraph (1)(C) by striking “a prospectus on the proposal which shall contain—” and inserting “documents, including an executive summary, consisting of—”; and

(3) in paragraph (5)—

(A) by striking “United States Fishery Conservation Zone” and inserting “Exclusive Economic Zone”; and

(B) by adding at the end: “The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.”

(b) **TAKING EFFECT OF DESIGNATIONS.**—Section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b)) is amended—

(1) in paragraph (1) by striking the dash after “unless” and all that follows and inserting “, in the case of a national

marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.”;

(2) in paragraph (2)—

(A) striking “paragraph (1) (A) or (B)” and inserting “paragraph (1)”;

(B) by striking “not disapproved under paragraph (1)(A) or ”; and

(C) by striking “paragraph (1)(B)” and inserting “paragraph (1)”;

(3) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(c) ACCESS AND VALID RIGHTS.—Section 304(c)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(c)(1)) is amended to read as follows:

“(1) Nothing in this title shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access that is in existence on the date of designation of any national marine sanctuary.”

(d) INTERAGENCY COOPERATION; REVIEW OF MANAGEMENT PLAN.—Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) is amended by adding at the end the following new subsections:

“(d) INTERAGENCY COOPERATION.—

“(1) REVIEW OF AGENCY ACTIONS.—

“(A) IN GENERAL.—Federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.

“(B) AGENCY STATEMENTS REQUIRED.—Subject to any regulations the Secretary may establish each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless such Federal agency and the Secretary agree to a different schedule.

“(2) SECRETARY’S RECOMMENDED ALTERNATIVES.—If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall (within 45 days of receipt of complete information on the proposed agency action) recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in implementing the agency action that will protect sanctuary resources.

“(3) RESPONSE TO RECOMMENDATIONS.—The agency head who receives the Secretary’s recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the

alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.

“(e) REVIEW OF MANAGEMENT PLANS.—Not more than five years after the date of designation of any national marine sanctuary, and thereafter at intervals not exceeding five years, the Secretary shall evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of site-specific management techniques, and shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this title.”

Regulations.

SEC. 2105. APPLICATION OF REGULATIONS; INTERNATIONAL COOPERATION.

(a) ENFORCEABILITY; INTERNATIONAL COOPERATION.—Section 305 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1435) is amended—

(1) in subsection (a)—

(A) by striking “The” in the first sentence and inserting in lieu thereof “This title and the”; and

(B) by inserting “or be enforced against” immediately after “apply to”; and

(2) by adding at the end the following new subsection:

“(c) INTERNATIONAL COOPERATION.—The Secretary, in consultation with the Secretary of State and other appropriate Federal agencies, shall cooperate with other governments and international organizations in furtherance of the purposes and policies of this title and consistent with applicable regional and multilateral arrangements for the protection and management of special marine areas.”

(b) TECHNICAL AMENDMENT.—The section heading for section 305 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1435) is amended by striking all after “REGULATIONS” and inserting in lieu thereof “; INTERNATIONAL NEGOTIATIONS AND COOPERATION.”

SEC. 2106. PROHIBITED ACTIVITIES.

Section 306 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1436) is amended to read as follows:

“SEC. 306. PROHIBITED ACTIVITIES.

“It is unlawful to—

“(1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;

“(2) possess, sell, deliver, carry, transport, or ship by any means any sanctuary resource taken in violation of this section;

“(3) interfere with the enforcement of this title; or

“(4) violate any provision of this title or any regulation or permit issued pursuant to this title.”

SEC. 2107. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) Section 307(c)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(c)(1)) is amended by striking “\$50,000” and inserting “\$100,000”.

(2) Section 307(c)(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(c)(3)) is amended—

(A) by striking “and may be proceeded” and all that follows through “jurisdiction”; and

(B) by adding at the end the following sentence: "Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel."

(b) PROCEEDS FROM CIVIL FORFEITURES.—Section 307(d)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(d)(1)) is amended by adding at the end the following new sentence: "The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 312. None of those proceeds shall be subject to set-off."

(c) USE OF RECEIVED AMOUNTS.—Section 307(e) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(e)) is amended by striking paragraph (1) and inserting the following:

"(1) EXPENDITURES.—

"(A) Notwithstanding any other law, amounts received by the United States as civil penalties, forfeitures of property, and costs imposed under paragraph (2) shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act.

"(B) Amounts received under this section for forfeitures and costs imposed under paragraph (2) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any sanctuary resource or other property seized in connection with a violation of this title or any regulation or permit issued under this title.

"(C) Amounts received under this section as civil penalties and any amounts remaining after the operation of subparagraph (B) shall be used, in order of priority, to—

"(i) manage and improve the national marine sanctuary with respect to which the violation occurred that resulted in the penalty or forfeiture;

"(ii) pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or any regulation or permit issued under this title; and

"(iii) manage and improve any other national marine sanctuary."

(d) CONFORMING AMENDMENT.—Section 312(d) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(d)) is amended—

(1) by striking "and civil penalties under section 307";

(2) by striking paragraph (3); and by redesignating paragraph (4) as paragraph (3).

(e) ENFORCEABILITY.—Section 307 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437) is amended by adding at the end the following new subsection:

"(j) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this title includes the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, which is subject to the sovereignty

of the United States, and the United States exclusive economic zone, consistent with international law.”.

SEC. 2108. RESEARCH, MONITORING, AND EDUCATION.

Section 309 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1440) is amended to read as follows:

“SEC. 309. RESEARCH, MONITORING, AND EDUCATION.

“(a) **IN GENERAL.**—The Secretary shall conduct research, monitoring, evaluation, and education programs as are necessary and reasonable to carry out the purposes and policies of this title.

“(b) **PROMOTION AND COORDINATION OF SANCTUARY USE.**—The Secretary shall take such action as is necessary and reasonable to promote and coordinate the use of national marine sanctuaries for research, monitoring, and education purposes. Such action may include consulting with Federal agencies, States, local governments, regional agencies, interstate agencies, or other persons to promote use of one or more sanctuaries for research, monitoring, and education, including coordination with the National Estuarine Research Reserve System.”.

SEC. 2109. COOPERATIVE AGREEMENTS; DONATIONS, AND ACQUISITIONS.

“Section 311 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1442) is amended to read as follows:

“SEC. 311. COOPERATIVE AGREEMENTS, DONATIONS, AND ACQUISITIONS.

“(a) **COOPERATIVE AGREEMENTS, GRANTS AND OTHER AGREEMENTS.**—The Secretary may enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this title.

“(b) **AUTHORIZATION TO SOLICIT DONATIONS.**—The Secretary may enter into such agreements with any nonprofit organization authorizing the organization to solicit private donations to carry out the purposes and policies of this title.

“(c) **DONATIONS.**—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this title. Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

“(d) **ACQUISITIONS.**—The Secretary may acquire by purchase, lease, or exchange, any land, facilities, or other property necessary and appropriate to carry out the purposes and policies of this title.”.

SEC. 2110. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

(a) **LIABILITY FOR INTEREST.**—Section 312(a)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(a)(1)) is amended to read as follows:

“(1) **LIABILITY TO UNITED STATES.**—Any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for an amount equal to the sum of—

“(A) the amount of response costs and damages resulting from the destruction, loss, or injury; and

“(B) interest on that amount calculated in the manner described under section 1005 of the Oil Pollution Act of 1990.”

(b) **LIABILITY IN REM.**—Section 312(a)(2) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(a)(2)) is amended by adding at the end the following: “The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.”

(c) **LIMITS TO LIABILITY.**—Section 312(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(a)) is amended by adding at the end the following:

“(4) **LIMITS TO LIABILITY.**—Nothing in sections 4281-4289 of the Revised Statutes of the United States or section 3 of the Act of February 13, 1893, shall limit the liability of any person under this title.”

(d) **RESPONSE ACTIONS.**—Section 312(b)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(b)(1)) is amended by inserting “or authorize” of “undertake”.

(e) **USE OF RECOVERED AMOUNTS.**—Section 312(d) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(d)) is amended in paragraph (3), as redesignated by this Act, by inserting “the court decree or settlement agreement and” after “in accordance with”.

SEC. 2111. AUTHORIZATION OF APPROPRIATIONS.

Section 313 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444) is amended to read as follows:

“SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Secretary to carry out this title the following—

“(1) \$8,000,000 for fiscal year 1993;

“(2) \$12,500,000 for fiscal year 1994;

“(3) \$15,000,000 for fiscal year 1995; and

“(4) \$20,000,000 for fiscal year 1996.”

SEC. 2112. ADVISORY COUNCILS AND SHORT TITLE.

The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended by adding at the end the following new sections:

“SEC. 315. ADVISORY COUNCILS.

“(a) **ESTABLISHMENT.**—The Secretary may establish one or more advisory councils (in this section referred to as an ‘Advisory Council’) to provide assistance to the Secretary regarding the designation and management of national marine sanctuaries. The Advisory Councils shall be exempt from the Federal Advisory Committee Act.

“(b) **MEMBERSHIP.**—Members of the Advisory Councils may be appointed from among—

“(1) persons employed by Federal or State agencies with expertise in management of natural resources;

“(2) members of relevant Regional Fishery Management Councils established under section 302 of the Magnuson Fishery Conservation and Management Act; and

“(3) representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources.

“(c) LIMITS ON MEMBERSHIP.—For sanctuaries designated after the date of enactment of the National Marine Sanctuaries Program Amendments Act of 1992, the membership of Advisory Councils shall be limited to no more than 15 members.

“(d) STAFFING AND ASSISTANCE.—The Secretary may make available to an Advisory Council any staff, information, administrative services, or assistance the Secretary determines are reasonably required to enable the Advisory Council to carry out its functions.

“(e) PUBLIC PARTICIPATION AND PROCEDURAL MATTERS.—The following guidelines apply with respect to the conduct of business meetings of an Advisory Council:

“(1) Each meeting shall be open to the public, and interested persons shall be permitted to present oral or written statements on items on the agenda.

“(2) Emergency meetings may be held at the call of the chairman or presiding officer.

“(3) Timely notice of each meeting, including the time, place, and agenda of the meeting, shall be published locally and in the Federal Register.

“(4) Minutes of each meeting shall be kept and contain a summary of the attendees and matters discussed.

“SEC. 316. SHORT TITLE.

“This title may be cited as ‘The National Marine Sanctuaries Act.’”

The National
Marine
Sanctuaries
Act.
16 USC 1431
note.

Subtitle B—Miscellaneous

SEC. 2201. GRAVEYARD OF THE ATLANTIC ARTIFACTS.

(a) ACQUISITION OF SPACE.—Pursuant to section 314 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1445) and consistent with the Cooperative Agreement entered into in October, 1989, between the National Oceanic and Atmospheric Administration and the Mariner’s Museum of Newport News, Virginia, the Secretary of Commerce shall make a grant for the acquisition of space in Hatteras Village, North Carolina, for—

(1) the display and interpretation of artifacts recovered from the area of the Atlantic Ocean adjacent to North Carolina generally known as the Graveyard of the Atlantic, including artifacts recovered from the Monitor National Marine Sanctuary; and

(2) administration and operations of the Monitor National Marine Sanctuary.

(b) AUTHORIZATION.—To carry out the responsibilities of the Secretary of Commerce under this section, there are authorized to be appropriated to the Secretary of Commerce a total of \$800,000 for fiscal years 1993 and 1994, to remain available until expended.

(c) FEDERAL SHARE.—Not more than two-thirds of the cost of space acquired under this section may be paid with amounts provided pursuant to this section.

Grants.
North Carolina.
Virginia.
16 USC 1445
note.

Massachusetts.
16 USC 1433
note.

SEC. 2202. STELLWAGEN BANK NATIONAL MARINE SANCTUARY.

(a) **DESIGNATION.**—The area described in subsection (b) is designated as the Stellwagen Bank National Marine Sanctuary (hereafter in this section referred to as the "Sanctuary").

(b) **AREA.**—The Sanctuary shall consist of all submerged lands and waters, including living and nonliving marine resources within those waters, bounded by the area described as Boundary Alternative 3 in the Draft Environmental Impact Statement and Management Plan for the Proposed Stellwagen Bank National Marine Sanctuary, published by the Department of Commerce in January 1991, except that the western boundary shall be modified as follows:

(1) The southwestern corner of the Sanctuary shall be located at a point off Provincetown, Massachusetts, at the following coordinates: 42 degrees, 7 minutes, 44.89 seconds (latitude), 70 degrees, 28 minutes, 15.44 seconds (longitude).

(2) The northwestern corner of the Sanctuary shall be located at a point off Cape Ann, Massachusetts, at the following coordinates: 42 degrees, 37 minutes, 53.52 seconds (latitude), 70 degrees, 35 minutes, 52.38 seconds (longitude).

(c) **MANAGEMENT.**—The Secretary of Commerce shall issue a management plan for the Sanctuary in accordance with section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434), as amended by this title.

(d) **SAND AND GRAVEL MINING ACTIVITIES PROHIBITED.**—Notwithstanding any other provision of law, exploration for, and mining of, sand and gravel and other minerals in the Sanctuary is prohibited.

(e) **CONSULTATION.**—In accordance with the procedures established in section 304(e) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended by this title, the appropriate Federal agencies shall consult with the Secretary on proposed agency actions in the vicinity of the Sanctuary that may affect sanctuary resources.

(f) **AUTHORIZATION.**—There are authorized to be appropriated to the Secretary of Commerce for carrying out the purposes of this section \$570,000 for fiscal year 1993 and \$250,000 for fiscal year 1994.

(g) **OFFICE.**—The Secretary of Commerce shall consider establishing a satellite office for the Stellwagen Bank National Marine Sanctuary in Provincetown, Gloucester, or Hull, Massachusetts.

16 USC 1433
note.
Effective date.

SEC. 2203. MONTEREY BAY NATIONAL MARINE SANCTUARY.

(a) **ISSUANCE OF DESIGNATION NOTICE.**—Notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b)), the designation of the Monterey Bay National Marine Sanctuary (hereafter in this section the "Sanctuary"), as described in the notice of designation submitted to the Congress on September 15, 1992, shall take effect on September 18, 1992.

(b) **OIL AND GAS ACTIVITIES PROHIBITED.**—Notwithstanding any other provision of law, no leasing, exploration, development, or production of oil or gas shall be permitted within the Sanctuary as provided by section 944.5 of the Final Environmental Impact Statement and Management Plan for the Monterey Bay National Marine Sanctuary, published by the Department of Commerce in June 1992.

(c) **CONSULTATION.**—Section 304(e) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended by this title, shall apply to the Sanctuary as designated by the Secretary of Commerce.

(d) **VESSEL TRAFFIC.**—Within 18 months after the date of enactment of this title, the Secretary of Commerce and the Secretary of Transportation, in consultation with the State of California and with adequate opportunity for public comment, shall report to Congress on measures for regulating vessel traffic in the Sanctuary if it is determined that such measures are necessary to protect sanctuary resources.

Reports.

SEC. 2204. ENHANCING SUPPORT FOR NATIONAL MARINE SANCTUARIES.

16 USC 1442
note.

(a) **IN GENERAL.**—Beginning on the date of enactment of this title, the Secretary shall conduct a 2-year pilot project to enhance funding for designation and management of national marine sanctuaries.

(b) **PROJECT.**—The project shall consist of—

(1) the creation, adoption, and publication in the Federal Register by the Secretary of a symbol for the national marine sanctuary program, or for individual national marine sanctuaries;

(2) the solicitation of persons to be designated as official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(3) the designation of persons by the Secretary as official sponsors of the national marine sanctuary program or of individual sanctuaries;

(4) the authorization by the Secretary of the use of any symbol published under paragraph (1) by official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(5) the establishment and collection by the Secretary of fees from official sponsors for the manufacture, reproduction or use of the symbols published under paragraph (1);

(6) the retention of any fees assessed under paragraph (5) by the Secretary in an interest-bearing revolving fund; and

(7) the expenditure of any fees and any interest in the fund established under paragraph (6), without appropriation, by the Secretary to designate and manage national marine sanctuaries.

(c) **CONTRACT AUTHORITY.**—The Secretary may contract with any person for the creation of symbols or the solicitation of official sponsors under subsection (b).

(d) **RESTRICTIONS.**—The Secretary may restrict the use of the symbols published under subsection (b), and the designation of official sponsors of the national marine sanctuary program or of individual national marine sanctuaries to ensure compatibility with the goals of the national marine sanctuary program.

(e) **PROPERTY OF UNITED STATES.**—Any symbol which is adopted by the Secretary and published in the Federal Register under subsection (b) is deemed to be the property of the United States.

(f) **PROHIBITED ACTIVITIES.**—(1) It is unlawful for any person—

(A) designated as an official sponsor to influence or seek to influence any decision by the Secretary or any other Federal official related to the designation or management of a national

marine sanctuary, except to the extent that a person who is not so designated may do so;

(B) to represent himself or herself to be an official sponsor absent a designation by the Secretary;

(C) to manufacture, reproduce, or use any symbol adopted by the Secretary absent designation as an official sponsor and without payment of a fee to the Secretary; and

(D) to violate any regulation promulgated by the Secretary under this section.

(2) Violation of this subsection shall be considered a violation of title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(g) REPORT.—No later than 30 months after the date of enactment of this Act, the Secretary shall submit a report on the pilot project to Congress regarding the success of the program in providing additional funds for management and operation of national marine sanctuaries.

(h) DEFINITIONS.—In this section—

(1) the term “national marine sanctuary” or “national marine sanctuaries” means a national marine sanctuary or sanctuaries designated under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.), or by other law in accordance with title III of the Marine Protection, Research, and Sanctuaries Act of 1972;

(2) the term “official sponsor” means any person designated by the Secretary who is authorized to manufacture, reproduce, or use any symbol created, adopted, and published in the Federal Register under this section for a fee paid to the Secretary; and

(3) the term “Secretary” means the Secretary of Commerce.

SEC. 2205. TECHNICAL CORRECTIONS RELATING TO COASTAL ZONE MANAGEMENT ACT OF 1972.

(a) AMENDMENT OF COASTAL ZONE MANAGEMENT ACT OF 1972.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(b) TECHNICAL CORRECTIONS.—

(1) The Act is amended by—

(A) striking “coastal State” each place it appears and inserting “coastal state”;

(B) striking “coastal States” each place it appears and inserting “coastal states”; and

(C) striking “coastal State’s” each place it appears and inserting “coastal state’s”.

(2) Section 6203(b)(1) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–301, relating to section 303(2) of the Coastal Zone Management Act of 1972) is amended by striking “as well as the” the first place it appears and inserting “as well as to”.

(3) Section 6204(a) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–302, relating to section 304(1) of the Coastal Zone Management Act of 1972) is amended—

16 USC 1452.

16 USC 1453.

- (A) in the matter preceding paragraph (1) by striking “The third sentence of section” and inserting “Section”;
- (B) in paragraph (1) by inserting after “period at the end” the following: “of the third sentence”; and
- (C) in paragraph (2) by inserting after “territorial sea.” the following: “at the end of the second sentence”.
- (4) Section 6204(b) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–302) is amended by striking “following” and inserting “following.” 16 USC 1453.
- (5) Section 304(1) (16 U.S.C. 1453(1)) is amended in the second sentence—
- (A) by striking “the outer limit of” the first place it appears; and
- (B) by striking “1705,” and inserting “1705).”.
- (6) Section 304(2) (16 U.S.C. 1453(2)) is amended by striking “the term” and inserting “The term”.
- (7) Section 304(9) (16 U.S.C. 1453(9)) is amended to read as follows:
- “(9) The term ‘Fund’ means the Coastal Zone Management Fund established under section 308(b).”.
- (8) Section 306(b) (16 U.S.C. 1455(b)) is amended by striking the semicolon at the end and inserting a period.
- (9) Section 6216(a) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–314, relating to section 306A(b)(1) of the Coastal Zone Management Act of 1972) is amended by striking “306a(b)(1)” and inserting “306A(b)(1)”. 16 USC 1455a.
- (10) Section 306A(a)(1)(B) (16 U.S.C. 1455a(a)(1)(B)) is amended by striking “specified” and all that follows through the end of the sentence and inserting “specified in section 303(2) (A) through (K).”.
- (11) Section 306A(b) (16 U.S.C. 1455a(b)) is amended—
- (A) in paragraph (2) by striking “that are designated” and all that follows through the end of the paragraph and inserting “that are designated in the state’s management program pursuant to section 306(d)(2)(C) as areas of particular concern.”; and
- (B) in paragraph (3) by—
- (i) striking “access of” and inserting “access to”; and
- (ii) striking “in accordance with” and all that follows through the end of the paragraph and inserting “in accordance with the planning process required under section 306(d)(2)(G).”.
- (12) Section 306A(c) (16 U.S.C. 1455a(c)) is amended in paragraph (2)(C) in the matter following clause (iii) by striking “shall not by” and inserting “shall not be”.
- (13) Section 6208(b)(3)(B) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–308, relating to section 307(c)(3)(B) of the Coastal Zone Management Act of 1972) is amended by inserting “with” after “complies”. 16 USC 1456.
- (14) Section 307(i) (16 U.S.C. 1456(i)) is amended—
- (A) by inserting “(1)” after “(i)”; and
- (B) in paragraph (1) (as designated by subparagraph (A) of this paragraph) by striking the second sentence; and
- (C) by adding at the end the following:

"(2)(A) The Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (c).

"(B) If the Secretary waives the application fee under paragraph (1) for an applicant, the Secretary shall waive all other fees under this subsection for the applicant.

"(3) Fees collected under this subsection shall be deposited into the Coastal Zone Management Fund established under section 308."

16 USC 1456a.

(15) Section 6209 of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388-308, relating to section 308 of the Coastal Zone Management Act of 1972) is amended in the matter preceding the quoted material by striking "1456" and inserting "1456a".

(16) Section 308(a)(1) (16 U.S.C. 1456a(a)(1)) is amended in the first sentence by striking "pursuant to this Act" and inserting "pursuant to this title".

(17) Section 308(b)(1) (16 U.S.C. 1456a(b)(1)) is amended by striking "(hereinafter" and all that follows through "Fund)".

(18) Section 308(b)(1) (16 U.S.C. 1456a(b)(1)) is amended by inserting after "subsection (a)" the following: "and fees deposited into the Fund under section 307(i)(3)".

(19) The first section 313 (16 U.S.C. 1459) is amended—

(A) in subsection (a) by striking "section 308" and inserting "section 308, as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990,"; and

(B) in paragraph (1) of subsection (b) by striking "section 308(d)" and all that follows through the end of the paragraph and inserting "section 308, as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990; and".

(20) The second section 313 (16 U.S.C. 1460, relating to Walter B. Jones excellence in coastal zone management awards) is amended—

(A) by redesignating that section as section 314;

(B) in subsection (a) by inserting after "under section 308" the following: "and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315)"; and

(C) in subsection (e) by inserting after "under section 308" the following: "and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315)".

(21) Section 315(a) (16 U.S.C. 1461(a)) is amended by striking "National Estuarine Reserve Research System" and inserting "National Estuarine Research Reserve System".

(22) Section 315(c)(4) (16 U.S.C. 1461(c)(4)) is amended by striking "subsection (1)" and inserting "paragraph (1)".

(23) Section 316(a) (16 U.S.C. 1462(a)) is amended in clause (5) by striking "subsections (c) and (d) of this section" and inserting "subsections (c) and (d) of section 312".

(24) Section 6217(i)(3) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388-319, relating to definitions under that Act) is amended—

(A) by striking the comma; and

(B) by inserting "Zone" after "Coastal".

16 USC 1455b.

SEC. 2206. RESEARCH TO IMPROVE MANAGEMENT.

(a) **FLORIDA NATIONAL MARINE SANCTUARY.**—Section 7(a) of the Florida Keys National Marine Sanctuary and Protection Act (16 U.S.C. 1433 note) is amended by striking paragraph (4); by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively; and by inserting after paragraph (3) the following new paragraphs:

“(4) identify priority needs for research and amounts needed to—

“(A) improve management of the Sanctuary, and in particular, the coral reef ecosystem within the Sanctuary; and

“(B) identify clearly the cause and effect relationships between factors threatening the health of the coral reef ecosystem in the Sanctuary;

“(5) establish a long-term ecological monitoring program and data base, including methods to disseminate information on the management of the coral reef ecosystem;”.

(b) **DEADLINES NOT AFFECTED.**—The amendments made by subsection (a) shall not be construed to modify, by implication or otherwise, the deadlines established under—

(1) section 7(a) of the Florida Keys National Marine Sanctuary and Protection Act regarding completion of the comprehensive management plan and final regulations; or

(2) section 8(a) of that Act regarding development of the water quality protection program.

SEC. 2207. OLYMPIC COAST NATIONAL MARINE SANCTUARY.

No oil or gas leasing or preleasing activity shall be conducted within the area designated as the Olympic Coast National Marine Sanctuary in accordance with Public Law 100-627.

16 USC 1433
note.

SEC. 2208. PROVASOLI-GUILLARD CENTER FOR CULTURE OF MARINE PHYTOPLANKTON.

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

(1) The oceans cover 70 percent of the surface of the Earth.

(2) The foundation of the food webs and fisheries productivity of the oceans rests with microscopic plants known as phytoplankton.

(3) Phytoplankton serve as a vital natural resource in the oceans.

(4) By serving as primary agents in control of the flux of atmospheric carbon dioxide to the deep ocean, phytoplankton influence climate and the rate of global warming.

(5) There is limited knowledge of the biology, physiology, chemistry, and taxonomy of phytoplankton, and it is of vital interest to this Nation to improve the body of knowledge relating to phytoplankton to benefit this Nation and other countries.

(6) The Provasoli-Guillard Center for the Culture of Marine Phytoplankton located in West Boothbay Harbor, Maine, houses a phytoplankton collection that contains species from each of the ocean environments of the World, and is recognized as the largest collection of phytoplankton in the World.

(7) The Provasoli-Guillard Center for the Culture of Marine Phytoplankton is of vital interest to oceanographers in this Nation and throughout the World, and provides cultures of phytoplankton for critical research on global issues.

Maine.

(b) DESIGNATION.—In light of the findings under subsection (a), the Provasoli-Guillard Center for the Culture of Marine Phytoplankton located in West Boothbay Harbor, Maine, is designated as a National Center and Facility.

SEC. 2209. FLORIDA KEYS NATIONAL MARINE SANCTUARY.

(a) IMPLEMENTATION.—Section 8 of the Florida Keys National Marine Sanctuary and Protection Act (16 U.S.C. 1433 note) is amended by adding at the end the following new subsection:

“(d) IMPLEMENTATION.—(1) The Administrator of the Environmental Protection Agency and the Governor of the State of Florida shall implement the program required by this section, in cooperation with the Secretary of Commerce.

Establishment.

“(2)(A) The Regional Administrator of the Environmental Protection Agency shall with the Governor of the State of Florida establish a Steering Committee to set guidance and policy for the development and implementation of such program. Membership shall include representatives of the Environmental Protection Agency, the National Park Service, the United States Fish and Wildlife Service, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, the Florida Department of Community Affairs, the Florida Department of Environmental Regulation, the South Florida Water Management District, and the Florida Keys Aqueduct Authority; three individuals in local government in the Florida Keys; and three citizens knowledgeable about such program.

“(B) The Steering Committee shall, on a biennial basis, issue a report to Congress that—

“(i) summarizes the progress of the program;

“(ii) summarizes any modifications to the program and its recommended actions and plans; and

“(iii) incorporates specific recommendations concerning the implementation of the program.

Establishment.

“(C) The Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration shall cooperate with the Florida Department of Environmental Regulation to establish a Technical Advisory Committee to advise the Steering Committee and to assist in the design and prioritization of programs for scientific research and monitoring. The Technical Advisory Committee shall be composed of scientists from Federal agencies, State agencies, academic institutions, private non-profit organizations, and knowledgeable citizens.

“(3)(A) The Regional Administrator of the Environmental Protection Agency shall appoint a Florida Keys Liaison Officer. The Liaison Officer, who shall be located within the State of Florida, shall have the authority and staff to—

“(i) assist and support the implementation of the program required by this section, including administrative and technical support for the Steering Committee and Technical Advisory Committee;

“(ii) assist and support local, State, and Federal agencies in developing and implementing specific action plans designed to carry out such program;

“(iii) coordinate the actions of the Environmental Protection Agency with other Federal agencies, including the National Oceanic and Atmospheric Administration and the National Park Service, and State and local authorities, in developing

strategies to maintain, protect, and improve water quality in the Florida Keys;

“(iv) collect and make available to the public publications, and other forms of information that the Steering Committee determines to be appropriate, related to the water quality in the vicinity of the Florida Keys; and

“(v) provide for public review and comment on the program and implementing actions.

“(4)(A) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency \$2,000,000 for fiscal year 1993, \$3,000,000 for fiscal year 1994, and \$4,000,000 for fiscal year 1995, for the purpose of carrying out this section.

“(B) There are authorized to be appropriated to the Secretary of Commerce \$300,000 for fiscal year 1993, \$400,000 for fiscal year 1994, and \$500,000 for fiscal year 1995, for the purpose of enabling the National Oceanic and Atmospheric Administration to carry out this section.

“(C) Amounts appropriated under this paragraph shall remain available until expended.

“(D) No more than 15 percent of the amount authorized to be appropriated under subparagraph (A) for any fiscal year may be expended in that fiscal year on administrative expenses.”

(b) TECHNICAL AMENDMENT.—Section 8(c) of the Florida Keys National Marine Sanctuary and Protection Act (16 U.S.C. 1433 note) is amended by striking “paragraph (1)” and inserting in lieu thereof “subsection (a)”.

Subtitle C—Hawaiian Islands Humpback Whale Sanctuary

SEC. 2301. SHORT TITLE.

This subtitle may be cited as the “Hawaiian Islands National Marine Sanctuary Act”.

SEC. 2302. FINDINGS.

The Congress finds the following:

(1) Many of the diverse marine resources and ecosystems within the Western Pacific region are of national significance and importance.

(2) There are at present no ocean areas in the Hawaiian Islands designated as national marine sanctuaries or identified on the Department of Commerce’s Site Evaluation List of sites to be investigated as potential candidates for designation as a national marine sanctuary under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(3) The Hawaiian Islands consist of eight major islands and 124 minor islands, with a total land area of 6,423 square miles and a general coastline of 750 miles.

(4) The marine environment adjacent to and between the Hawaiian Islands is a diverse and unique subtropical marine ecosystem.

(5) The Department of Commerce recently concluded in its Kahoolawe Island National Marine Sanctuary Feasibility Study that there is preliminary evidence of biological, cultural, and historical resources adjacent to Kahoolawe Island to merit further investigation for national marine sanctuary status.

Appropriation
authorization.

Hawaiian
Islands National
Marine
Sanctuary Act.
16 USC 1433
note.

(6) The Department of Commerce also concluded in its Kahoolawe Island National Marine Sanctuary Feasibility Study that there are additional marine areas within the Hawaiian archipelago which merit further consideration for national marine sanctuary status and that the national marine sanctuary program could enhance marine resource protection in Hawaii.

(7) The Hawaiian stock of the endangered humpback whale, the largest of the three North Pacific stocks, breed and calve within the waters of the main Hawaiian Islands.

(8) The marine areas surrounding the main Hawaiian Islands, which are essential breeding, calving, and nursing areas for the endangered humpback whale, are subject to damage and loss of their ecological integrity from a variety of disturbances.

(9) The Department of Commerce recently promulgated a humpback whale recovery plan which sets out a series of recommended goals and actions in order to increase the abundance of the endangered humpback whale.

(10) An announcement of certain Hawaiian waters frequented by humpback whales as an active candidate for marine sanctuary designation was published in the Federal Register on March 17, 1982 (47 FR 11544).

(11) The existing State and Federal regulatory and management programs applicable to the waters of the main Hawaiian Islands are inadequate to provide the kind of comprehensive and coordinated conservation and management of humpback whales and their habitat that is available under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(12) Authority is needed for comprehensive and coordinated conservation and management of humpback whales and their habitat that will complement existing Federal and State regulatory authorities.

(13) There is a need to support, promote, and coordinate scientific research on, and monitoring of, that portion of the marine environment essential to the survival of the humpback whale.

(14) Public education, awareness, understanding, appreciation, and wise use of the marine environment are fundamental to the protection and conservation of the humpback whale.

(15) The designation, as a national marine sanctuary, of the areas of the marine environment adjacent to the main Hawaiian Islands which are essential to the continued recovery of the humpback whale is necessary for the preservation and protection of this important national marine resource.

(16) The marine sanctuary designated for the conservation and management of humpback whales could be expanded to include other marine resources of national significance which are determined to exist within the sanctuary.

SEC. 2303. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) The term "adverse impact" means an impact that independently or cumulatively damages, diminishes, degrades, impairs, destroys, or otherwise harms.

(2) The term "Sanctuary" means the Hawaiian Islands Humpback Whale National Marine Sanctuary designated under section 2305.

(3) The term "Secretary" means the Secretary of Commerce.

SEC. 2304. POLICY AND PURPOSES.

(a) **POLICY.**—It is the policy of the United States to protect and preserve humpback whales and their habitat within the Hawaiian Islands marine environment.

(b) **PURPOSES.**—The purposes of this subtitle are—

(1) to protect humpback whales and their habitat in the area described in section 2305(b);

(2) to educate and interpret for the public the relationship of humpback whales to the Hawaiian Islands marine environment;

(3) to manage such human uses of the Sanctuary consistent with this subtitle and title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended by this Act; and

(4) to provide for the identification of marine resources and ecosystems of national significance for possible inclusion in the sanctuary designated in section 2305(a).

SEC. 2305. DESIGNATION OF SANCTUARY.

(A) **DESIGNATION.**—Subject to subsection (c), the area described in subsection (b) is designated as the Hawaiian Islands Humpback Whale National Marine Sanctuary under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1451 et seq.), as amended by this title.

(b) **AREA INCLUDED.**—(1) Subject to subsections (c) and (d), the area referred to in subsection (a) consists of the submerged lands and waters off the coast of the Hawaiian Islands seaward of the upper reaches of the wash of the waves on shore—

(A) to the one hundred fathom (one hundred and eighty-three meter) isobath adjoining the islands of Lanai, Maui, and Molokai, including Penguin Bank but excluding the area within 3 nautical miles of the upper reaches of the waves on the shore of Kahoolawe Island;

(B) to the deep water area of Pailolo Channel from Cape Halawa, Molokai, to Nakalele Point, Maui, and southward; and

(C) to the one hundred fathom (one hundred and eighty-three meter) isobath adjoining the Kilauea National Wildlife Refuge on the island of Kauai.

(2)(A) On January 1, 1996, the area of the marine environment within 3 nautical miles of the upper reaches of the wash of the waves on the shore of Kahoolawe Island is designated a part of the Sanctuary, unless during the 3-month period immediately preceding January 1, 1996, the Secretary certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives that the area is not suitable for inclusion in the Sanctuary. If such certification is made, it shall be accompanied by a written explanation of the Secretary's reasoning in support of the certification.

(B) After a certification of unsuitability is made under subparagraph (A), the Secretary shall annually make a finding concerning the suitability of the area for inclusion in the Sanctuary and submit

Reports.

to such congressional committees a report on that finding and the reasons thereof. If the Secretary finds that the area is suitable for inclusion in the Sanctuary, the area is designated a part of the Sanctuary on the 30th day after such report is submitted.

(C) Upon designation of the area under subparagraph (A) or (B), the area shall be managed as if it has been designated under section 2305, and the Secretary shall—

(i) publish a notice in the Federal Register announcing the designation and identifying the area; and

(ii) issue such regulations for the area as are necessary to fulfill the Secretary's responsibilities under this subtitle and title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(3) The Secretary shall generally identify and depict the Sanctuary on National Oceanic and Atmospheric Administration charts. Those charts shall be maintained on file and kept available for public examination during regular business hours at the Office of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration. The Secretary shall update the charts to reflect any boundary modification under subsection (d), and any additional designation under paragraph (2) of this subsection.

(c) EFFECT OF OBJECTION BY GOVERNOR.—(1) If within 45 days after the date of the enactment of this title the Governor of Hawaii certifies to the Secretary that the designation (including the prospective additional designation under subsection (b)(2) of the area within 3 nautical miles of Kahoolawe Island) is unacceptable, the designation shall not take effect in the area of the Sanctuary lying within the seaward boundary of the State of Hawaii.

(2) If within 45 days after the date of issuance of the comprehensive management plan and implementing regulations under section 2306 the Governor of Hawaii certifies to the Secretary that the management plan, any implementing regulation, or any term of the plan or regulations is unacceptable, the management plan, regulation, or term, respectively, shall not take effect in the area of the Sanctuary lying within the seaward boundary of the State of Hawaii.

(3) If the Secretary considers that an action taken under paragraph (1) or (2) will affect the Sanctuary in a manner that the goals and objectives of this subtitle cannot be fulfilled, the Secretary may terminate the entire designation under subsection (a). At least thirty days prior to such termination, the Secretary shall submit written notification of the proposed termination to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

(d) BOUNDARY MODIFICATIONS.—No later than the date of issuance of the draft environmental impact statement for the Sanctuary under section 304(a)(1)(C)(vii) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(a)(1)(C)(vii)), the Secretary, in consultation with the Governor of Hawaii, if appropriate, may make modifications to the boundaries of the Sanctuary as necessary to fulfill the purpose of this subtitle. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a written notification of such modifications.

Federal
Register,
publication.
Regulations.

SEC. 2306. COMPREHENSIVE MANAGEMENT PLAN.

(a) **PREPARATION OF PLAN.**—The Secretary, in consultation with interested persons and appropriate Federal, State, and local government authorities, shall develop and issue not later than 18 months after the date of enactment of this title a comprehensive management plan and implementing regulations to achieve the policy and purposes of this subtitle. In developing the plan and regulations, the Secretary shall follow the procedures specified in sections 303 and 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433 and 1434), as amended by this title. Such comprehensive management plan shall—

(1) facilitate all public and private uses of the Sanctuary (including uses of Hawaiian natives customarily and traditionally exercised for subsistence, cultural, and religious purposes) consistent with the primary objective of the protection of humpback whales and their habitat;

(2) set forth the allocation of Federal and State enforcement responsibilities, as jointly agreed by the Secretary and the State of Hawaii;

(3) identify research needs and establish a long-term ecological monitoring program with respect to humpback whales and their habitat;

(4) identify alternative sources of funding needed to fully implement the plan's provisions and supplement appropriations under section 2307 of this subtitle and section 313 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444);

(5) ensure coordination and cooperation between Sanctuary managers and other Federal, State, and local authorities with jurisdiction within or adjacent to the Sanctuary; and

(6) promote education among users of the Sanctuary and the general public about conservation of humpback whales, their habitat, and other marine resources.

(b) **PUBLIC PARTICIPATION.**—The Secretary shall provide for participation by the general public in development of the comprehensive management plan or any amendment thereto.

SEC. 2307. AUTHORIZATION OF APPROPRIATIONS.

For carrying out this subtitle, there are authorized to be appropriated to the Secretary \$500,000 for fiscal year 1993 and \$300,000 for fiscal year 1994. Of the amounts appropriated under this section for fiscal year 1993—

(1) not less than \$50,000 shall be used by the Western Pacific Regional Team to evaluate potential national marine sanctuary sites for inclusion on the Department of Commerce's Site Evaluation List; and

(2) not less than \$50,000 shall be used to continue the investigation of biological, cultural, and historical resources adjacent to Kahoolawe Island.

TITLE III—MARINE MAMMAL STRANDINGS**SEC. 3001. SHORT TITLE.**

This title may be cited as the "Marine Mammal Health and Stranding Response Act".

Marine Mammal
Health and
Stranding
Response Act.
16 USC 1361
note.

16 USC 1421
note.

SEC. 3002. FINDINGS.

The Congress finds the following:

(1) Current stranding network participants have performed an undeniably valuable and ceaseless job of responding to marine mammal strandings over the last 15 years.

(2) Insufficient understanding of the connection between marine mammal health and the physical, chemical, and biological parameters of their environment prevents an adequate understanding of the causes of marine mammal unusual mortality events.

(3) An accurate assessment of marine mammal health, health trends in marine mammal populations in the wild, and causes of marine mammal unusual mortality events cannot be made without adequate reference data on marine mammals and the environment in which they live.

(4) A systematic assessment of the sources, presence, levels, and effects of potentially harmful contaminants on marine mammals would provide a better understanding of some of the causes of marine mammal unusual mortality events and may serve as an indicator of the general health of our coastal and marine environments.

(5) Responses to marine mammal unusual mortality events are often uncoordinated, due to the lack of sufficient contingency planning.

(6) Standardized methods for the reporting of dying, dead, or otherwise incapacitated marine mammals in the wild would greatly assist in the determination of the causes of marine mammal unusual mortality events and enhance general knowledge of marine mammal species.

(7) A formal system for collection, preparation, and archiving of, and providing access to, marine mammal tissues will enhance efforts to investigate the health of marine mammals and health trends of marine mammal populations, and to develop reference data.

(8) Information on marine mammals, including results of analyses of marine mammal tissues, should be broadly available to the scientific community, including stranding network participants, through a marine mammal data base.

SEC. 3003. MARINE MAMMAL HEALTH AND STRANDING RESPONSE PROGRAM.

(a) IN GENERAL.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following new title:

“TITLE III—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

16 USC 1421.

“SEC. 301. ESTABLISHMENT OF PROGRAM.

“(a) ESTABLISHMENT.—The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, establish a program to be known as the ‘Marine Mammal Health and Stranding Response Program’.

“(b) PURPOSES.—The purposes of the Program shall be to—

"(1) facilitate the collection and dissemination of reference data on the health of marine mammals and health trends of marine mammal populations in the wild;

"(2) correlate the health of marine mammals and marine mammal populations, in the wild, with available data on physical, chemical, and biological environmental parameters; and

"(3) coordinate effective responses to unusual mortality events by establishing a process in the Department of Commerce in accordance with section 304.

"SEC. 302. DETERMINATION; DATA COLLECTION AND DISSEMINATION.

16 USC 1421a.

"(a) **DETERMINATION FOR RELEASE.**—The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, develop objective criteria, after an opportunity for public review and comment, to provide guidance for determining at what point a rehabilitated marine mammal is releasable to the wild.

"(b) **COLLECTION.**—The Secretary shall, in consultation with the Secretary of the Interior, collect and update, periodically, existing information on—

"(1) procedures and practices for—

"(A) rescuing and rehabilitating stranded marine mammals, including criteria used by stranding network participants, on a species-by-species basis, for determining at what point a marine mammal undergoing rescue and rehabilitation is returnable to the wild; and

"(B) collecting, preserving, labeling, and transporting marine mammal tissues for physical, chemical, and biological analyses;

"(2) appropriate scientific literature on marine mammal health, disease, and rehabilitation;

"(3) strandings, which the Secretary shall compile and analyze, by region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded marine mammals; and

"(4) other life history and reference level data, including marine mammal tissue analyses, that would allow comparison of the causes of illness and deaths in stranded marine mammals with physical, chemical, and biological environmental parameters.

"(c) **AVAILABILITY.**—The Secretary shall make information collected under this section available to stranding network participants and other qualified scientists.

"SEC. 303. STRANDING RESPONSE AGREEMENTS.

16 USC 1421b.

"(a) **IN GENERAL.**—The Secretary may enter into an agreement under section 112(c) with any person to take marine mammals under section 109(h)(1) in response to a stranding.

"(b) **REQUIRED PROVISION.**—An agreement authorized by subsection (a) shall—

"(1) specify each person who is authorized to perform activities under the agreement; and

"(2) specify any terms and conditions under which a person so specified may delegate that authority to another person.

“(c) REVIEW.—The Secretary shall periodically review agreements under section 112(c) that are entered into pursuant to this title, for performance adequacy and effectiveness.

16 USC 1421c.
Establishment.

“SEC. 304. UNUSUAL MORTALITY EVENT RESPONSE.

“(a) RESPONSE.—

“(1) WORKING GROUP.—

“(A) The Secretary, acting through the Office, shall establish, in consultation with the Secretary of the Interior, a marine mammal unusual mortality event working group, consisting of individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, marine conservation, and medical science, to provide guidance to the Secretary and the Secretary of the Interior for—

“(i) determining whether an unusual mortality event is occurring;

“(ii) determining, after an unusual mortality event has begun, if response actions with respect to that event are no longer necessary; and

“(iii) developing the contingency plan in accordance with subsection (b), to assist the Secretary in responding to unusual mortality events.

“(B) The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to the marine mammal unusual mortality event working group established under this paragraph.

“(2) RESPONSE TIMING.—The Secretary, in consultation with the Secretary of the Interior, shall to the extent necessary and practicable—

“(A) within 24 hours after receiving notification from a stranding network participant that an unusual mortality event might be occurring, contact as many members as is possible of the unusual mortality event working group for guidance; and

“(B) within 48 hours after receiving such notification—

“(i) make a determination as to whether an unusual mortality event is occurring;

“(ii) inform the stranding network participant of that determination; and

“(iii) if the Secretary has determined an unusual mortality event is occurring, designate an Onsite Coordinator for the event, in accordance with subsection (c).

“(b) CONTINGENCY PLAN.—

“(1) IN GENERAL.—The Secretary shall, in consultation with the Secretary of the Interior and the unusual mortality event working group, and after an opportunity for public review and comment, issue a detailed contingency plan for responding to any unusual mortality event.

“(2) CONTENTS.—The contingency plan required under this subsection shall include—

“(A) a list of persons, including stranding network participants, at a regional, State, and local level, who can assist the Secretary in implementing a coordinated and effective response to an unusual mortality event;

“(B) the types of marine mammal tissues and analyses necessary to assist in diagnosing causes of unusual mortality events;

“(C) training, mobilization, and utilization procedures for available personnel, facilities, and other resources necessary to conduct a rapid and effective response to unusual mortality events; and

“(D) such requirements as are necessary to—

“(i) minimize death of marine mammals in the wild and provide appropriate care of marine mammals during an unusual mortality event;

“(ii) assist in identifying the cause or causes of an unusual mortality event;

“(iii) determine the effects of an unusual mortality event on the size estimates of the affected populations of marine mammals; and

“(iv) identify any roles played in an unusual mortality event by physical, chemical, and biological factors, including contaminants.

“(c) ONSITE COORDINATORS.—

“(1) DESIGNATION.—

“(A) The Secretary shall, in consultation with the Secretary of the Interior, designate one or more Onsite Coordinators for an unusual mortality event, who shall make immediate recommendations to the stranding network participants on how to proceed with response activities.

“(B) An Onsite Coordinator so designated shall be one or more appropriate Regional Directors of the National Marine Fisheries Service or the United States Fish and Wildlife Service, or their designees.

“(C) If, because of the wide geographic distribution, multiple species of marine mammals involved, or magnitude of an unusual mortality event, more than one Onsite Coordinator is designated, the Secretary shall, in consultation with the Secretary of the Interior, designate which of the Onsite Coordinators shall have primary responsibility with respect to the event.

“(2) FUNCTIONS.—

“(A) An Onsite Coordinator designated under this subsection shall coordinate and direct the activities of all persons responding to an unusual mortality event in accordance with the contingency plan issued under subsection (b), except that—

“(i) with respect to any matter that is not covered by the contingency plan, an Onsite Coordinator shall use his or her best professional judgment; and

“(ii) the contingency plan may be temporarily modified by an Onsite Coordinator, consulting as expeditiously as possible with the Secretary, the Secretary of the Interior, and the unusual mortality event working group.

“(B) An Onsite Coordinator may delegate to any qualified person authority to act as an Onsite Coordinator under this title.

16 USC 1421d.

"SEC. 305. UNUSUAL MORTALITY EVENT ACTIVITY FUNDING.

"(a) **ESTABLISHMENT OF FUND.**—There is established in the Treasury a fund to be known as the 'Marine Mammal Unusual Mortality Event Fund', which shall consist of amounts deposited into the Fund under subsection (c).

"(b) **USES.**—

"(1) **IN GENERAL.**—Amounts in the Fund—

"(A) shall be available only for use by the Secretary, in consultation with the Secretary of the Interior—

"(i) to compensate persons for special costs incurred in acting in accordance with the contingency plan issued under section 304(b) or under the direction of an Onsite Coordinator for an unusual mortality event; and

"(ii) for reimbursing any stranding network participant for costs incurred in preparing and transporting tissues collected with respect to an unusual mortality event for the Tissue Bank; and

"(B) shall remain available until expended.

"(2) **PENDING CLAIMS.**—If sufficient amounts are not available in the Fund to satisfy any authorized pending claim, such claim shall remain pending until such time as sufficient amounts are available. All authorized pending claims shall be satisfied in the order received.

"(c) **DEPOSITS INTO THE FUND.**—There shall be deposited into the Fund—

"(1) amounts appropriated to the Fund;

"(2) other amounts appropriated to the Secretary for use with respect to unusual mortality events; and

"(3) amounts received by the United States in the form of gifts, devises, and bequests under subsection (d).

"(d) **ACCEPTANCE OF DONATIONS.**—For purposes of carrying out this title, the Secretary may accept, solicit, and use the services of volunteers, and may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

16 USC 1421e.

"SEC. 306. LIABILITY.

"(a) **IN GENERAL.**—A person who is authorized to respond to a stranding pursuant to an agreement entered into under section 112(c) is deemed to be an employee of the government for purposes of chapter 171 of title 28, United States Code, with respect to actions of the person that are—

"(1) in accordance with the agreement; and

"(2) in the case of an unusual mortality event, in accordance with—

"(A) the contingency plan issued under section 304(b);

"(B) the instructions of an Onsite Coordinator designated under section 304(c); or

"(C) the best professional judgment of an Onsite Coordinator, in the case of any matter that is not covered by the contingency plan.

"(b) **LIMITATION.**—Subsection (a) does not apply to actions of a person described in that subsection that are grossly negligent or that constitute willful misconduct.

“SEC. 307. NATIONAL MARINE MAMMAL TISSUE BANK AND TISSUE ANALYSIS. 16 USC 1421f.**“(a) TISSUE BANK.—**

“(1) IN GENERAL.—The Secretary shall make provision for the storage, preparation, examination, and archiving of marine mammal tissues. Tissues archived pursuant to this subsection shall be known as the ‘National Marine Mammal Tissue Bank’.

“(2) GUIDANCE FOR MARINE MAMMAL TISSUE COLLECTION, PREPARATION, AND ARCHIVING.—The Secretary shall, in consultation with individuals with knowledge and expertise in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for marine mammal tissue collection, preparation, archiving, and quality control procedures, regarding—

“(A) appropriate and uniform methods and standards for those activities to provide confidence in marine mammal tissue samples used for research; and

“(B) documentation of procedures used for collecting, preparing, and archiving those samples.

“(3) SOURCE OF TISSUE.—In addition to tissues taken during marine mammal unusual mortality events, the Tissue Bank shall incorporate tissue samples taken from other sources in the wild, including—

“(A) samples from marine mammals taken incidental to commercial fishing operations;

“(B) samples from marine mammals taken for subsistence purposes;

“(C) biopsy samples; and

“(D) any other samples properly collected.

“(b) TISSUE ANALYSIS.—The Secretary shall, in consultation with the Marine Mammal Commission, the Secretary of the Interior, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for analyzing tissue samples (by use of the most effective and advanced diagnostic technologies and tools practicable) as a means to monitor and measure overall health trends in representative species or populations of marine mammals, including—

“(1) the levels of, and if possible, the effects of, potentially harmful contaminants; and

“(2) the frequency of, and if possible, the causes and effects of abnormal lesions or anomalies.

“(c) DATA BASE.—

“(1) IN GENERAL.—The Secretary shall maintain a central data base which provides an effective means for tracking and accessing data on marine mammals, including relevant data on marine mammal tissues collected for and maintained in the Tissue Bank.

“(2) CONTENTS.—The data base established under this subsection shall include—

“(A) reference data on the health of marine mammals and populations of marine mammals; and

“(B) data on species of marine mammals that are subject to unusual mortality events.

“(d) ACCESS.—The Secretary shall, in consultation with the Secretary of the Interior, establish criteria, after an opportunity for public review and comment, for access to—

“(1) marine mammal tissues in the Tissue Bank;

“(2) analyses conducted pursuant to subsection (b); and

“(3) marine mammal data in the data base maintained under subsection (c);

which provide for appropriate uses of the tissues, analyses, and data by qualified scientists, including stranding network participants.

16 USC 1421g.

“SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated—

“(1) to the Secretary for carrying out this title (other than sections 305 and 307) \$250,000 for each of fiscal years 1993 and 1994;

“(2) to the Secretary for carrying out section 307, \$250,000 for each of fiscal years 1993 and 1994; and

“(3) to the Fund, \$500,000 for fiscal year 1993.

16 USC 1421h.

“SEC. 309. DEFINITIONS.

“In this title, the following definitions apply:

“(1) The term ‘Fund’ means the Marine Mammal Unusual Mortality Event Fund established by section 305(a).

“(2) The term ‘Office’ means the Office of Protected Resources, in the National Marine Fisheries Service.

“(3) The term ‘stranding’ means an event in the wild in which—

“(A) a marine mammal is dead and is—

“(i) on a beach or shore of the United States;

or

“(ii) in waters under the jurisdiction of the United States (including any navigable waters); or

“(B) a marine mammal is alive and is—

“(i) on a beach or shore of the United States and unable to return to the water;

“(ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or

“(iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.

“(4) The term ‘stranding network participant’ means a person who is authorized by an agreement under section 112(c) to take marine mammals as described in section 109(h)(1) in response to a stranding.

“(5) The term ‘Tissue Bank’ means the National Marine Tissue Bank provided for under section 307(a).

“(6) The term ‘unusual mortality event’ means a stranding that—

“(A) is unexpected;

“(B) involves a significant die-off of any marine mammal population; and

“(C) demands immediate response.”

(b) IMPLEMENTATION.—The Secretary of Commerce shall—

(1) in accordance with section 302 (a) and (b) of the Marine Mammal Protection Act of 1972, as amended by this Act, and

16 USC 1421a
note.

not later than 24 months after the date of enactment of this Act—

(A) develop and implement objective criteria to determine at what point a marine mammal undergoing rehabilitation is returnable to the wild; and

(B) collect and make available information on marine mammal health and health trends; and

(2) in accordance with section 304(b) of the Marine Mammal Protection Act of 1972, as amended by this Act, issue a detailed contingency plan for responding to any unusual mortality event—

(A) in proposed form by not later than 18 months after the date of enactment of this Act; and

(B) in final form by not later than 24 months after the date of enactment of this Act.

SEC. 3004. CONFORMING AMENDMENTS.

(a) CROSS REFERENCES.—The Marine Mammal Protection Act of 1972 is amended—

(1) in section 102(a) (16 U.S.C. 1372(a)) by inserting “or title III” after “this title” the first place it appears;

(2) in section 109(h)(1) (16 U.S.C. 1379(h)(1)) by inserting “or title III” after “this title”; and

(3) in section 112(c) (16 U.S.C. 1382(c)) by inserting “or title III” after “this title”.

(b) DEFINITION OF SECRETARY.—Section 3(11) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(11)) is amended—

(1) by striking “The term” and inserting “(A) Except as provided in subparagraph (B), the term”;

(2) by redesignating subparagraph (A) as clause (i);

(3) by redesignating subparagraph (B) as clause (ii); and

(4) by adding at the end the following new subparagraph:
“(B) in title III the term ‘Secretary’ means the Secretary of Commerce.”

(c) TABLE OF CONTENTS.—The table of contents at the end of the first section of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following:

“TITLE III—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

“Sec. 301. Establishment of program.

“Sec. 302. Determination; data collection and dissemination.

“Sec. 303. Stranding response agreements.

“Sec. 304. Unusual mortality event response.

“Sec. 305. Unusual mortality event activity funding.

“Sec. 306. Liability.

“Sec. 307. National Marine Mammal Tissue Bank and tissue analysis.

“Sec. 308. Authorization of appropriations.

“Sec. 309. Definitions.”

SEC. 3005. PROJECT STUDY.

The Secretary of the Army shall conduct studies for navigation projects for Provincetown Harbor, Massachusetts, and Aunt Lydia's Cove, Chatham, Massachusetts, and shall evaluate the benefits of the projects to commercial fishermen at full manufacturing wages. After completion of the studies, the Secretary of the Army shall carry out the projects under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577).

Massachusetts.

SEC. 3006. TECHNICAL CLARIFICATION.

Section 4283B of the Revised Statutes (46 App. U.S.C. 183c) is amended in paragraph (2) by inserting "any" before "court".

TITLE IV—NEW YORK CITY ZEBRA MUSSEL PROGRAM**SEC. 4001. MONITORING AND PREVENTION.**

(a) **IN GENERAL.**—The Secretary of the Army in consultation with the Administrator of the Environmental Protection Agency, the Director of the United States Fish and Wildlife Service, the Governor of the State of New York, and the Mayor of the city of New York, shall—

(1) develop a prevention monitoring program for zebra mussels throughout the New York City water supply system;

(2) develop appropriate zebra mussel prevention and removal technologies for the New York City water supply system; and

(3) provide technical assistance to the State of New York and the city of New York on alternative design and maintenance practices for the New York City water supply system in the event of zebra mussel infestation.

(b) **COST SHARING.**—The Secretary of the Army shall not initiate any monitoring, prevention, or technical assistance project or program under this subsection until appropriate non-Federal interests agree, by contract, to contribute 25 percent of the cost for such project or program during the period of such project or program.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—For the purposes of carrying out this subsection, there is authorized to be appropriated to the Secretary of the Army \$2,000,000 for each fiscal years 1993, 1994, 1995, 1996, and 1997. Such sums shall remain available until expended.

SEC. 4002. EXOTIC AQUATIC ORGANISMS.

Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end the following new paragraph:

"(3) In addition to issuing regulations under paragraph (1), the Secretary, in consultation with the Task Force shall, not later than 24 months after the date of the enactment of this paragraph, issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through ballast water carried on vessels that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River north of the George Washington Bridge."

Regulations.

TITLE V—COAST GUARD AUTHORIZATION**SEC. 5001. SHORT TITLE.**

This title may be cited as the "Coast Guard Authorization Act of 1992".

SEC. 5002. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for Fiscal Year 1993, as follows:

(1) For the operation and maintenance of the Coast Guard, \$2,603,000,000, of which—

Coast Guard
Authorization
Act of 1992.

(A) \$253,100,000 shall be transferred from the Department of Defense;

(B) \$31,876,000 shall be derived from the Oil Spill Liability Trust Fund; and

(C) \$35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids-to-navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$419,300,000 to remain available until expended, of which—

(A) \$18,000,000 shall be transferred from the Department of Defense; and

(B) \$38,122,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, \$29,900,000, to remain available until expended, of which \$4,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(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, \$519,700,000, to remain available until expended.

(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 Administration Program, \$12,600,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities, \$30,500,000, to remain available until expended.

SEC. 5003. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) As of September 30, 1993, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,732. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) For Fiscal Year 1993, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

SEC. 5004. SHORE FACILITIES IMPROVEMENTS AT GROUP CAPE HATTERAS.

North Carolina.

Of amounts authorized to be appropriated for acquisition, construction, rebuilding, and improvement, the Secretary of Transportation shall expend not more than \$5,500,000, in Fiscal Years 1993, 1994, 1995, 1996, and 1997, for shore facilities improvements within Group Cape Hatteras, North Carolina.

SEC. 5005. PREPOSITIONED OIL SPILL CLEANUP EQUIPMENT.

Of the amounts authorized to be appropriated for acquisition, construction, rebuilding, and improvement that are derived from the Oil Spill Liability Trust Fund in fiscal year 1993, the Secretary of Transportation shall expend not more than—

(1) \$890,000 to acquire and preposition oil spill response equipment at Houston, Texas; and

(2) \$1,160,000 for the enhancement of Columbia River marine, fire, oil, and toxic spill response communications, training, equipment and program administration activities conducted by the Maritime Fire and Safety Association.

SEC. 5006. OIL SPILL TRAINING SIMULATORS.

Of the amounts authorized to be appropriated for acquisition, construction, rebuilding, and improvement that are derived from the Oil Spill Liability Trust Fund in fiscal year 1993, the Secretary of Transportation shall make available not more than—

Texas.

(1) \$1,250,000 to the Texas Center for Marine Training and Safety at Galveston, Texas, for the purchase of marine oil spill management simulator; and

Massachusetts.

(2) \$1,250,000 to the Massachusetts Center for Marine Environmental Protection, located at Buzzards Bay, Massachusetts, for the purchase of a marine oil spill management simulator.

SEC. 5007. EVACUATION ALLOWANCE.

Section 208 of the Dire Emergency Supplemental Appropriations Act, 1992 (Public Law 102-368) applies to military personnel and civilian employees of the United States Coast Guard to the same extent as that section applies to the Department of Defense, except that funds available to the Coast Guard shall be used.

Subtitle A—Boating Safety**SEC. 5101. TREATMENT OF UNOBLIGATED ALLOCATIONS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.**

Section 13104 of title 46, United States Code, is amended to read as follows:

“§ 13104. Availability of allocations

“(a)(1) Amounts allocated to a State shall be available for obligation by that State for a period of 3 years after the date of allocation.

“(2) Amounts allocated to a State that are not obligated at the end of the 3-year period referred to in paragraph (1) shall be withdrawn and allocated by the Secretary in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.

“(b) Amounts available to the Secretary for State recreational boating safety programs for a fiscal year that have not been allocated at the end of the fiscal year shall be allocated among States in the next fiscal year in addition to amounts otherwise available for allocation to States for that next fiscal year.”

SEC. 5102. INCREASED PENALTIES FOR OPERATING A VESSEL WHILE INTOXICATED.

Section 2302(c)(1) of title 46, United States Code, is amended by striking "\$1,000;" and inserting "\$1,000 for a first violation and not more than \$5,000 for a subsequent violation;".

SEC. 5103. FUTURE BOATERS EDUCATION PROGRAM.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a plan to increase the availability of voluntary safe boating education to individuals 16 years of age or younger. In developing the plan, the Secretary shall consider using the resources of the Coast Guard Auxiliary to provide boating education to the greatest extent possible.

Children and youth.

Subtitle B—Miscellaneous**SEC. 5201. COAST GUARD BAND DIRECTOR.**

Section 336(d) of title 14, United States Code, is amended by striking "lieutenant".

SEC. 5202. RECYCLING PROGRAM.

Section 641 of title 14, United States Code, is amended by adding the following:

"(c)(1) The Commandant may—

"(A) provide for the sale of recyclable materials that the Coast Guard holds;

"(B) provide for the operation of recycling programs at Coast Guard installations; and

"(C) designate Coast Guard installations that have qualified recycling programs for the purposes of subsection (d)(2).

"(2) Recyclable materials shall be sold in accordance with section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).

"(d)(1) Proceeds from the sale of recyclable materials at a Coast Guard installation shall be credited to funds available for operations and maintenance at that installation in amounts sufficient to cover operations, maintenance, recycling equipment, and overhead costs for processing recyclable materials at the installation.

"(2) If, after funds are credited, a balance remains available to a Coast Guard installation and the installation has a qualified recycling program, not more than 50 percent of that balance may be used at the installation for projects for pollution abatement, energy conservation, and occupational safety and health activities. The cost of the project may not be greater than 50 percent of the amount permissible for a minor construction project.

"(3) The remaining balance available to a Coast Guard installation may be transferred to the Coast Guard Morale, Welfare, and Recreation Program.

"(e) If the balance available to the Coast Guard installation under this section at the end of a fiscal year is in excess of \$200,000, the amount of that excess shall be deposited in the general fund of the Treasury as offsetting receipts of the Department in which the Coast Guard is operating and ascribed to Coast Guard activities."

SEC. 5203. CONFIDENTIALITY OF MEDICAL RECORDS.

(a) Title 14, United States Code is amended by inserting after section 644 the following new section:

“§ 645. Confidentiality of medical quality assurance records; qualified immunity for participants

“(a) In this section—

“(1) ‘medical quality assurance program’ means any activity carried out by or for the Coast Guard to assess the quality of medical care, including activities conducted by individuals, military medical or dental treatment facility committees, or other review bodies responsible for quality assurance, credentials, infection control, patient care assessment (including treatment procedures, blood, drugs, and therapeutics) medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

“(2) ‘medical quality assurance record’ means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (1) and are produced or compiled by the Coast Guard as part of a medical quality assurance program.

“(3) ‘health care provider’ means any military or civilian health care professional who, under regulations prescribed by the Secretary, is granted clinical practice privileges to provide health care services in a military medical or dental treatment facility or who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

“(b) Medical quality assurance records created by or for the Coast Guard as part of a medical quality assurance program are confidential and privileged. The records may not be disclosed to any person or entity except as provided in subsection (d).

“(c)(1) Medical quality assurance records are not subject to discovery and may not be admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (d).

“(2) Except as provided in this section, an individual who reviews or creates medical quality assurance records for the Coast Guard or who participates in any proceeding that reviews or creates the records may not testify in any judicial or administrative proceeding with respect to the records or with respect to any finding, recommendation, evaluation, opinion, or action taken by that person in connection with the records.

“(d)(1) Subject to paragraph (2), a medical quality assurance record may be disclosed, and an individual referred to in subsection (c) may testify in connection with a record only as follows:

“(A) To a Federal executive agency or private organization, if necessary to license, accredit, or monitor Coast Guard health care facilities.

“(B) To an administrative or judicial proceeding commenced by a present or former Coast Guard or Coast Guard assigned Public Health Service health care provider concerning the termination, suspension, or limitation of clinical privileges of the health care provider.

“(C) To a governmental board or agency or to a professional health care society or organization, if necessary to perform licensing, or privileging, or to monitor professional standards for a health care provider who is or was a member or an

employee of the Coast Guard or the Public Health Service assigned to the Coast Guard.

“(D) To a hospital, medical center, or other institution that provides health care services, if necessary to assess the professional qualifications of any health care provider who is or was a member or employee of the Coast Guard or the Public Health Service assigned to the Coast Guard and who has applied for or been granted authority or employment to provide health care services in or on behalf of the institution.

“(E) To an officer, member, employee, or contractor of the Coast Guard or the Public Health Service assigned to the Coast Guard if for official purposes.

“(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of the agency or instrumentality makes a written request that the record or testimony be provided for a purpose authorized by law.

“(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of the proceeding.

“(2) Except in a quality assurance action, the identity of any individual receiving health care services from the Coast Guard or the identity of any other individual associated with the agency for the purposes of a medical quality assurance program that is disclosed in a medical quality assurance record shall be deleted from that record or document before any disclosure of the record is made outside the Coast Guard. This requirement does not apply to the release of information under section 552a of title 5.

“(d) Except as provided in this section, a person having possession of or access to a record or testimony described by this section may not disclose the contents of the record or testimony.

“(e) Medical quality assurance records may not be made available to any person under section 552 of title 5.

“(f) An individual who participates in or provides information to an individual that reviews or creates medical quality assurance records is not civilly liable for participating or providing the information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

“(g) Nothing in this section shall be construed as—

“(1) authority to withhold from any person aggregate statistical information regarding the results of Coast Guard medical quality assurance programs;

“(2) authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the General Accounting Office if the record pertains to any matter within their respective jurisdictions;

“(3) limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

“(h) Except as otherwise provided in this section, an individual who willfully discloses a medical quality assurance record knowing

that the record is a medical quality assurance record, is liable to the United States Government for a civil penalty of not more than \$3,000 in the case of a first offense and not more than \$20,000 in the case of a subsequent offense.”

(b) The analysis for chapter 17 of title 14, United States Code, is amended by adding after the item relating to section 644 the following new item:

“645. Confidentiality of medical quality assurance records; qualified immunity for participants.”

SEC. 5204. TELEPHONE INSTALLATION AND CHARGES.

(a) Title 14, United States Code, is amended by adding the following new section:

“§ 669. Telephone installation and charges

“Under regulations prescribed by the Secretary, amounts appropriated to the Department of Transportation are available to install, repair, and maintain telephone wiring in residences owned or leased by the United States Government and, if necessary for national defense purposes in other private residences.”

(b) The analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

“669. Telephone Installation and Charges.”

SEC. 5205. SPECIAL PAY.

(a) Section 306(a) of title 37, United States Code, is amended by striking “of pay grade O-3, O-4, O-5, or O-6” and inserting “of pay grade O-6 or below”, and by striking the chart and inserting the following new chart:

“Pay Grade	Monthly Rate
O-6	\$150
O-5	100
O-4 and below	50”.

(b) Section 306(c) of title 37, United States Code, is amended by striking “in pay grade O-3,” and inserting “in each of the pay grades O-3 and below,”.

SEC. 5206. AMENDMENT OF INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended by amending Rule 1(d) (33 U.S.C. 2001(d)) to read as follows:

“(d) Traffic separation schemes may be established for the purpose of these Rules. Vessel traffic service regulations may be in effect in certain areas.”; and

(2) By amending Rule 10 (33 U.S.C. 2010) to read as follows:

“RULE 10

“Traffic Separation Schemes

“(a) This Rule applies to traffic separation schemes and does not relieve any vessel of her obligation under any other Rule.

“(b) A vessel using a traffic separation scheme shall:

Regulations.

“(i) proceed in the appropriate traffic lane in the general direction of traffic flow for that lane;

“(ii) so far as practicable keep clear of a traffic separation line or separation zone;

“(iii) normally join or leave a traffic lane at the termination of the lane, but when joining or leaving from either side shall do so at as small an angle to the general direction of traffic flow as practicable.

“(c) A vessel shall, so far as practicable, avoid crossing traffic lanes but if obliged to do so shall cross on a heading as nearly as practicable at right angles to the general direction of traffic flow.

“(d)(i) A vessel shall not use an inshore traffic zone when she can safely use the appropriate traffic lane within the adjacent traffic separation scheme. However, vessels of less than twenty meters in length, sailing vessels, and vessels engaged in fishing may use the inshore traffic zone.

“(ii) Notwithstanding subparagraph (d)(i), a vessel may use an inshore traffic zone when en route to or from a port, offshore installation or structure, pilot station, or any other place situated within the inshore traffic zone, or to avoid immediate danger.

“(e) A vessel other than a crossing vessel or a vessel joining or leaving a lane shall not normally enter a separation zone or cross a separation line except:

“(i) in cases of emergency to avoid immediate danger; or

“(ii) to engage in fishing within a separation zone.

“(f) A vessel navigating in areas near the terminations of traffic separation schemes shall do so with particular caution.

“(g) A vessel shall so far as practicable avoid anchoring in a traffic separation scheme or in areas near its terminations.

“(h) A vessel not using a traffic separation scheme shall avoid it by as wide a margin as is practicable.

“(i) A vessel engaged in fishing shall not impede the passage of any vessel following a traffic lane.

“(j) A vessel of less than twenty meters in length or a sailing vessel shall not impede the safe passage of a power-driven vessel following a traffic lane.

“(k) A vessel restricted in her ability to maneuver when engaged in an operation for the maintenance of safety of navigation in a traffic separation scheme is exempted from complying with this Rule to the extent necessary to carry out the operation.

“(l) A vessel restricted in her ability to maneuver when engaged in an operation for the laying, servicing, or picking up of a submarine cable, within a traffic separation scheme, is exempted from complying with this Rule to the extent necessary to carry out the operation.”.

SEC. 5207. STATE MARITIME ACADEMY VESSEL INSPECTION FEE RELIEF.

Section 2110 of title 46, United States Code, is amended by adding at the end the following:

“(j) The Secretary may not establish or collect a fee or charge for the inspection under part B of this subtitle of training vessels operated by state maritime academies.”.

SEC. 5208. INSPECTION OF GREAT LAKES BARGES.

(a) Section 2101 of title 46, United States Code, is amended by inserting after paragraph (13) the following new paragraph:

“(13a) ‘Great Lakes barge’ means a non-self-propelled vessel of at least 3,500 gross tons operating on the Great Lakes.”

(b) Section 3301 of title 46, United States Code, is amended by adding at the end the following new paragraph:

“(13) Great Lakes barges.”

46 USC 2101
note.

(c) For Great Lakes barges placed in operation after the date of enactment of this Act, the amendments made by this section take effect on the date of enactment of this Act.

46 USC 2101
note.

(d)(1) For Great Lakes barges in operation on the date of enactment of this Act, the amendments made by this section take effect one year after the date of enactment of this Act.

(2) The Secretary of Transportation may impose reasonable interim requirements to assure safe operation of the barges affected by paragraph (1).

46 USC 2101
note.

SEC. 5209. TANK VESSEL DEFINITION CLARIFICATION.

(a) In this section, “offshore supply vessel”, “fish tender vessel”, “fishing vessel”, and “tank vessel” have the meanings given those terms under section 2101 of title 46, United States Code.

(b) The following vessels are deemed not to be a tank vessel for the purposes of any law:

(1) An offshore supply vessel.

(2) A fishing or fish tender vessel of not more than 750 gross tons that transfers without charge to a fishing vessel owned by the same person.

(c)(1) This section does not affect the authority of the Secretary of Transportation under chapter 33 of title 46, United States Code, to regulate the operation of the vessels listed in subsection (b) to ensure the safe carriage of oil and hazardous substances.

(2) This section does not affect the requirement for fish tender vessels engaged in the Aleutian trade to comply with chapters 33, 45, 51, 81, and 87 of title 46, United States Code, as provided in the Aleutian Trade Act of 1990 (Public Law 101-595).

(d) Current regulations governing the vessels in subsection (b) remain in effect.

SEC. 5210. AUTHORITY FOR THE COAST GUARD TO INSPECT AND WITHHOLD DOCUMENTS OF CERTAIN FOREIGN PASSENGER VESSELS.

(a) Section 3303(a) of title 46, United States Code, is amended in the first sentence—

(1) by striking “only” immediately after “is subject”; and

(2) by striking “the condition of the vessel’s propulsion equipment and lifesaving equipment are” and inserting in lieu thereof “the condition of the vessel is”.

(b) Section 3505 of title 46, United States Code, is amended by striking “or domestic vessel of more than 100 gross tons having berth or stateroom accommodations for at least 50 passengers” and insert “vessel”.

SEC. 5211. REIMBURSEMENT FOR OVERSEAS INSPECTIONS AND EXAMINATIONS.

Section 3317(b) of title 46, United States Code, is amended—

(1) by striking “chapter” and inserting “part”; and

(2) by inserting “or a foreign vessel” immediately after “documented vessel”.

SEC. 5212. WATCHSTANDING ON CERTAIN VESSELS.

Section 8104 of title 46, United States Code, is amended—

(1) in subsection (g), by inserting “a vessel used only to respond to a discharge of oil or a hazardous substance,” after “an offshore supply vessel,”; and

(2) by redesignating the second subsection (n) as subsection (o).

SEC. 5213. DENIAL AND REVOCATION OF ENDORSEMENTS.

(a) Chapter 121 of title 46, United States Code, is amended—

(1) in section 12103(a), by striking “On” and inserting “Except as provided in section 12123 of this title, on”;

(2) by amending section 12110(c) to read as follows:

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

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

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

“(3) when a documented vessel with a recreational endorsement is operated other than for pleasure.”; and

(3) by adding the following new section:

“§ 12123. Denial and revocation of endorsements

“When the owner of a vessel fails to pay a civil penalty assessed by the Secretary, the Secretary may deny the issuance or renewal of an endorsement or revoke the endorsement on a certificate of documentation issued under this chapter.”.

(b) The analysis for chapter 121 of title 46, United States Code, is amended by adding at the end the following:

“12123. Denial and revocation of endorsements.”.

SEC. 5214. ACCEPTANCE OF EVIDENCE OF PAYMENT OF COAST GUARD FEES.

46 USC 2110
note.

The Secretary of Transportation may not issue a citation for failure to pay a fee or charge established under section 2110 of title 46, United States Code, to an owner or operator of a recreational vessel who provides reasonable evidence of prior payment of the fee or charge to a Coast Guard boarding officer.

SEC. 5215. SCHEDULE FOR OPERATION OF DRAWBRIDGE OF WOODROW WILSON MEMORIAL BRIDGE.

(a)(1) The Secretary of the department in which the Coast Guard is operating (in this section referred to as the “Secretary”) shall not operate the drawbridge of the Woodrow Wilson Memorial Bridge in the following periods for the passage of a commercial vessel:

(A) Monday through Friday (except Federal holidays), 5:00 a.m. to 10:00 a.m. and 2:00 p.m. to 8:00 p.m.

(B) Saturday, Sunday, and Federal holidays, 2:00 p.m. to 7:00 p.m.

(2) The Secretary need not operate the drawbridge of the Woodrow Wilson Memorial Bridge for the passage of a commercial vessel under paragraph (1) unless—

(A) the owner or operator of the vessel provides the bridge tender with an estimate of the approximate time of that passage at least 12 hours in advance; and

(B) the owner or operator of the vessel notifies the bridge tender at least 4 hours in advance of the requested time for that passage.

(3) Not later than 180 days after the date of enactment of this Act, the Secretary shall issue an Advance Notice of Proposed Rulemaking to solicit comments on whether there are practical ways to encourage owners and operators of commercial vessels to make every reasonable effort to notify the bridge tender of the time a vessel will pass the Woodrow Wilson Memorial Bridge by not later than 24 hours before that passage.

(b)(1) The Secretary shall not operate the drawbridge of the Woodrow Wilson Memorial Bridge in the following periods for the passage of a recreational vessel:

(A) Monday through Friday (except Federal holidays), 5:00 a.m. to 12:00 midnight;

(B) Saturday, Sunday, and Federal holidays, 7:00 a.m. to 12:00 midnight, except as provided in paragraph (2).

(2) Notwithstanding paragraph (1)(B), the Secretary may operate the drawbridge of the Woodrow Wilson Memorial Bridge beginning at 10:00 p.m. on Saturday, Sunday, or a Federal holiday for the passage of a recreational vessel, if the owner or operator of the vessel notifies the Secretary of the time of that passage by not later than 12 hours before that time.

(3) This subsection shall not be construed to prohibit a recreational vessel from passing the Woodrow Wilson Memorial Bridge at any time at which the drawbridge is being operated for the passage of a commercial vessel.

(c) The Secretary shall operate the drawbridge of the Woodrow Wilson Memorial Bridge on signal at anytime for a vessel in distress.

Massachusetts.

SEC. 5216. STATION BRANT POINT BOAT HOUSE.

(a)(1) The Secretary of Transportation shall convey to the town of Nantucket, Massachusetts, all right, title, and interest of the United States in and to the building known as the Station Brant Point Boat House located at Coast Guard Station Brant Point, Nantucket, Massachusetts.

(2) A conveyance of the building under paragraph (1) shall be made—

(A) without the payment of consideration; and

(B) subject to appropriate terms and conditions the Secretary considers necessary.

(b)(1) The Secretary shall enter into a lease of not less than 20 years permitting the town of Nantucket to occupy the property on which the Brant Point Boat House is located, subject to appropriate terms and conditions the Secretary considers necessary.

(2) If the Secretary determines that the property leased under paragraph (1) is necessary for purposes of Coast Guard, the Secretary—

(A) may terminate the lease without payment of compensation; and

(B) shall provide the town of Nantucket with not less than 12 months notice of the requirement to vacate the site and move the Boat House to another location.

SEC. 5217. STUDY OF THE APPLICATION OF TILTROTOR AIRCRAFT TECHNOLOGY TO COAST GUARD MISSIONS.

(a) Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall submit a study to Congress on the application of the V-22 Osprey tiltrotor technology to Coast Guard missions.

(b) In conducting the study under subsection (a), the Secretary shall—

(1) evaluate the application of tiltrotor technology to Coast Guard missions including—

(A) search and rescue at sea; and

(B) the enforcement of laws of the United States especially with respect to drug interdiction;

(2) determine whether use of the technology in the Coast Guard marine environmental protection program would minimize the damage caused by oil or hazardous substances spills in the waters of the United States; and

(3) determine what effect the technology would have on Coast Guard manpower and operating costs, compared to those costs associated with technology currently used by the Coast Guard.

SEC. 5218. ENFORCEMENT AGREEMENTS.

The Coast Guard and the Department of Commerce shall enter into a Memorandum of Agreement regarding fisheries enforcement practices and procedures that provide at a minimum for the opportunity, if timely requested, to appear in person to respond to charges of violation of law or regulation when the opportunity for a hearing is granted by statute. The Memorandum of Agreement shall also provide that all enforcement procedures shall be fair and consistently applied.

SEC. 5219. AUTHORIZING PAYMENTS TO CERTAIN SUBCONTRACTORS.

(a) Not later than 6 months after the date of enactment of this Title, the Secretary of Transportation shall determine the amounts that MZP, Incorporated, owes to all subcontractors that performed work or supplied materials under Coast Guard contract DTCG50-87-C-00096.

(b) Investigations or interviews conducted to determine amounts owed under subsection (a) shall be conducted in Ketchikan, Alaska.

(c) not later than two months after making the determinations under subsection (a), the Secretary is authorized to pay the subcontractors the amounts owed.

SEC. 5220. SANKATY HEAD LIGHT STATION.

Massachusetts.

(a)(1) The Secretary of Transportation shall convey to the Nantucket Historical Association in Nantucket, Massachusetts, by an appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Sankaty Head Light Station.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration;

(B) subject to the condition that all or part of the property may be sold and the money from the sale used for the purpose

of moving the Sankaty Head Lighthouse to a location at which the Lighthouse can be maintained and preserved and for its maintenance and preservation in accordance with paragraph (2); and

(C) subject to such other terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the Sankaty Head Lighthouse shall immediately revert to the United States if the Lighthouse ceases to be maintained as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Nantucket, Massachusetts.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which 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 Nantucket Historical Association may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to replace, or add any aids to navigation, or make any changes to the Sankaty Head Lighthouse as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the property conveyed, or the property to which the Sankaty Head Lighthouse is relocated, without notice for the purpose of maintaining navigation aids; and

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

(4) The Nantucket Historical Association shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section or on property to which the Sankaty Head Lighthouse may be relocated.

(c) The Nantucket Historical Association shall maintain the Sankaty Head Lighthouse in accordance with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(d) For purposes of this section;

(1) "Sankaty Head Light Station" means the Coast Guard lighthouse located on the eastern shore of Nantucket Island, Massachusetts, including the keeper's dwelling, adjacent Coast Guard rights of way, and such land as may be necessary to enable the Nantucket Historical Association to use the proceeds from the sale of the land for the relocation, maintenance and preservation of the Sankaty Head Lighthouse; and

(2) "Sankaty Head Lighthouse" means the Coast Guard lighthouse located at the Sankaty Head Light Station.

SEC. 5221. STUDY OF BUOY CHAIN PROCUREMENT PRACTICES.

(a) Not later than six months after the date of enactment of this Title, the Secretary of Transportation shall submit a study to Congress on acquisition of Coast Guard buoy chain.

(b) In conducting the study under subsection (a), the Secretary shall consider—

(1) the ability of United States buoy chain manufacturers to successfully compete for United States Government contracts to provide buoy chain to the Coast Guard; and

(2) the effect on the national security of United States dependence on foreign sources for acquisition of buoy chain.

SEC. 5222. CORRECTION REGARDING CERTAIN EXEMPTIONS.

Section 4506 of title 46, United States Code, is amended by striking "4502(b)(2)" and inserting "4502(b)(2)(B)".

SEC. 5223. CONTRACT FOR CERTAIN SERVICES AT COAST GUARD SUPPORT CENTER IN KODIAK, ALASKA.

Notwithstanding any other law, the Coast Guard is authorized, pursuant to the provisions of applicable acquisition regulations, to enter into a negotiated contract with PTI, at a fair and reasonable price that reflects a fair allocation of costs between Alaska ratepayers and the Coast Guard, to provide Digitrex central-office-based business services to the Coast Guard Support Center in Kodiak, Alaska, at Building 576. The Coast Guard shall pay only for service and service enhancements received or to be received by the United States at the Coast Guard Support Center, Kodiak, Alaska. The termination liability of such contract shall be negotiated, but shall not exceed \$842,047.

Subtitle C—Abandoned Barges**SEC. 5301. SHORT TITLE.**

This subtitle may be cited as the "Abandoned Barge Act of 1992".

SEC. 5302. ABANDONMENT OF BARGES.

Part B of subtitle II of title 46, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 47—ABANDONMENT OF BARGES

"Sec.

"4701. Definitions.

"4702. Abandonment of barge prohibited.

"4703. Penalty for unlawful abandonment of barge.

"4704. Removal of abandoned barges.

"4705. Liability of barge removal contractors.

"§ 4701. Definitions

"In this chapter—

"(1) 'abandon' means to moor, strand, wreck, sink, or leave a barge of more than 100 gross tons unattended for longer than forty-five days.

"(2) 'barge removal contractor' means a person that enters into a contract with the United States to remove an abandoned barge under this chapter.

"(3) 'navigable waters of the United States' means waters of the United States, including the territorial sea.

Abandoned
Barge Act of
1992.
46 USC 4701
note.

“(4) ‘removal’ or ‘remove’ means relocation, sale, scrapping, or other method of disposal.

“§ 4702. Abandonment of barge prohibited

“(a) An owner or operator of a barge may not abandon it on the navigable waters of the United States. A barge is deemed not to be abandoned if—

“(1) it is located at a Federally- or State-approved mooring area;

“(2) it is on private property with the permission of the owner of the property; or

“(3) the owner or operator notifies the Secretary that the barge is not abandoned and the location of the barge.”

“§ 4703. Penalty for unlawful abandonment of barge

“Thirty days after the notification procedures under section 4704(a)(1) are completed, the Secretary may assess a civil penalty of not more than \$1,000 for each day of the violation against an owner or operator that violates section 4702. A vessel with respect to which a penalty is assessed under this chapter is liable in rem for the penalty.

“§ 4704. Removal of abandoned barges

“(a)(1) The Secretary may remove a barge that is abandoned after complying with the following procedures:

“(A) If the identity of the owner or operator can be determined, the Secretary shall notify the owner or operator by certified mail—

“(i) that if the barge is not removed it will be removed at the owner’s or operator’s expense; and

“(ii) of the penalty under section 4703.

“(B) If the identity of the owner or operator cannot be determined, the Secretary shall publish an announcement in—

“(i) a notice to mariners; and

“(ii) an official journal of the county in which the barge is located

that if the barge is not removed it will be removed at the owner’s or operator’s expense.

“(2) The United States, and any officer or employee of the United States is not liable to an owner or operator for damages resulting from removal of an abandoned barge under this chapter.

“(b) The owner or operator of an abandoned barge is liable, and an abandoned barge is liable in rem, for all expenses that the United States incurs in removing an abandoned barge under this chapter.

“(c)(1) The Secretary may, after providing notice under subsection (a)(1), solicit by public advertisement sealed bids for the removal of an abandoned barge.

“(2) After solicitation under paragraph (1) the Secretary may award a contract. The contract—

“(A) may be subject to the condition that the barge and all property on the barge is the property of the barge removal contractor; and

“(B) must require the barge removal contractor to submit to the Secretary a plan for the removal.

“(3) Removal of an abandoned barge may begin thirty days after the Secretary completes the procedures under subsection (a)(1).

“§ 4705. Liability of barge removal contractors

“(a)(1) A barge removal contractor and its subcontractor not liable for damages that result from actions taken or omitted to be taken in the course of removing a barge under this chapter.

“(2) Paragraph (1) does not apply—

“(A) with respect to personal injury or wrongful death; or

“(B) if the contractor or subcontractor is grossly negligent or engages in willful misconduct.”.

SEC. 5303. APPLICATION TO CERTAIN BARGES.

46 USC 4701
note.

Chapter 47 of title 46, United States Code, as added by subsection (a), does not apply to a barge abandoned before June 11, 1992, if the barge was removed before the date that is 1 year after the date of enactment of this title.

SEC. 5304. CLERICAL AMENDMENT.

The analysis of subtitle II at the beginning of title 46, United States Code, is amended by inserting after the item relating to chapter 45 the following:

“47. Abandonment of barges 4701”.

SEC. 5305. NUMBERING OF BARGES.

Section 12301 of title 46, United States Code, is amended—

(1) by inserting “(a)” before “An undocumented vessel”; and

(2) by adding at the end the following:

“(b) The Secretary shall require an undocumented barge more than 100 gross tons operating on the navigable waters of the United States to be numbered.”.

Subtitle D—Honoring the Coast Guard Women’s Reserve**SEC. 5401. FINDINGS.**

The Congress finds the following:

(1) The Congress passed legislation 50 years ago establishing the Coast Guard Women’s Reserve.

(2) The Congress recognized both women’s right to participate in the total war effort and the military’s pressing need for women during World War II.

(3) The Congress responded to women’s commitment and dedication by creating the Coast Guard Women’s Reserve as a sister service to the WACS, and the Women Marines.

(4) The first director of the Coast Guard Women’s Reserve, Captain Dorothy C. Stratton, named the Coast Guard Women’s Reserve SPAR, an acronym derived from the Latin and English translations of the Coast Guard motto, Semper Paratus Always Ready.

Dorothy C.
Stratton.

(5) The first director recruited the best and brightest women from industry, educational institutions, and homes.

(6) SPARS’ high level of education and experience greatly reduced the need for further training and SPARS only needed to be taught military structure and Coast Guard missions and traditions.

(7) SPARS made history by being the first women trained at a service academy.

(8) SPARS performed admirably as executive officers, division heads, officers of the day, watch officers, and courts martial members.

(9) SPARS served our Nation as boatswain mates, coxswains, gunners mates, carpenters, and machinists mates.

(10) SPARS served with distinction in highly specialized jobs during the Korean War and the Vietnam Conflict.

(11) A group of Coast Guard Women's Reserve remained on active duty during the 1950's and 1960's, primarily at Coast Guard headquarters.

(12) In 1950, women were integrated into the Organized Reserve Training Program.

(13) In every phase of Coast Guard history, women have served our Nation with dedication, honor, and sacrifice.

SEC. 5402. DESIGNATION OF SPAR ANNIVERSARY WEEK.

November 17 through November 23, 1992, is designated as "SPAR Anniversary Week". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Subtitle E—Merchant Marine Provisions

SEC. 5501. COASTWISE LAWS.

(a)(1) Section 1 of the Act of May 28, 1906 (46 App. U.S.C. 292) is amended to read as follows:

"SECTION 1. VESSELS THAT MAY ENGAGE IN DREDGING.

"(a) IN GENERAL.—Except as provided in subsection (b), a vessel may engage in dredging in the navigable waters of the United States only if—

"(1) the vessel meets the requirements of section 27 of the Merchant Marines Act, 1920 and section 2 of the Shipping Act, 1916 for engaging in the coastwise trade;

"(2) when chartered, the charterer of the vessel is a citizen of the United States under section 2 of the Shipping Act, 1916 for engaging in the coastwise trade; and

"(3) for a vessel that is at least 5 net tons, the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement.

"(b) EXCEPTION.—A documented vessel with a registry endorsement may engage in the dredging of gold in Alaska.

"(c) PENALTY.—When a vessel is operated in knowing violation of this section, that vessel and its equipment are liable to seizure by and forfeiture to the United States Government."

(2) The amendment made by paragraph (1) does not apply to—

(A)(i) the vessel STUYVESANT, official number 648540;

(ii) any other hopper dredging vessel documented under chapter 121 of title 46, United States Code before the effective date of this Act and chartered to Stuyvesant Dredging Company or to an entity in which it has an ownership interest; however, this exception expires on December 3, 2022 or when the vessel STUYVESANT ceases to be documented under chapter 121, whichever first occurs; and

(iii) any other non-hopper dredging vessel documented under chapter 121 and chartered to Stuyvesant Dredging Com-

46 USC app. 292
note.

pany or to an entity in which it has an ownership interest, as is necessary (a) to fulfill dredging obligations under a specific contract, including any extension periods; or (b) as temporary replacement capacity for a vessel which has become disabled but only for so long as the disability shall last and until the vessel is in a position to fully resume dredging operations; however, this exception expires on December 8, 2022 or when the vessel STUYVESANT ceases to be documented under chapter 121, whichever first occurs;

(B) the vessel COLUMBUS, official number 590658, except that the vessel's certificate of documentation shall be endorsed to prohibit the vessel from engaging in the transportation of merchandise (except valueless material), including dredge material of value, between places within the navigable waters of the United States;

(C) a vessel that is engaged in dredged material excavation if that excavation is not more than a minority of the total cost of the construction contract in which the excavation is a single, integral part, and the vessel is—

(i) built in the United States;

(ii) a non-self-propelled mechanical clamshell dredging vessel; and

(iii) owned or chartered by a corporation that had on file with the Secretary of Transportation, on August 1, 1989, the certificate specified in section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883-1); or

(D) any other documented vessel engaged in dredging and time chartered to an entity that, on August 1, 1989, was, and has continuously remained, the parent of a corporation that had on file with the Secretary of Transportation on August 1, 1989, a certificate specified in section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883-1) if the vessel is—

(i) not engaged in a federally funded navigation dredging project; and

(ii) engaged only in dredging associated with, and integral to, accomplishment of that parent's regular business requirements.

(b) Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended by striking "merchandise" the first place it appears and inserting "merchandise, including merchandise owned by the United States Government, a State (as defined in section 2101 of the title 46, United States Code), or a subdivision of a State,".

(c) The Act of June 7, 1988 (Public Law 100-329; 102 Stat. 588), including the amendments made by that Act, does not apply to a vessel—

(1) engaged in the transportation of valueless material or valueless dredged material; and

(2) owned or chartered by a corporation that had on file with the Secretary of Transportation on August 1, 1989, the certificate specified in section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883-1).

SEC. 5502. TREATMENT OF CERTAIN SEIZED FISHING VESSELS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) Notwithstanding another law, each of the vessels described in subsection (b) of this section is deemed to have been covered

46 USC app. 883
note.

by an agreement, beginning August 13, 1992, and ending September 29, 1992, with the Secretary of State under section 7 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977).

- (b) The vessels referred to in subsection (a) are the following:
- (1) THE KANAOLA (United States official number 923848).
 - (2) THE MANA LOA (United States official number 919649).
 - (3) THE MANA OLA (United States official number 902605).
 - (4) THE MANA IKI (United States official number 906800).

Subtitle F—Clean Vessels

Clean Vessel Act
of 1992.
Inter-
governmental
relations.
33 USC 1322
note.

SEC. 5601. SHORT TITLE.

This subtitle may be cited as the "Clean Vessel Act of 1992".

SEC. 5602. FINDINGS; PURPOSE.

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

(1) The discharge of untreated sewage by vessels is prohibited under Federal law in all areas within the navigable waters of the United States.

(2) The discharge of treated sewage by vessels is prohibited under either Federal or State law in many of the United States bodies of water where recreational boaters operate.

(3) There is currently an inadequate number of pumpout stations for type III marine sanitation devices where recreational vessels normally operate.

(4) Sewage discharged by recreational vessels because of an inadequate number of pumpout stations is a substantial contributor to localized degradation of water quality in the United States.

(b) PURPOSE.—The purpose of this subtitle is to provide funds to States for the construction, renovation, operation, and maintenance of pumpout stations and waste reception facilities.

SEC. 5603. DETERMINATION AND PLAN REGARDING STATE MARINE SANITATION DEVICE PUMPOUT STATION NEEDS.

(a) SURVEY.—Within 3 months after the notification under section 5605(b), each coastal State shall conduct a survey to determine—

(1) the number and location of all operational pumpout stations and waste reception facilities at public and private marinas, mooring areas, docks, and other boating access facilities within the coastal zone of the State; and

(2) the number of recreational vessels in the coastal waters of the State with type III marine sanitation devices or portable toilets, and the areas of those coastal waters where those vessels congregate.

(b) PLAN.—Within 6 months after the notification under section 5605(b), and based on the survey conducted under subsection (a), each coastal State shall—

(1) develop and submit to the Secretary of the Interior a plan for any construction or renovation of pumpout stations and waste reception facilities that are necessary to ensure that, based on the guidance issued under section 5605(a), there are pumpout stations and waste reception facilities in the State that are adequate and reasonably available to meet the needs

of recreational vessels using the coastal waters of the State; and

(2) submit to the Secretary of the Interior with that plan a list of all stations and facilities in the coastal zone of the State which are operational on the date of submittal.

(c) PLAN APPROVAL.—

(1) IN GENERAL.—Not later than 60 days after a plan is submitted by a State under subsection (b), the Secretary of the Interior shall approve or disapprove the plan, based on—

(A) the adequacy of the survey conducted by the State under subsection (a); and

(B) the ability of the plan, based on the guidance issued under section 5605(a), to meet the construction and renovation needs of the recreational vessels identified in the survey.

(2) NOTIFICATION OF STATE; MODIFICATION.—The Secretary of the Interior shall promptly notify the affected Governor of the approval or disapproval of a plan. If a plan is disapproved, the Secretary of the Interior shall recommend necessary modifications and return the plan to the affected Governor.

(3) RESUBMITTAL.—Not later than 60 days after receiving a plan returned by the Secretary of the Interior, the Governor shall make the appropriate changes and resubmit the plan.

(d) INDICATION OF STATIONS AND FACILITIES ON NOAA CHARTS.—

(1) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere shall indicate, on charts published by the National Oceanic and Atmospheric Administration for the use of operators of recreational vessels, the locations of pumpout stations and waste reception facilities.

(2) NOTIFICATION OF NOAA.—

(A) LISTS OF STATIONS AND FACILITIES.—The Secretary of the Interior shall transmit to the Under Secretary of Commerce for Oceans and Atmosphere each list of operational stations and facilities submitted by a State under subsection (b)(2), by not later than 30 days after the date of receipt of that list.

(B) COMPLETION OF PROJECT.—The Director of the United States Fish and Wildlife Service shall notify the Under Secretary of the location of each station or facility at which a construction or renovation project is completed by a State with amounts made available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this subtitle, by not later than 30 days after the date of notification by a State of the completion of the project.

SEC. 5604. FUNDING.

(a) TRANSFER.—Section 4 of the Act of August 9, 1950 (16 U.S.C. 777c), is amended—

(1) by striking “So much, not to exceed 6 per centum,” and all that follows through “shall apportion the remainder of the appropriation for each fiscal year among the several States” and inserting the following:

“(a) The Secretary of the Interior shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 3 of this Act as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (title III, Public Law

101-646). Notwithstanding the provisions of section 3 of this Act, such sums shall remain available to carry out such Act through fiscal year 1999.

“(b) Of the balance of each such annual appropriation remaining after making the distribution under subsection (a), an amount equal to \$10,000,000 for fiscal year 1993, \$15,000,000 for each of fiscal years 1994 and 1995, and \$20,000,000 for each of fiscal years 1996, and 1997 shall be used as follows:

“(1) one-half shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code; and

“(2) one-half of amounts made available under this subsection in a fiscal year shall be available for two years for obligation under section 5604(c) of the Clean Vessel Act of 1992. The Secretary of the Interior may make grants for qualified projects in an amount up to the amount available under this paragraph. Amounts unobligated by the Secretary of the Interior after two years shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

In fiscal year 1998, an amount equal to \$20,000,000 of the balance remaining after the distribution under subsection (a) shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

“(c) Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a) and (b), respectively, so much, not to exceed 6 per centum of such balance, as the Secretary of the Interior may estimate to be necessary for his or her expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters, shall be deducted for that purpose, and such sum is authorized to be made available until the expiration of the next succeeding fiscal year.

“(d) The Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), and (c), respectively, shall apportion the remainder of each such annual appropriation among the several States”; and

“(2) by inserting “(e)” before “So much of any sum” and redesignating the last 2 sentences of that section as subsection (e).

(b) ACCESS INCREASE.—Section 8 of the Act of August 9, 1950 (16 U.S.C. 777g), is amended—

(1) in subsection (b)(1) by:

(A) striking “10 per centum” and inserting “12½ per centum”; and

(B) inserting after the first sentence the following: “Notwithstanding this provision, States within a United States Fish and Wildlife Service Administrative Region may allocate more or less than 12½ per centum in a fiscal year, provided that the total regional allocation averages 12½ per centum over a 5 year period.”;

(2) in subsection (b)(2) by:

(A) striking "fiscal year" after "succeeding" the first time it appears and inserting "four fiscal years"; and

(B) striking "succeeding fiscal year" the second time it appears and inserting "period";

(3) in subsection (c) by inserting "and outreach" in the first sentence after "education"; and

(4) by adding at the end the following new subsection:

"(d) PUMPOUT STATIONS AND WASTE RECEPTION FACILITIES.—Amounts apportioned to States under section 4 of this Act may be used to pay not more than 75 percent of the costs of constructing, renovating, operating, or maintaining pumpout stations and waste reception facilities (as those terms are defined in the Clean Vessel Act of 1992)."

(c) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior may obligate an amount not to exceed the amount made available under section 4(b)(2) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(2), as amended by this Act), to make grants to—

(A) coastal States to pay not more than 75 percent of the cost to a coastal State of—

(i) conducting a survey under section 5603(a);

(ii) developing and submitting a plan and accompanying list under section 5603(b);

(iii) constructing and renovating pumpout stations and waste reception facilities; and

(iv) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste reception facilities.

(B) inland States, which can demonstrate to the Secretary of the Interior that there are an inadequate number of pumpout stations and waste reception facilities to meet the needs of recreational vessels in the waters of that State, to pay 75 percent of the cost to that State of—

(i) constructing and renovating pumpout stations and waste reception facilities in the inland State; and

(ii) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste reception facilities.

(2) PRIORITY.—In awarding grants under this subsection, the Secretary of the Interior shall give priority consideration to grant applications that—

(A) in coastal States, propose constructing and renovating pumpout stations and waste reception facilities in accordance with a coastal State's plan approved under section 5603(c);

(B) provide for public/private partnership efforts to develop and operate pumpout stations and waste reception facilities; and

(C) propose innovative ways to increase the availability and use of pumpout stations and waste reception facilities.

(d) DISCLAIMER.—Nothing in this subtitle shall be interpreted to preclude a State from carrying out the provisions of this subtitle with funds other than those described in this section.

SEC. 5605. GUIDANCE AND NOTIFICATION.

(a) **ISSUANCE OF GUIDANCE.**—Not later than 3 months after the date of the enactment of this subtitle, the Secretary of the Interior shall, after consulting with the Administrator of the Environmental Protection Agency, the Under Secretary of Commerce for Oceans and Atmosphere, and the Commandant of the Coast Guard, issue for public comment pumpout station and waste reception facility guidance. The Secretary of the Interior shall finalize the guidance not later than 6 months after the date of enactment of this subtitle. The guidance shall include—

(1) guidance regarding the types of pumpout stations and waste reception facilities that may be appropriate for construction, renovation, operation, or maintenance with amounts available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this subtitle, and appropriate location of the stations and facilities within a marina or boatyard;

(2) guidance defining what constitutes adequate and reasonably available pumpout stations and waste reception facilities in boating areas;

(3) guidance on appropriate methods for disposal of vessel sewage from pumpout stations and waste reception facilities;

(4) guidance on appropriate connector fittings to facilitate the sanitary and expeditious discharge of sewage from vessels;

(5) guidance on the waters most likely to be affected by the discharge of sewage from vessels; and

(6) other information that is considered necessary to promote the establishment of pumpout facilities to reduce sewage discharges from vessels and to protect United States waters.

(b) **NOTIFICATION.**—Not later than one month after the guidance issued under subsection (a) is finalized, the Secretary of the Interior shall provide notification in writing to the fish and wildlife, water pollution control, and coastal zone management authorities of each State, of—

(1) the availability of amounts under the Act of August 9, 1950 (16 U.S.C. 777a et seq.) to implement the Clean Vessel Act of 1992; and

(2) the guidance developed under subsection (a).

SEC. 5606. EFFECT ON STATE FUNDING ELIGIBILITY.

This subtitle shall not be construed or applied to jeopardize any funds available to a coastal State under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), if the coastal State is, in good faith, pursuing a survey and plan designed to meet the purposes of this subtitle.

SEC. 5607. APPLICABILITY.

The requirements of section 5603 shall not apply to a coastal State if within six months after the date of enactment of this subtitle the Secretary of the Interior certifies that—

(1) the State has developed and is implementing a plan that will ensure that there will be pumpout stations and waste reception facilities adequate to meet the needs of recreational vessels in the coastal waters of the State; or

(2) existing pumpout stations and waste reception facilities in the coastal waters of the State are adequate to meet those needs.

SEC. 5608. DEFINITIONS.

For the purposes of this subtitle the term:

(1) "coastal State"—

(A) means a State of the United States in, or bordering on the Atlantic, Pacific, or Arctic Ocean; the Gulf of Mexico; Long Island Sound; or one or more of the Great Lakes;

(B) includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

(C) does not include a State for which the ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of shoreline (as that term is defined in section 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), is less than one.

(2) "coastal waters" means—

(A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes; and

(B) in other areas, those waters, adjacent to the shorelines, which contain a measurable percentage of sea water, including sounds, bay, lagoons, bayous, ponds, and estuaries.

(3) "coastal zone" has the same meaning that term has in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1));

(4) "inland State" means a State which is not a coastal state;

(5) "type III marine sanitation device" means any equipment for installation on board a vessel which is specifically designed to receive, retain, and discharge human body wastes;

(6) "pumpout station" means a facility that pumps or receives human body wastes out of type III marine sanitation devices installed on board vessels;

(7) "recreational vessel" means a vessel—

(A) manufactured for operation, or operated, primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure; and

(8) "waste reception facility" means a facility specifically designed to receive wastes from portable toilets carried on vessels, and does not include lavatories.

TITLE VI—DOCUMENTATION OF VESSELS**Subtitle A—Waivers****SEC. 6101. GENERAL WAIVERS.**

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) A WEIGH OF LIFE (United States official number 973177).

(2) Barge MM 262 (United States official number 298924).

- (3) BAY LADY (United States official number 944634).
- (4) BLACK MAGIC (United States official number 617553).
- (5) BLITHE SPIRIT (United States official number 584730).
- (6) BLUEJACKET (United States official number 973459).
- (7) BROWN BEAR (United States official number 980667).
- (8) CAMINANTE (United States official number 953255).
- (9) DELPHINUS II (United States official number 958902).
- (10) EAGLE (United States official number 645820).
- (11) EL BONGO (hull identification number C-200146; New York State registration number 1104FE).
- (12) FIFTY-FIFTY (United States official number 272866).
- (13) FOUR B'S (United States official number 915062).
- (14) HAZANA (State of Hawaii registration number HA9219D).
- (15) HIGH CALIBRE (United States official number 587630).
- (16) JUBILEE (United States official number 582812).
- (17) LIQUID GOLD (United States official number 618121).
- (18) MARIPOSA (United States official number 982102).
- (19) MISS JOAN (State of Ohio registration number 3250 XK).
- (20) NORTH ATLANTIC (United States official number 695377).
- (21) POTOMAC QUEEN (District of Columbia registration number DC7239B).
- (22) REDDY JANE (United States official number 928388).
- (23) SEA HORSE (United States official number 516343).
- (24) SHORELINE XV (United States official number 644839).
- (25) SLALOM (Florida registration number FL1590HD).
- (26) SOUTHERN YANKEE (United States official number 976653).
- (27) THE DAY DREAM (United States official number 644805).
- (28) TOUCH OF CLASS (State of Hawaii registration number HA8762E).
- (29) WILD GOOSE (State of California registration number CF6431FW).

SEC. 6102. WAIVER FOR OIL SPILL ACTIVITIES.

Notwithstanding sections 12106 and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the vessel U.S.M.V. DELIVERER (United States official number 661235) with usage of the vessel under sections 12106 and 12108 of title 46, United States Code, limited to oil spill cleanup and support activities.

SEC. 6103. LIMITED WAIVER.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the vessel TESORO (official number 696047).

SEC. 6104. LIMITED WAIVER FOR YUPIK STAR.

Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of the enactment of this Act, the

Secretary of Transportation may issue a certificate of documentation for the fish processing vessel YUPIK STAR (United States official number 900823).

SEC. 6105. SALE OF VESSELS.

(a) **SALE AUTHORIZED.**—Notwithstanding any other law or any agreement with the United States Government, the vessels described in subsection (b) may be sold to a person that is not a citizen of the United States and transferred to a foreign registry, if that sale is approved by the Secretary of Transportation under section 9(c) of the Shipping Act, 1916 (46 App. U.S.C. 808(c)).

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

- (1) OCEAN CHALLENGER (United States official number 569583).
- (2) OCEAN RUNNER (United States official number 564344).
- (3) OCEAN WIZARD (United States official number 574906).

Subtitle B—Maritime Amendments

SEC. 6201. STUDENT INCENTIVE PAYMENTS.

(a) **AMOUNT OF ANNUAL PAYMENT.**—

(1) **INCREASE IN AMOUNT.**—Section 1304(g)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(1)) is amended by striking “\$1,200” and inserting “\$3,000”.

(2) **APPLICATION.**—The amendment made by subsection (a) shall apply to payments under section 1304(g)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(1)) made with respect to academic years beginning after the date of the enactment of this Act.

46 USC app.
1395c note.

(b) **MANNER OF PAYMENT.**—Section 1304(g)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(1)) is further amended—

- (1) in subparagraph (B) by inserting “and” after the semicolon;
- (2) by striking subparagraph (C);
- (3) by redesignating subparagraph (D) as subparagraph (C); and
- (4) in subparagraph (C) (as so redesignated) by striking “, for the academic years after those years specified in subparagraph (C).”.

(c) **CONFORMING AMENDMENT.**—Section 1304(g)(4) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(4)) is amended by striking “paragraph (1)(C) of this subsection” and inserting “paragraph (1)”.

SEC. 6202. TRANSFER OF CERTAIN VESSELS.

The Secretary of the Navy shall transfer to the Department of Transportation the following vessels, to be assigned as training ships to Texas A&M University at Galveston, Texas, and to the Maine Maritime Academy at Castine, Maine, when those vessels are no longer required for use by the Navy:

- (1) U.S.N.S. CHAUVENET (T-AG-29).
- (2) U.S.N.S. HARKNESS (T-AG-32).

Texas.
Maine.

SEC. 6203. MASSACHUSETTS CENTER FOR MARINE ENVIRONMENTAL PROTECTION.

For Fiscal Year 1993, \$242,000 is authorized to be appropriated to the Maritime Administration for the Massachusetts Center for Marine Environmental Protection located at the Massachusetts Maritime Academy.

SEC. 6204. FEDERAL SHIP MORTGAGE INSURANCE FOR CERTAIN CONSTRUCTION AND RECONSTRUCTION.

Section 1104B(b)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1274a(b)(2)) is amended by striking "73 percent" and inserting "87½ percent".

SEC. 6205. TECHNICAL CORRECTIONS.

(a) **MERCHANT SHIP SALES ACT OF 1946.**—Section 11(b) of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744), as amended by section 6 of the Act of October 13, 1989 (Public Law 101-115; 103 Stat. 693; commonly referred to as the "Maritime Administration Authorization, 1990"), is amended to read as if it had not been repealed by section 307(12) of the Coast Guard Authorization Act of 1989 (Public Law 101-225; 103 Stat. 1925). The effective date of this subsection is December 12, 1989.

(b) **MERCHANT MARINE ACT, 1920.**—Section 19 of the Merchant Marine Act, 1920 (46 App. U.S.C. 876) is amended—

(1) in paragraph (1)(b) by striking "sysetms" and inserting "systems"; and

(2) in paragraph (7)(d) by striking "in proceedings under paragraph (1)(b)(7) of this section," and inserting "under subdivision (b),".

Effective date.
50 USC app.
1744 note.

Partnerships for
Wildlife Act.
16 USC 3741
note.

TITLE VII—PARTNERSHIPS FOR WILDLIFE**SEC. 7101. SHORT TITLE.**

This Title may be cited as the "Partnerships for Wildlife Act".

SEC. 7102. FINDINGS.

The Congress finds the following:

(1) Three-fourths of all American children and adults participate in wildlife-related recreational activities other than hunting, fishing and trapping.

(2) In 1985, Americans spent over \$14 billion on non-consumptive wildlife-related recreation.

(3) The United States and Canada are inhabited by approximately two thousand six hundred vertebrate species of native fish and wildlife, which have provided food, clothing, and other essentials to a rapidly expanding human population.

(4) Over 80 percent of vertebrate fish and wildlife species in North America are not harvested for human use.

(5) The continued well-being of this once-abundant fish and wildlife resource, and even the very existence of many species, is in peril.

(6) In 1967, the United States Fish and Wildlife Service reported that forty-five common migratory bird species, which are not hunted, had exhibited significant declines in abundance, and that thirteen of these species have experienced widespread,

16 USC 3741.

systematic declines of 46.9 percent during a twenty-year study period.

(7) There have been nationwide declines in frogs and other amphibians.

(8) Over two hundred and seventy-five of vertebrate fish and wildlife species in the United States are now officially classified as threatened or endangered by the Federal Government.

(9) During the past decade, fish and wildlife species, including invertebrates, were added to the rapidly growing list of threatened and endangered species in North America at the average rate of over one per month.

(10) Currently, eighty-two species of invertebrates in the United States are listed as threatened or endangered under the Endangered Species Act, and another nine hundred and fifty-one United States invertebrate species are candidates for listing under that Act.

(11) Proper management of fish and wildlife, before species become threatened or endangered with extinction, is the key to reversing the increasingly desperate status of fish and wildlife.

(12) Proper fish and wildlife conservation includes not only management of fish and wildlife species taken for recreation and protection of endangered and threatened species, but also management of the vast majority of species which fall into neither category.

(13) Partnerships in fish and wildlife conservation, such as the Federal Aid in Wildlife Restoration Program, the Federal Aid in Sport Fish Restoration Program, and the North American Wetlands Conservation Act have benefitted greatly the conservation of fish and wildlife and their habitats.

(14) A program that encourages partnerships among Federal and State governments and private entities to carry out wildlife conservation and appreciation projects would benefit all species of fish and wildlife through such activities as management, research, and interagency coordination.

(15) Many States, which are experiencing declining revenues, are finding it increasingly difficult to carry out projects to conserve the entire array of diverse fish and wildlife species and to provide opportunities for the public to associate with, enjoy, and appreciate fish and wildlife through nonconsumptive activities.

SEC. 7103 PURPOSES.

16 USC 3742.

The purposes of this title are to establish a partnership among the United States Fish and Wildlife Service, designated State agencies, and private organizations and individuals—

(1) to carry out wildlife conservation and appreciation projects to conserve the entire array of diverse fish and wildlife species in the United States and to provide opportunities for the public to use and enjoy these fish and wildlife species through nonconsumptive activities;

(2) to enable designated State agencies to respond more fully and utilize their statutory and administrative authorities by carrying out wildlife conservation and appreciation projects; and

(3) to encourage private donations, under the leadership of the National Fish and Wildlife Foundation, to carry out wildlife conservation and appreciation projects.

16 USC 3743.

SEC. 7104. DEFINITIONS.

As used in this title—

(1) The terms “conserve” and “conservation” mean to use, and the use of, such methods and procedures which are necessary to ensure, to the maximum extent practicable, the well being and enhancement of fish and wildlife and their habitats for the educational, aesthetic, cultural, recreational, scientific, and ecological enrichment of the public. Such methods and procedures may include, but are not limited to, any activity associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, maintenance, development, information, education, population manipulation, propagation, technical assistance to private landowners, live trapping, and transplantation.

(2) The term “designated State agency” means the State fish and wildlife agency, which shall be construed to mean any department, or any division of any department of another name, of a State that is empowered under its laws to exercise the functions ordinarily exercised by a State fish and wildlife agency.

(3) The term “fish and wildlife” means wild members of the animal kingdom that are in an unconfined state.

(4) The term “Fund” means the Wildlife Conservation and Appreciation Fund established under section 5(f) of this Act.

(5) The term “National Fish and Wildlife Foundation” means the charitable and nonprofit corporation established under section 2 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701).

(6) The term “nonconsumptive activities” means fish and wildlife associated activities other than harvesting of fish and wildlife and includes, but is not limited to, photographing, observing, learning about, or associating with, fish and wildlife.

(7) The term “Secretary” means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(8) The term “wildlife conservation and appreciation project” means a project which is directed toward nonconsumptive activities or toward the conservation of those species of fish and wildlife that—

(A) are not ordinarily taken for recreation, fur, or food; except that if under applicable State law, any fish and wildlife may be taken for recreation, fur, or food in some but not all, areas of the State, a wildlife conservation and appreciation project may be directed toward the conservation of any of such fish and wildlife within any area of the State in which such taking is not permitted.

(B) are not listed as endangered species or threatened species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543); and

(C) are not marine mammals within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1362(5)).

SEC. 7105. WILDLIFE PARTNERSHIP PROGRAM.

16 USC 3744.

(a) **IN GENERAL.**—The Secretary shall provide the amounts available in the Fund to designated State agencies on a matching basis to assist in carrying out wildlife conservation and appreciation projects that are eligible under subsection (b) of this section.

(b) **ELIGIBLE PROJECTS.**—The following wildlife conservation and appreciation projects shall be eligible for matching funds from the Fund:

- (1) inventory of fish and wildlife species;
- (2) determination and monitoring of the size, range and distribution of populations of fish and wildlife species;
- (3) identification of the extent, condition, and location of the significant habitats of fish and wildlife species;
- (4) identification of the significant problems that may adversely affect fish and wildlife species and their significant habitats;
- (5) actions to conserve fish and wildlife species and their habitats; and
- (6) actions of which the principal purpose is to provide opportunities for the public to use and enjoy fish and wildlife through nonconsumptive activities.

(c) **PROJECT STANDARDS.**—The Secretary shall not provide funding to carry out an eligible wildlife conservation and appreciation project unless the Secretary determines that such a project—

- (1) is planned adequately to accomplish the stated objective or objectives;
- (2) utilizes accepted fish and wildlife management principles, sound design and appropriate procedures;
- (3) will yield benefits pertinent to the identified need at a level commensurate with project costs;
- (4) provides for the tracking of costs and accomplishments related to the project;
- (5) provides for monitoring, evaluating, and reporting of the accomplishment of project objectives; and
- (6) complies with all applicable Federal environmental laws and regulations.

(d) **LIMITATIONS ON FEDERAL PAYMENT.**—The amount of appropriated Federal funds provided from the Fund by the Secretary to any designated State Agency with respect to any fiscal year to carry out an eligible wildlife conservation and appreciation project under this section—

- (1) may not exceed \$250,000;
- (2) may not exceed one third of the total project cost for that fiscal year;
- (3) may not exceed 40 percent of the total project cost for that fiscal year if designated State agencies from two or more States cooperate in implementing such a project;
- (4) may not be used to defray the administrative cost of State programs; and
- (5) may not exceed the State share of the cost of implementing such a project.

(e) **FORM OF STATE SHARE.**—The share of the cost of carrying out eligible projects under this section shall be from a non-Federal source and shall not be in the form of an in-kind contribution.

(f) **ELIGIBILITY OF DESIGNATED STATE AGENCIES.**—No designated State agency shall be eligible to receive matching funds from the Wildlife Conservation and Appreciation Fund if revenue

derived from activities regulated by such an agency is diverted for any purpose other than the management and conservation of fish and wildlife. Such revenue shall include, but not be limited to, all income from the sale of hunting, fishing and trapping licenses; all income from nongame checkoff systems; all income from the sale of waterfowl, habitat conservation, and other stamps that are requisite for engaging in certain activities regulated by the designated State agency; all income from the sale of any commodities and products by the designated State agency from lands and waters administered by the State for fish and wildlife purposes; and all funds apportioned to the designated State agency under the Federal Aid in Wildlife and Sport Fish Restoration Programs.

(g) ESTABLISHMENT OF FUND.—(1) The Secretary shall establish the Fund, which shall consist of amounts deposited into the Fund by the Secretary under paragraph (2) of this subsection.

(2) The Secretary shall deposit into the Fund—

(A) amounts appropriated to the Secretary for deposit to the Fund, of which not more than 4 percent shall be available to the Secretary and the National Fish and Wildlife Foundation to defray the costs of administering this Act and evaluating wildlife conservation and appreciation projects; and

(B) amounts received as donations from the National Fish and Wildlife Foundation or other private entities or persons for deposit to the Fund.

(3) The Secretary may accept and use donations from the National Fish and Wildlife Foundation and other private entities or persons for purposes of assisting States under this section.

(4) Of the total amount provided from the Fund to assist a State in carrying out a wildlife conservation and appreciation project under subsection (a) of this section, at least 50 percent shall have been donated to the Fund by the National Fish and Wildlife Foundation.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund and to the Secretary for each of fiscal years 1992 through 1995 not to exceed \$6,250,000 to match the amount of contributions made to the Fund by the National Fish and Wildlife Foundation.

TITLE VIII—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

North Pacific
Anadromous
Stocks
Convention Act
of 1992.
16 USC 5001
note.

SEC. 8001. SHORT TITLE.

This title may be cited as the "North Pacific Anadromous Stocks Convention Act of 1992".

16 USC 5001.

SEC. 8002. PURPOSE.

It is the purpose of this title to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992.

16 USC 5002.

SEC. 8003. DEFINITIONS.

As used in this title, the term—

(1) "Anadromous stocks" means stocks of species listed in the Annex to the Convention that migrate into the Convention area.

(2) "Anadromous fish" means fish of the species listed in the Annex to the Convention that migrate into the Convention area.

(3) "Authorized officer" means a law enforcement official authorized to enforce this title under section 8009(a).

(4) "Commission" means the North Pacific Anadromous Fish Commission provided for by article VIII of the Convention.

(5) "Convention" means the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean, signed in Moscow, February 11, 1992.

(6) "Convention area" means the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude, beyond two hundred nautical miles from the baselines from which the breadth of the territorial sea is measured.

(7) "Directed fishing" means fishing targeted at a particular species or stock of fish.

(8) "Ecologically related species" means living marine species which are associated with anadromous stocks found in the Convention area, including, but not restricted to, both predators and prey of anadromous fish.

(9) "Enforcement officer" means a law enforcement official authorized by any Party to enforce this title.

(10) "Exclusive economic zone" means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this title, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(11) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(12) "Fishing" means—

(A) the catching, taking, or harvesting of fish, or any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(B) any operation at sea in preparation for or in direct support of any activity described in subparagraph (A).

(13) "Fishing vessel" means—

(A) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(B) any vessel outfitted to engage in any activity described in subparagraph (A);

(C) any vessel described in subparagraph (A) or (B).

(14) "Incidental taking" means catching, taking, or harvesting a species or stock of fish while conducting directed fishing for another species or stock of fish.

(15) "Party" means Canada, Japan, the Russian Federation, the United States, and any other nation that may accede to the Convention.

(16) "Secretary" means the Secretary of State.

(17) "United States Section" means the United States Commissioners of the Commission.

SEC. 8004. UNITED STATES COMMISSIONERS.

(a) COMMISSIONERS.—The United States shall be represented on the Commission by not more than three United States Commissioners to be appointed by and serve at the pleasure of the Presi-

16 USC 5003.

President.

dent. Each United States Commissioner shall be appointed for a term of office not to exceed 4 years, but is eligible for reappointment. Of the Commissioners—

- (1) one shall be an official of the United States Government;
- (2) one shall be a resident of the State of Alaska; and
- (3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the anadromous stocks and ecologically related species of the North Pacific Ocean.

(b) **ALTERNATE COMMISSIONERS.**—The Secretary, in consultation with the Secretary of Commerce, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise all designated powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(c) **UNITED STATES SECTION.**—The United States Section, in consultation with the Advisory Panel established in section 8005, shall identify and recommend to the Commission research needs and priorities for anadromous stocks and ecologically related species subject to the Convention, and oversee the United States research programs involving such fisheries, stocks, and species.

(d) **COMPENSATION.**—United States Commissioners and Alternate United States Commissioners shall receive no compensation for their services as Commissioners and Alternate Commissioners.

16 USC 5004.

SEC. 8005. ADVISORY PANEL.

(a) **ESTABLISHMENT OF PANEL.**—An Advisory Panel to the United States Section is established. The Advisory Panel shall be composed of the following:

- (1) The Commissioner of the Alaska Department of Fish and Game.
- (2) The Director of the Washington Department of Fisheries.
- (3) One representative of the Pacific States Marine Fisheries Commission, designated by the Executive Director of that commission.

(4) Eleven members (six of whom shall be residents of the State of Alaska and five of whom shall be residents of the State of Washington), appointed by the Secretary, in consultation with the Secretary of Commerce, from among a slate of 12 persons nominated by the Governor of Alaska and a slate of 10 persons nominated by the Governor of Washington.

(b) **QUALIFICATIONS.**—Persons appointed to the Advisory Panel shall be individuals who are knowledgeable or experienced concerning anadromous stocks and ecologically related species. In submitting a slate of nominees pursuant to subsection (a)(4), the Governors of Alaska and Washington shall seek to represent the broad range of parties interested in anadromous stocks and ecologically related species, and at a minimum shall include on each slate at least one representative of commercial salmon fishing interests and of environmental interests concerned with protection of living marine resources.

(c) **LIMITATION ON SERVICE.**—Any person appointed to the Advisory Panel pursuant to subsection (a)(4) shall serve for a term not to exceed 4 years, and may not serve more than two consecutive terms.

(d) **FUNCTIONS.**—The Advisory Panel shall be invited to all nonexecutive meetings of the United States Section and at such meetings shall be granted the opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(e) **COMPENSATION AND EXPENSES.**—The members of the Advisory Panel shall receive no compensation or travel expenses for their services as such members.

SEC. 8006. COMMISSION RECOMMENDATIONS.

16 USC 5005.

The Secretary, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article IX of the Convention.

SEC. 8007. ADMINISTRATION AND ENFORCEMENT OF CONVENTION.

16 USC 5006.

(a) **RESPONSIBILITIES.**—The Secretary of Commerce shall be responsible for administering provisions of the Convention, this title, and regulations issued under this title. The Secretary, in consultation with the Secretary of Commerce and the Secretary of Transportation, shall be responsible for coordinating the participation of the United States in the Commission.

(b) **CONSULTATION AND COOPERATION.**—In carrying out such functions, the Secretary of Commerce—

Regulations.

(1) shall, in consultation with the Secretary of Transportation and the United States Section, issue such regulations as may be necessary to carry out the purposes and objectives of the Convention and this title; and

(2) may, with the concurrence of the Secretary, cooperate with the authorized officials of the government of any Party.

SEC. 8008. COOPERATION WITH OTHER AGENCIES.

16 USC 5007.

(a) **IN GENERAL.**—Any agency of the Federal Government is authorized, upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(b) **FUNCTIONS OF SECRETARY OF COMMERCE.**—In carrying out the provisions of the Convention and this title, the Secretary of Commerce may arrange for cooperation with agencies of the United States, the States, private institutions and organizations, and agencies of the government of any Party, to conduct scientific and other programs, and may execute such memoranda as may be necessary to reflect such agreements.

SEC. 8009. ENFORCEMENT PROVISIONS.

16 USC 5008.

(a) **DUTIES OF SECRETARIES OF COMMERCE AND TRANSPORTATION.**—This title shall be enforced by the Secretary of Commerce and the Secretary of Transportation. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance

of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers to enforce the provisions of the Convention, this title, and regulations issued under this title. Any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) **DISTRICT COURT JURISDICTION.**—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title.

(c) **POWERS OF ENFORCEMENT OFFICERS.**—Authorized officers may, shoreward of the outer boundary of the exclusive economic zone, or during hot pursuit from the zone—

(1) with or without a warrant or other process—

(A) arrest any person, if he or she has reasonable cause to believe that such person has committed an act prohibited by section 8010;

(B) board, and search or inspect, any fishing vessel subject to the provisions of the Convention and this title;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this title, or regulations issued under this title;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C);

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(d) **ADDITIONAL POWERS.**—(1) An authorized officer may in the Convention area—

(A) board a vessel of any Party that reasonably can be believed to be engaged in directed fishing for, incidental taking of, or processing of anadromous fish, and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons, on board the vessel, for the purpose of carrying out the provisions of the Convention, this title, or any regulation issued under this title; and

(B) if any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the authorized officer, arrest or seize such person or vessel and further investigate the circumstance if necessary.

If an authorized officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall deliver the vessel or person as promptly as practicable to the enforcement officers of the appropriate Party, in accordance with the provisions of the Convention.

(2) When requested by the appropriate authorities of a Party, an authorized officer may be directed to attend as a witness, and

to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution by that Party of any violation of the provisions of the Convention or any law of that Party relating to the enforcement thereof.

SEC. 8010. UNLAWFUL ACTIVITIES.

16 USC 5009.

It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

- (1) to fish for any anadromous fish in the Convention area;
- (2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;
- (3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;
- (4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this title, or any regulation issued under this title;
- (5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purchases of conducting any search or inspection in connection with the enforcement of the Convention, this title, or any regulation issued under this title;
- (6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (5);
- (7) to resist a lawful arrest or detection for any act prohibited by this section;
- (8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or
- (9) to violate any provision of the Convention, this title, or any regulation issued under this title.

SEC. 8011. PENALTIES.

16 USC 5010.

(a) **CIVIL PENALTIES.**—(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 8010 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary of Commerce, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a complaint in such court within thirty days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary of Commerce, the Attorney General, and the appropriate United

States Attorney. The Secretary of Commerce shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary of Commerce shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary of Commerce, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 8010 shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(5) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(6) For the purposes of conducting any hearing under this section, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) OFFENSES.—(1) A person is guilty of an offense if that person commits any act prohibited by section 8010 (5), (6), (7), or (8).

(2) Any offense described in paragraph (1) is a class A misdemeanor punishable by a fine under title 18, United States Code, or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

(c) FORFEITURE.—(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any

fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 1810 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(2) Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

Courts.

(3) If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(B) the disposition of such property or the proceeds from the sale thereof; and

(C) the remission or mitigation of any such forfeiture; shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 8009(b) shall—

(i) stay the execution of such process; or

(ii) discharge any fish seized pursuant to such process; upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(B) Any fish seized pursuant to this title may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 8010 were taken or retained in violation of the Convention and this title.

SEC. 8012. FUNDING REQUIREMENTS.

16 USC 5011.

(a) AUTHORIZATION.—There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this title, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners; and

(2) the United States share of the joint expenses of the Commission.

(b) RESEARCH.—Such funds as shall be made available to the Secretary of Commerce for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs pursuant to the Convention.

16 USC 5012.

SEC. 8013. DISPOSITION OF PROPERTY.

The Secretary shall dispose of any United States property held by the International North Pacific Fisheries Commission on the date of its termination in a manner that would further the purposes of this title.

SEC. 8014. REPEAL OF THE NORTH PACIFIC FISHERIES ACT OF 1954.

The Act of August 12, 1954 (16 U.S.C. 1021-1035) is repealed.

Approved November 4, 1992.

LEGISLATIVE HISTORY—H.R. 5617:

HOUSE REPORTS: No. 102-927 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 138 (1992):

Oct. 5, considered and passed House.
Oct. 7, considered and passed Senate.