

Union Calendar No. 127

108TH CONGRESS
1ST SESSION

H. R. 2443

[Report No. 108–233]

To authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2003

Mr. YOUNG of Alaska (for himself, Mr. LoBiondo, Mr. Oberstar, and Mr. Filner) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

JULY 24, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on June 12, 2003]

A BILL

To authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be referred to as the “Coast Guard and*
 3 *Maritime Transportation Act of 2003”.*

4 **SEC. 2. TABLE OF CONTENTS.**

5 *The table of contents for this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.

Sec. 102. Authorized levels of military strength and training.

TITLE II—COAST GUARD MANAGEMENT

Sec. 201. Long-term leases.

Sec. 202. Nonappropriated fund instrumentalities.

Sec. 203. Term of enlistments.

Sec. 204. Enlisted member critical skill training bonus.

*Sec. 205. Enhancement of Coast Guard authority to stop vessels liable to seizure
or examination.*

*Sec. 206. Administrative, collection, and enforcement costs for certain fees and
charges.*

Sec. 207. Expansion of Coast Guard housing authorities.

Sec. 208. Requirement for constructive credit.

Sec. 209. Maximum age for retention in an active status.

Sec. 210. Payments.

Sec. 211. Coast Guard fellowship program.

Sec. 212. Air search and rescue facility in Muskegon County, Michigan.

Sec. 213. National Coast Guard Museum.

Sec. 214. Limitation on number of commissioned officers.

Sec. 215. Redistricting notification requirement.

TITLE III—NAVIGATION

Sec. 301. Marking of underwater wrecks.

Sec. 302. Use of electronic devices; cooperative agreements.

Sec. 303. Inland navigation rules promulgation authority.

TITLE IV—SHIPPING

Sec. 401. Reports from charterers.

*Sec. 402. Suspension of documents in lieu of mandatory revocation for proved
drug convictions.*

Sec. 403. Inspection of records of merchant mariners’ documents.

*Sec. 404. Exemption of unmanned barges from citizenship requirements regard-
ing command of vessel.*

*Sec. 405. Administrative, collection, and enforcement costs for certain fees and
charges.*

Sec. 406. Compliance with International Safety Management Code.

- Sec. 407. Civil penalties for failure to comply with recreational vessel and associated equipment safety standards.*
- Sec. 408. Revision of temporary suspension criteria in document suspension and revocation cases.*
- Sec. 409. Revision of bases for document suspension and revocation cases.*
- Sec. 410. Hours of service on towing vessels.*
- Sec. 411. Automatic identification system electronic charts.*
- Sec. 412. Prevention of departure.*

TITLE V—FEDERAL MARITIME COMMISSION

- Sec. 501. Authorization of appropriations for Federal Maritime Commission.*

TITLE VI—MISCELLANEOUS

- Sec. 601. Increase in civil penalties for violations of certain bridge statutes.*
- Sec. 602. Conveyance of decommissioned Coast Guard Cutter SUNDEW.*
- Sec. 603. Tonnage measurement.*
- Sec. 604. Operation of vessel STAD AMSTERDAM.*
- Sec. 605. Great Lakes National Maritime Enhancement Institute.*
- Sec. 606. Agile Port and Intelligent Border Security National Demonstration Project.*
- Sec. 607. Koss Cove.*
- Sec. 608. Miscellaneous certificates of documentation.*
- Sec. 609. Dredging study.*
- Sec. 610. Report regarding security inspection of vessels and vessel-borne cargo containers entering the United States.*

TITLE VII—AMENDMENTS RELATING TO OIL POLLUTION ACT OF 1990

- Sec. 701. Vessel response plans for nontank vessels over 400 gross tons.*
- Sec. 702. Requirements for tank level and pressure monitoring devices.*
- Sec. 703. Liability and cost recovery.*

1 TITLE I—AUTHORIZATION

2 SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

3 (a) OPERATIONS AND CAPITAL ACQUISITIONS.—

4 (1) IN GENERAL.—*Funds are authorized to be*

5 *appropriated for fiscal year 2004 for necessary ex-*

6 *penses of the Coast Guard as follows:*

7 (A) OPERATING EXPENSES.—*For the oper-*

8 *ating expenses of the Coast Guard,*

9 *\$4,996,000,000, of which—*

1 (i) \$4,979,000,000 is for operation and
2 maintenance of the Coast Guard; and

3 (ii) \$17,000,000 is for environmental
4 compliance and restoration at Coast Guard
5 facilities (other than parts and equipment
6 associated with operations and maintenance).
7

8 (B) CAPITAL ACQUISITIONS.—For the capital
9 acquisitions of the Coast Guard,
10 \$1,097,000,000, of which—

11 (i) \$355,000,000 is for acquisition,
12 construction, rebuilding, and improvement
13 of aids to navigation, shore and offshore facilities,
14 vessels, and aircraft, including
15 equipment related thereto;

16 (ii) \$702,000,000 is for acquisition
17 and construction of shore and offshore facilities,
18 vessels, and aircraft, including
19 equipment related thereto, and other activities
20 that constitute the Integrated Deep-water Systems program;
21

22 (iii) \$22,000,000 is for research, development,
23 test, and evaluation of technologies,
24 materials, and human factors directly relating
25 to improving the performance of the

1 *Coast Guard's mission in support of search*
2 *and rescue, aids to navigation, marine safe-*
3 *ty, marine environmental protection, en-*
4 *forcement of laws and treaties, ice oper-*
5 *ations, oceanographic research, and defense*
6 *readiness; and*

7 *(iv) \$18,000,000 is for the alteration or*
8 *removal of bridges over navigable waters of*
9 *the United States constituting obstructions*
10 *to navigation, and for personnel and ad-*
11 *ministrative costs associated with the*
12 *Bridge Alteration Program.*

13 *(2) SOURCE OF FUNDS.—*

14 *(A) OPERATING EXPENSES.—Of the amount*
15 *authorized in paragraph (1)(A), \$25,000,000 is*
16 *authorized to be derived from the Oil Spill Li-*
17 *ability Trust Fund to carry out the purposes of*
18 *section 1012(a)(5) of the Oil Pollution Act of*
19 *1990.*

20 *(B) CAPITAL ACQUISITIONS.—Of the*
21 *amounts authorized by paragraph (1)(B)—*

22 *(i) \$20,000,000 is authorized to be de-*
23 *rived from the Oil Spill Liability Trust*
24 *Fund to carry out the purposes of section*

1 1012(a)(5) of the Oil Pollution Act of 1990;
 2 and
 3 (ii) \$3,500,000 is authorized to be de-
 4 rived each fiscal year from the Oil Spill Li-
 5 ability Trust Fund to carry out the pur-
 6 poses of section 1012(a)(5) of the Oil Pollu-
 7 tion Act of 1990.

8 (b) *RETIRED PAY*.—There is authorized to be appro-
 9 priated for Coast Guard retired pay (including the pay-
 10 ment of obligations otherwise chargeable to lapsed appro-
 11 priations for this purpose), payments with respect to the
 12 Coast Guard under the Retired Serviceman’s Family Pro-
 13 tection and Survivor Benefit Plans, and payments for med-
 14 ical care of retired Coast Guard personnel and their de-
 15 pendents under chapter 55 of title 10, United States Code,
 16 \$1,020,000,000.

17 **SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH**
 18 **AND TRAINING.**

19 (a) *ACTIVE DUTY STRENGTH*.—The Coast Guard is
 20 authorized an end-of-year strength for active duty personnel
 21 of 45,500 as of September 30, 2004.

22 (b) *MILITARY TRAINING STUDENT LOADS*.—The Coast
 23 Guard is authorized average military training student
 24 loads as follows:

1 (1) *For recruit and special training for fiscal*
 2 *year 2004, 2,500 student years.*

3 (2) *For flight training for fiscal year 2004, 125*
 4 *student years.*

5 (3) *For professional training in military and ci-*
 6 *vilian institutions for fiscal year 2004, 350 student*
 7 *years.*

8 (4) *For officer acquisition for fiscal year 2004,*
 9 *1,200 student years.*

10 ***TITLE II—COAST GUARD*** 11 ***MANAGEMENT***

12 ***SEC. 201. LONG-TERM LEASES.***

13 *Section 93 of title 14, United States Code, is amend-*
 14 *ed—*

15 (1) *by redesignating paragraphs (a) through (x)*
 16 *in order as paragraphs (1) through (23);*

17 (2) *in paragraph (18) (as so redesignated) by*
 18 *striking the comma at the end and inserting a semi-*
 19 *colon;*

20 (3) *by inserting “(a)” before “For the purpose”;*
 21 *and*

22 (4) *by adding at the end the following:*

23 “(b)(1) *Notwithstanding subsection (a)(14), a lease de-*
 24 *scribed in paragraph (2) of this subsection may be for a*
 25 *term of up to 20 years.*

1 “(2) A lease referred to in paragraph (1) is a lease—

2 “(A) to the United States Coast Guard Academy
3 Alumni Association for the construction of an Alumni
4 Center on the grounds of the United States Coast
5 Guard Academy; or

6 “(B) to an entity with which the Commandant
7 has a cooperative agreement under section 4(e) of the
8 Ports and Waterways Safety Act, and for which a
9 term longer than 5 years is necessary to carry out the
10 agreement.”.

11 **SEC. 202. NONAPPROPRIATED FUND INSTRUMENTALITIES.**

12 (a) *IN GENERAL.*—Chapter 7 of title 14, United States
13 Code, is amended by adding at the end the following:

14 **“§ 152. Nonappropriated fund instrumentalities: con-**
15 **tracts with other agencies and instrumen-**
16 **talities to provide or obtain goods and**
17 **services**

18 “The Coast Guard Exchange System, or a morale, wel-
19 fare, and recreation system of the Coast Guard, may enter
20 into a contract or other agreement with any element or in-
21 strumentality of the Coast Guard or with another Federal
22 department, agency, or instrumentality to provide or obtain
23 goods and services beneficial to the efficient management
24 and operation of the Coast Guard Exchange System or that
25 morale, welfare, and recreation system.”.

1 (b) *CLERICAL AMENDMENT.*—*The table of sections at*
 2 *the beginning of chapter 7 of title 14, United States Code,*
 3 *is amended by adding at the end the following:*

*“152. Nonappropriated fund instrumentalities: contracts with other agencies and
 instrumentalities to provide or obtain goods and services.”.*

4 **SEC. 203. TERM OF ENLISTMENTS.**

5 *Section 351(a) of title 14, United States Code, is*
 6 *amended by striking “terms of full years not exceeding six*
 7 *years.” and inserting “a period of at least two years but*
 8 *not more than six years.”.*

9 **SEC. 204. ENLISTED MEMBER CRITICAL SKILL TRAINING**
 10 **BONUS.**

11 (a) *IN GENERAL.*—*Chapter 11 of title 14, United*
 12 *States Code, is amended by inserting after section 373 the*
 13 *following:*

14 **“§374. Critical skill training bonus**

15 *“(a) The Secretary may provide a bonus, not to exceed*
 16 *\$20,000, to an enlisted member who completes training in*
 17 *a skill designated as critical, if at least four years of obli-*
 18 *gated active service remain on the member’s enlistment at*
 19 *the time the training is completed. A bonus under this sec-*
 20 *tion may be paid in a single lump sum or in periodic in-*
 21 *stallments.*

22 *“(b) If an enlisted member voluntarily or because of*
 23 *misconduct does not complete the member’s term of obli-*
 24 *gated active service, the Secretary may require the member*

1 *to repay the United States, on a pro rata basis, all sums*
 2 *paid under this section. The Secretary may charge interest*
 3 *on the amount repaid at a rate, to be determined quarterly,*
 4 *equal to 150 percent of the average of the yields on the 91-*
 5 *day Treasury bills auctioned during the calendar quarter*
 6 *preceding the date on which the amount to be repaid is de-*
 7 *termined.”.*

8 (b) *CLERICAL AMENDMENT.—The table of sections at*
 9 *the beginning of chapter 11 of title 14, United States Code,*
 10 *is amended by inserting the following after the item relating*
 11 *to section 373:*

“374. Critical skill training bonus.”.

12 **SEC. 205. ENHANCEMENT OF COAST GUARD AUTHORITY TO**
 13 **STOP VESSELS LIABLE TO SEIZURE OR EXAM-**
 14 **INATION.**

15 (a) *REPEAL OF REQUIREMENT TO FIRE WARNING*
 16 *SHOT.—Subsection (a) of section 637 of title 14, United*
 17 *States Code, is amended—*

18 (1) *by inserting “(1)” after “(a)”;*

19 (2) *by striking “after a” and all that follows*
 20 *through “signal,” and inserting “subject to paragraph*
 21 *(2),”;* and

22 (3) *by adding at the end the following:*

23 “(2) *Before firing at or into a vessel as authorized in*
 24 *paragraph (1), the person in command or in charge of the*
 25 *authorized vessel or authorized aircraft shall fire a gun as*

1 *a warning signal, except that the prior firing of a gun as*
 2 *a warning signal is not required if that person determines*
 3 *that the firing of a warning signal would unreasonably en-*
 4 *danger persons or property in the vicinity of the vessel to*
 5 *be stopped.”.*

6 (b) *EXTENSION TO MILITARY AIRCRAFT OF COAST*
 7 *GUARD INTERDICTION AUTHORITY.*—Subsection (c) of such
 8 *section is amended—*

9 (1) *in paragraph (1) by inserting “or” after the*
 10 *semicolon; and*

11 (2) *in paragraph (2) by striking “; or” and all*
 12 *that follows through paragraph (3) and inserting a*
 13 *period.*

14 (c) *REPEAL OF TERMINATION OF APPLICABILITY TO*
 15 *NAVAL AIRCRAFT.*—Subsection (d) of such section is re-
 16 *pealed.*

17 **SEC. 206. ADMINISTRATIVE, COLLECTION, AND ENFORCE-**
 18 **MENT COSTS FOR CERTAIN FEES AND**
 19 **CHARGES.**

20 *Section 664 of title 14, United States Code, is amend-*
 21 *ed—*

22 (1) *by redesignating subsection (c) as subsection*
 23 *(f);*

24 (2) *by inserting after subsection (b) the fol-*
 25 *lowing:*

1 “(c) *In addition to the collection of fees and charges*
2 *established under this section, the Secretary may recover*
3 *from the person liable for the fee or charge the costs of col-*
4 *lecting delinquent payments of the fee or charge, and en-*
5 *forcement costs associated with delinquent payments of the*
6 *fees and charges.*

7 “(d)(1) *The Secretary may employ any Federal, State,*
8 *or local agency or instrumentality, or any private enter-*
9 *prise or business, to collect a fee or charge established under*
10 *this section.*

11 “(2) *A private enterprise or business employed by the*
12 *Secretary to collect fees or charges—*

13 “(A) *shall be subject to reasonable terms and*
14 *conditions agreed to by the Secretary and the enter-*
15 *prise or business;*

16 “(B) *shall provide appropriate accounting to the*
17 *Secretary; and*

18 “(C) *may not institute litigation as part of that*
19 *collection.*

20 “(e) *The Secretary shall account for the agency’s costs*
21 *of collecting a fee or charge as a reimbursable expense, and*
22 *the costs shall be credited to the account from which ex-*
23 *pended.”; and*

24 (3) *by adding at the end the following:*

1 “(g) *In this section the term ‘costs of collecting a fee*
 2 *or charge’ includes the reasonable administrative, account-*
 3 *ing, personnel, contract, equipment, supply, training, and*
 4 *travel expenses of calculating, assessing, collecting, enforc-*
 5 *ing, reviewing, adjusting, and reporting on a fee or*
 6 *charge.’”.*

7 **SEC. 207. EXPANSION OF COAST GUARD HOUSING AU-**
 8 **THORITIES.**

9 (a) *ELIGIBLE ENTITY DEFINED.*—Section 680 of title
 10 14, *United States Code*, is amended—

11 (1) *by redesignating paragraphs (3) and (4) in*
 12 *order as paragraphs (4) and (5); and*

13 (2) *by inserting after paragraph (2) the fol-*
 14 *lowing:*

15 “(3) *The term ‘eligible entity’ means any private*
 16 *person, corporation, firm, partnership, or company*
 17 *and any State or local government or housing author-*
 18 *ity of a State or local government.’”.*

19 (b) *DIRECT LOANS FOR PROVIDING HOUSING.*—Sec-
 20 *tion 682 of title 14, United States Code*, is amended—

21 (1) *in the section heading by striking “LOAN*
 22 *GUARANTEES” and inserting “DIRECT LOANS AND*
 23 *LOAN GUARANTEES”;*

24 (2) *by redesignating subsections (a) and (b) as*
 25 *(b) and (c) respectively;*

1 (3) *by inserting before subsection (b) (as so re-*
 2 *designated) the following:*

3 “(a) *DIRECT LOANS.*—(1) *Subject to subsection (c), the*
 4 *Secretary may make direct loans to an eligible entity in*
 5 *order to provide funds to the eligible entity for the acquisi-*
 6 *tion or construction of housing units that the Secretary de-*
 7 *termines are suitable for use as military family housing*
 8 *or as military unaccompanied housing.*

9 “(2) *The Secretary shall establish such terms and con-*
 10 *ditions with respect to loans made under this subsection as*
 11 *the Secretary considers appropriate to protect the interests*
 12 *of the United States, including the period and frequency*
 13 *for repayment of such loans and the obligations of the obli-*
 14 *gors on such loans upon default.”;*

15 (4) *in subsection (b) (as so redesignated) by*
 16 *striking “subsection (b),” and inserting “subsection*
 17 *(c),”;* and

18 (5) *in subsection (c) (as so redesignated)—*

19 (A) *in the heading by striking “GUAR-*
 20 *ANTEE”;* and

21 (B) *by striking “Loan guarantees” and in-*
 22 *serting “Direct loans and loan guarantees”.*

23 (c) *LIMITED PARTNERSHIPS WITH ELIGIBLE ENTI-*
 24 *TIES.*—*Section 684 of title 14, United States Code, is*
 25 *amended—*

1 (1) *in the section heading by striking “**NON-***
 2 ***GOVERNMENTAL*” and inserting “**ELIGIBLE**”;**

3 (2) *in subsection (a) by striking “nongovern-*
 4 *mental” and inserting “eligible”;*

5 (3) *in subsection (b)(1) by striking “a non-*
 6 *governmental” and inserting “an eligible”;*

7 (4) *in subsection (b)(2) by striking “a non-*
 8 *governmental” and inserting “an eligible”; and*

9 (5) *in subsection (c) by striking “nongovern-*
 10 *mental” and inserting “eligible”.*

11 (d) *HOUSING DEMONSTRATION PROJECTS IN ALAS-*
 12 KA.—Section 687(g) of title 14, United States Code, is
 13 amended—

14 (1) *in the heading by striking “PROJECT” and*
 15 *inserting “PROJECTS”;*

16 (2) *in paragraph (1) by striking “a demonstra-*
 17 *tion project” and inserting “demonstration projects”;*

18 (3) *in paragraph (1) by striking “Kodiak, Alas-*
 19 *ka;” and inserting “Kodiak, Alaska, or any other*
 20 *Coast Guard installation in Alaska;”;*

21 (4) *in paragraph (2) by striking “the demonstra-*
 22 *tion project” and inserting “such a demonstration*
 23 *project”; and*

1 (5) in paragraph (4) by striking “the demonstra-
 2 tion project” and inserting “such demonstration
 3 projects”.

4 (e) *DIFFERENTIAL LEASE PAYMENTS*.—Chapter 18 of
 5 title 14, United States Code, is amended by inserting after
 6 section 687 the following:

7 **“§ 687a. Differential lease payments**

8 “Pursuant to an agreement entered into by the Sec-
 9 retary and a lessor of military family housing or military
 10 unaccompanied housing to members of the armed forces, the
 11 Secretary may pay the lessor an amount, in addition to
 12 the rental payments for the housing made by the members,
 13 as the Secretary determines appropriate to encourage the
 14 lessor to make the housing available to members of the
 15 armed forces as military family housing or as military un-
 16 accompanied housing.”.

17 (f) *CLERICAL AMENDMENT*.—The table of sections at
 18 the beginning of chapter 18 of title 14, United States Code,
 19 is amended—

20 (1) by striking the item related to section 682
 21 and inserting the following:

“682. Direct loans and loan guarantees.”;

22 (2) in the item related to section 684 by striking
 23 “nongovernmental” and inserting “eligible”; and

1 (3) by inserting after the item related to section
2 687 the following:

“687a. Differential lease payments.”.

3 **SEC. 208. REQUIREMENT FOR CONSTRUCTIVE CREDIT.**

4 Section 727 of title 14, United States Code, is amended
5 in the second sentence by striking “three years” and insert-
6 ing “one year”.

7 **SEC. 209. MAXIMUM AGE FOR RETENTION IN AN ACTIVE**
8 **STATUS.**

9 Section 742 of title 14, United States Code, is amend-
10 ed—

11 (1) in subsection (a), by striking “sixty-two”
12 and inserting “60”; and

13 (2) in subsection (c), by striking “sixty-two” and
14 inserting “60”.

15 **SEC. 210. PAYMENTS.**

16 (a) *IN GENERAL.*—Chapter 13 of title 14, United
17 States Code, is amended by adding at the end the following:

18 **“§ 517. Payments**

19 “(a) The Secretary may require that travel or trans-
20 portation allowances due a civilian employee or military
21 member of the Coast Guard be disbursed directly to the
22 issuer of a Federal contractor-issued travel charge card, but
23 only in an amount not to exceed the authorized travel ex-
24 penses charged by that Coast Guard member to that travel
25 charge card issued to that employee or member.

1 “(b) *The Secretary may also establish requirements*
 2 *similar to those established by the Secretary of Defense pur-*
 3 *suant to section 2784a of title 10 for deduction or with-*
 4 *holding of pay or retired pay from a Coast Guard employee,*
 5 *member, or retired member who is delinquent in payment*
 6 *under the terms of the contract under which the card was*
 7 *issued and does not dispute the amount of the delin-*
 8 *quency.”.*

9 (b) *CLERICAL AMENDMENT.—The table of sections at*
 10 *the beginning of chapter 13 of title 14, United States Code,*
 11 *is amended by adding at the end the following:*

“517. Payments.”.

12 **SEC. 211. COAST GUARD FELLOWSHIP PROGRAM.**

13 (a) *ESTABLISHMENT.—Title 14, United States Code,*
 14 *is amended by adding at the end of chapter 11 the following:*

15 **“§ 337. Coast Guard Congressional Fellowship Pro-**
 16 **gram**

17 “(a) *There is established in the Coast Guard a Coast*
 18 *Guard Congressional Fellowship Program to broaden Coast*
 19 *Guard officers’ knowledge of the Congress.*

20 “(b) *The Commandant may appoint 4 mid-grade offi-*
 21 *cers as fellows under the program, subject to the following*
 22 *limitations:*

23 “(1) *The maximum length of a fellowship is one*
 24 *year.*

1 “(2) A fellow may be assigned to an office of the
2 House of Representatives or the Senate, including a
3 committee, during the period of the fellowship, or may
4 rotate between such offices.

5 “(3) To protect against abuses of separation of
6 powers principles and conflicts of interest, a fellow
7 may not engage in duties that will result in any di-
8 rect or indirect benefit to the Coast Guard, other than
9 broadening the fellow’s knowledge.

10 “(c) An individual violating this section is subject to
11 appropriate discipline by the Commandant.”.

12 (b) *LIMITATION ON APPLICATION.*—Section 337(b)(1)
13 of title 14, United States Code, as amended by this section,
14 does not apply to an individual serving on June 10, 2003,
15 as a Coast Guard congressional fellow.

16 (c) *CLERICAL AMENDMENT.*—The table of sections at
17 the beginning of chapter 11 of title 14, United States Code,
18 is amended by inserting after the item relating to section
19 336 the following:

 “337. Coast Guard Congressional Fellowship Program.”.

20 **SEC. 212. AIR SEARCH AND RESCUE FACILITY IN MUS-**
21 **KEGON COUNTY, MICHIGAN.**

22 (a) *LEASE AUTHORITY.*—The Commandant may enter
23 into a long-term lease for a period of up to 20 years with
24 Muskegon County, Michigan, for use of a facility con-
25 structed by the County at Muskegon County Airport as an

1 *air search and rescue station, if such a facility that meets*
 2 *criteria established under subsection (b) is available.*

3 *(b) CRITERIA.—Any facility leased under subsection*
 4 *(a) must meet criteria established by the Commandant.*

5 **SEC. 213. NATIONAL COAST GUARD MUSEUM.**

6 *(a) IN GENERAL.—Chapter 5 of title 14, United States*
 7 *Code, is amended by adding at the end the following:*

8 **“§ 98. National Coast Guard Museum**

9 *“(a) ESTABLISHMENT.—The Commandant of the*
 10 *Coast Guard may, subject to subsections (b) and (c), estab-*
 11 *lish a National Coast Guard Museum on Federal lands that*
 12 *are administered by the Coast Guard and specified by the*
 13 *Commandant.*

14 *“(b) LOCATION.—The National Coast Guard Museum*
 15 *may be located at, or in close proximity to, the Coast Guard*
 16 *Academy in New London, Connecticut.*

17 *“(c) LIMITATION ON EXPENDITURES.—The Secretary*
 18 *of the Department in which the Coast Guard is operating*
 19 *shall not expend any Federal funds for the planning, engi-*
 20 *neering, design, construction, operation, or maintenance of*
 21 *any museum established under subsection (a).*

22 *“(d) OPERATION AND MAINTENANCE PLAN.—Before*
 23 *the date on which the Commandant establishes a museum*
 24 *under subsection (a), the Commandant shall provide to the*
 25 *Committee on Transportation and Infrastructure of the*

1 *House of Representatives a plan for operating and main-*
 2 *taining such a museum, including—*

3 “(1) *estimated operation and maintenance costs;*

4 “(2) *proposed sources of operation and mainte-*
 5 *nance funds; and*

6 “(3) *a certification by the Inspector General of*
 7 *the Department in which the Coast Guard is oper-*
 8 *ating that items included in the plan pursuant to*
 9 *paragraph (1) and (2) are reasonable and realistic.”.*

10 **(b) CLERICAL AMENDMENT.**—*The table of sections at*
 11 *the beginning of chapter 5 of title 14, United States Code,*
 12 *is amended by adding at the end the following:*

“98. National Coast Guard Museum.”.

13 **SEC. 214. LIMITATION ON NUMBER OF COMMISSIONED OF-**
 14 **FICERS.**

15 *Notwithstanding section 42(a) of title 14, United*
 16 *States Code, the total number of commissioned officers, ex-*
 17 *cluding commissioned warrant officers, on active duty in*
 18 *the Coast Guard shall not exceed 6,700 in fiscal year 2004.*

19 **SEC. 215. REDISTRICTING NOTIFICATION REQUIREMENT.**

20 *The Commandant shall notify the Committee on*
 21 *Transportation and Infrastructure of the House of Rep-*
 22 *resentatives at least 180 days before—*

23 *(1) implementing any plan to reduce the number*
 24 *of, change the location of, or change the geographic*

1 *area covered by any existing Coast Guard Districts;*
 2 *or*

3 *(2) shifting of more than 10 per cent of the per-*
 4 *sonnel or equipment from the station where such per-*
 5 *sonnel or equipment is based.*

6 ***TITLE III—NAVIGATION***

7 ***SEC. 301. MARKING OF UNDERWATER WRECKS.***

8 *Section 15 of the Act of March 3, 1899 (33 U.S.C. 409),*
 9 *is amended—*

10 *(1) by striking “day and” and inserting “day*
 11 *and, unless otherwise authorized by the Commandant*
 12 *of the Coast Guard,”; and*

13 *(2) by striking “lighted lantern” and inserting*
 14 *“light”.*

15 ***SEC. 302. USE OF ELECTRONIC DEVICES; COOPERATIVE*** 16 ***AGREEMENTS.***

17 *Section 4(a) of the Ports and Waterways Safety Act*
 18 *of 1972 (33 U.S.C. 1223(a)) is amended by—*

19 *(1)(A) striking “and” after the semicolon at the*
 20 *end of paragraph (4);*

21 *(B) striking the period at the end of paragraph*
 22 *(5) and inserting “; and”; and*

23 *(C) adding at the end the following:*

1 “(6) may prohibit the use on the bridge of a ves-
 2 sel of electronic or other devices that interfere with
 3 communications and navigation equipment.”; and

4 (2) adding at the end the following:

5 “(e) COOPERATIVE AGREEMENTS.—(1) The Secretary
 6 may enter into cooperative agreements with public or pri-
 7 vate agencies, authorities, associations, institutions, cor-
 8 porations, organizations, or other persons to carry out the
 9 functions under subsection (a)(1).

10 “(2) A nongovernmental entity may not under this
 11 subsection carry out an inherently governmental function.

12 “(3) As used in this paragraph, the term ‘inherently
 13 governmental function’ means any activity that is so inti-
 14 mately related to the public interest as to mandate perform-
 15 ance by an officer or employee of the Federal Government,
 16 including an activity that requires either the exercise of dis-
 17 cretion in applying the authority of the Government or the
 18 use of judgment in making a decision for the Government.”.

19 **SEC. 303. INLAND NAVIGATION RULES PROMULGATION AU-**
 20 **THORITY.**

21 (a) REPEAL OF INLAND RULES.—Section 2 of the In-
 22 land Navigational Rules Act of 1980 (33 U.S.C. 2001–38)
 23 is repealed.

1 (b) *AUTHORITY TO ISSUE REGULATIONS.*—Section 3
 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C.
 3 2001) is amended to read as follows:

4 **“SEC. 3. INLAND NAVIGATION RULES.**

5 *“The Secretary of the Department in which the Coast*
 6 *Guard is operating may issue inland navigation regula-*
 7 *tions applicable to all vessels upon the inland waters of the*
 8 *United States and technical annexes that are as consistent*
 9 *as possible with the respective annexes to the International*
 10 *Regulations.”.*

11 (c) *EFFECTIVE DATE.*—Subsection (a) is effective on
 12 the effective date of final regulations prescribed by the Sec-
 13 retary of the Department in which the Coast Guard is oper-
 14 ating under section 3 of the Inland Navigation Rules Act
 15 of 1980 (33 U.S.C. 2001), as amended by this Act.

16 **TITLE IV—SHIPPING**

17 **SEC. 401. REPORTS FROM CHARTERERS.**

18 Section 12120 of title 46, United States Code, is
 19 amended by striking “owners and masters” and inserting
 20 “owners, masters, and charterers”.

21 **SEC. 402. SUSPENSION OF DOCUMENTS IN LIEU OF MANDA-**
 22 **TORY REVOCATION FOR PROVED DRUG CON-**
 23 **VICTIONS.**

24 Section 7704(b) of title 46, United States Code, is
 25 amended by inserting “suspended or” after “shall be”.

1 **SEC. 403. INSPECTION OF RECORDS OF MERCHANT MARI-**
 2 **NERS' DOCUMENTS.**

3 *Section 7319 of title 46, United States Code, is amend-*
 4 *ed by striking “The records are not open to general or pub-*
 5 *lic inspection.”.*

6 **SEC. 404. EXEMPTION OF UNMANNED BARGES FROM CITI-**
 7 **ZENSHIP REQUIREMENTS REGARDING COM-**
 8 **MAND OF VESSEL.**

9 *(a) EXEMPTION FROM LIMITATION ON COMMAND.—*
 10 *Section 12110(d) of title 46, United States Code, is amend-*
 11 *ed by inserting “or an unmanned barge not engaged on a*
 12 *coastwise voyage” after “recreational endorsement”.*

13 *(b) EXEMPTION FROM SEIZURE AND FORFEITURE.—*
 14 *Section 12122(b)(6) of title 46, United States Code, is*
 15 *amended by inserting “or an unmanned barge not engaged*
 16 *on a coastwise voyage” after “recreational endorsement”.*

17 **SEC. 405. ADMINISTRATIVE, COLLECTION, AND ENFORCE-**
 18 **MENT COSTS FOR CERTAIN FEES AND**
 19 **CHARGES.**

20 *Section 2110(d) of title 46, United States Code, is*
 21 *amended—*

22 *(1) by inserting “(A)” after “(2)”;* and

23 *(2) by adding at the end the following:*

24 *“(B) For purposes of subparagraph (A), costs of col-*
 25 *lecting the fee or charge include the reasonable administra-*
 26 *tive, accounting, personnel, contract, equipment, supply,*

1 *training, and travel expenses of calculating, assessing, col-*
 2 *lecting, enforcing, reviewing, adjusting, and reporting on*
 3 *the fees and charges.”.*

4 **SEC. 406. COMPLIANCE WITH INTERNATIONAL SAFETY MAN-**
 5 **AGEMENT CODE.**

6 *(a) APPLICATION OF EXISTING LAW.—Section 3202(a)*
 7 *of title 46, United States Code, is amended to read as fol-*
 8 *lows:*

9 *“(a) MANDATORY APPLICATION.—This chapter applies*
 10 *to a vessel that—*

11 *“(1)(A) is transporting more than 12 passengers*
 12 *described in section 2101(21)(A) of this title; or*

13 *“(B) is of at least 500 gross tons as measured*
 14 *under section 14502 of this title, or an alternate ton-*
 15 *nage measured under section 14302 of this title as*
 16 *prescribed by the Secretary under section 14104 of*
 17 *this title, that is a tanker, freight vessel, bulk freight*
 18 *vessel, high speed freight vessel, or self-propelled mo-*
 19 *bile offshore drilling unit; and*

20 *“(2)(A) is engaged on a foreign voyage; or*

21 *“(B) is a foreign vessel departing from a place*
 22 *under the jurisdiction of the United States on a voy-*
 23 *age, any part of which is on the high seas.”.*

24 *(b) COMPLIANCE OF REGULATIONS WITH INTER-*
 25 *NATIONAL SAFETY MANAGEMENT CODE.—Section 3203(b)*

1 of title 46, United States Code, is amended by striking “ves-
 2 sels engaged on a foreign voyage.” and inserting “vessels
 3 to which this chapter applies under section 3202(a) of this
 4 title.”.

5 **SEC. 407. CIVIL PENALTIES FOR FAILURE TO COMPLY WITH**
 6 **RECREATIONAL VESSEL AND ASSOCIATED**
 7 **EQUIPMENT SAFETY STANDARDS.**

8 Section 4311(b) of title 46, United States Code, is
 9 amended—

10 (1) by striking the first sentence and inserting
 11 “A person violating section 4307(a) of this title is lia-
 12 ble to the United States Government for a civil pen-
 13 alty of not more than \$5,000, except that the max-
 14 imum civil penalty may be not more than \$250,000
 15 for a related series of violations.”; and

16 (2) in the second sentence, by striking
 17 “4307(a)(1)” and inserting “4307(a)”.

18 **SEC. 408. REVISION OF TEMPORARY SUSPENSION CRITERIA**
 19 **IN DOCUMENT SUSPENSION AND REVOCA-**
 20 **TION CASES.**

21 Section 7702(d) of title 46, United States Code, is
 22 amended—

23 (1) in paragraph (1) by striking “if, when act-
 24 ing under the authority of that license, certificate, or
 25 document—” and inserting “if—”;

1 (2) in paragraph (1)(B)(i), by inserting “, while
2 acting under the authority of that license, certificate,
3 or document,” after “has”;

4 (3) by striking “or” after the semicolon at the
5 end of paragraph (1)(B)(ii);

6 (4) by striking the period at the end of para-
7 graph (1)(B)(iii) and inserting “; or”; and

8 (5) by adding at the end of paragraph (1)(B) the
9 following:

10 “(iv) is a threat to the safety or security of
11 a vessel or a public or commercial structure lo-
12 cated within or adjacent to the marine environ-
13 ment.”.

14 **SEC. 409. REVISION OF BASES FOR DOCUMENT SUSPEN-**
15 **SION AND REVOCATION CASES.**

16 Section 7703 of title 46, United States Code, is amend-
17 ed—

18 (1) in paragraph (1)(B)—

19 (A) by striking “incompetence,”; and

20 (B) by striking the comma after “mis-
21 conduct”;

22 (2) by striking “or” after the semicolon at the
23 end of paragraph (2);

24 (3) by striking the period at the end of para-
25 graph (3) and inserting a semicolon; and

1 (4) *by adding at the end the following:*

2 “(4) *has committed an act of incompetence; or*

3 “(5) *is a threat to the safety or security of a ves-*
4 *sel or a structure located within or adjacent to the*
5 *marine environment.”.*

6 **SEC. 410. HOURS OF SERVICE ON TOWING VESSELS.**

7 (a) *REGULATIONS.*—Section 8904 of title 46, United
8 States Code, is amended by adding at the end of the fol-
9 lowing:

10 “(c) *The Secretary may prescribe by regulation re-*
11 *quirements for maximum hours of service (including record-*
12 *ing and record-keeping of that service) of individuals en-*
13 *gaged on a towing vessel that is at least 26 feet in length*
14 *measured from end to end over the deck (excluding the*
15 *sheer).”.*

16 (b) *DEMONSTRATION PROJECT.*—Prior to prescribing
17 regulations under this section the Secretary shall conduct
18 and report to the Congress on the results of a demonstration
19 project involving the implementation of Crew Endurance
20 Management Systems on towing vessels. The report shall in-
21 clude a description of the public and private sector resources
22 needed to enable implementation of Crew Endurance Man-
23 agement Systems on all United States-flag towing vessels.

1 **SEC. 411. AUTOMATIC IDENTIFICATION SYSTEM ELEC-**
2 **TRONIC CHARTS.**

3 *Section 70114(a)(1) of title 46, United States Code,*
4 *is amended by inserting “, including an electronic chart*
5 *and related display,” after “automatic identification sys-*
6 *tem” the first place it appears.*

7 **SEC. 412. PREVENTION OF DEPARTURE.**

8 *(a) IN GENERAL.—Section 3505 of title 46, United*
9 *States Code, is amended to read as follows:*

10 **“§ 3505. Prevention of departure**

11 *“Notwithstanding section 3303 of this title, a foreign*
12 *vessel carrying a citizen of the United States as a passenger*
13 *or that embarks passengers from a United States port may*
14 *not depart from a United States port if the Secretary finds*
15 *that the vessel does not comply with the standards stated*
16 *in the International Convention for the Safety of Life at*
17 *Sea to which the United States Government is currently*
18 *a party.”.*

19 *(b) CONFORMING AMENDMENT.—Section 3303 of title*
20 *46, United States Code, is amended by inserting “and sec-*
21 *tion 3505” after “chapter 37”.*

1 **TITLE V—FEDERAL MARITIME**
 2 **COMMISSION**

3 **SEC. 501. AUTHORIZATION OF APPROPRIATIONS FOR FED-**
 4 **ERAL MARITIME COMMISSION.**

5 *There is authorized to be appropriated to the Federal*
 6 *Maritime Commission \$18,471,000 for Fiscal Year 2004.*

7 **TITLE VI—MISCELLANEOUS**

8 **SEC. 601. INCREASE IN CIVIL PENALTIES FOR VIOLATIONS**
 9 **OF CERTAIN BRIDGE STATUTES.**

10 (a) *GENERAL BRIDGE ACT OF 1906.*—Section 5(b) of
 11 *Act of March 23, 1906 (chapter 1130; 33 U.S.C. 495), popu-*
 12 *larly known as the General Bridge Act, is amended by strik-*
 13 *ing “\$1,000” and inserting “\$5,000 for a violation occur-*
 14 *ring in 2004; \$10,000 for a violation occurring in 2005;*
 15 *\$15,000 for a violation occurring in 2006; \$20,000 for a*
 16 *violation occurring in 2007; and \$25,000 for a violation*
 17 *occurring in 2008 and any year thereafter”.*

18 (b) *DRAWBRIDGES.*—Section 5(c) of the Act entitled
 19 *“An Act making appropriations for the construction, re-*
 20 *pair, and preservation of certain public works on rivers and*
 21 *harbors, and for other purposes”, approved August 18, 1894*
 22 *(33 U.S.C. 499(c)), is amended by striking “\$1,000” and*
 23 *inserting “\$5,000 for a violation occurring in 2004;*
 24 *\$10,000 for a violation occurring in 2005; \$15,000 for a*
 25 *violation occurring in 2006; \$20,000 for a violation occur-*

1 ring in 2007; and \$25,000 for a violation occurring in 2008
 2 and any year thereafter”.

3 (c) *ALTERATION, REMOVAL, OR REPAIR OF*
 4 *BRIDGES.*—Section 18(c) of the Act entitled “An Act mak-
 5 ing appropriations for the construction, repair, and preser-
 6 vation of certain public works on rivers and harbors, and
 7 for other purposes”, approved March 3, 1899 (33 U.S.C.
 8 502(c)) is amended by striking “\$1,000” and inserting
 9 “\$5,000 for a violation occurring in 2004; \$10,000 for a
 10 violation occurring in 2005; \$15,000 for a violation occur-
 11 ring in 2006; \$20,000 for a violation occurring in 2007;
 12 and \$25,000 for a violation occurring in 2008 and any year
 13 thereafter”.

14 (d) *GENERAL BRIDGE ACT OF 1946.*—Section 510(b)
 15 of the General Bridge Act of 1946 (33 U.S.C. 533(b)) is
 16 amended by striking “\$1,000” and inserting “\$5,000 for
 17 a violation occurring in 2004; \$10,000 for a violation oc-
 18 ccurring in 2005; \$15,000 for a violation occurring in 2006;
 19 \$20,000 for a violation occurring in 2007; and \$25,000 for
 20 a violation occurring in 2008 and any year thereafter”.

21 **SEC. 602. CONVEYANCE OF DECOMMISSIONED COAST**
 22 **GUARD CUTTER SUNDEW.**

23 (a) *IN GENERAL.*—Upon the scheduled decommis-
 24 sioning of the Coast Guard Cutter SUNDEW, the Com-
 25 mandant of the Coast Guard shall convey all right, title,

1 *and interest of the United States in and to that vessel to*
2 *Duluth Entertainment and Convention Center Authority (a*
3 *nonprofit corporation under the laws of the State of Min-*
4 *nesota; in this section referred to as the “recipient”), located*
5 *in Duluth, Minnesota, without consideration, if—*

6 *(1) the recipient agrees—*

7 *(A) to use the vessel for purposes of edu-*
8 *cation and historical display;*

9 *(B) not to use the vessel for commercial*
10 *transportation purposes;*

11 *(C) to make the vessel available to the*
12 *United States Government if needed for use by*
13 *the Commandant in time of war or a national*
14 *emergency; and*

15 *(D) to hold the Government harmless for*
16 *any claims arising from exposure to hazardous*
17 *materials, including asbestos and poly-*
18 *chlorinated biphenyls (PCBs), after conveyance*
19 *of the vessel, except for claims arising from the*
20 *use by the Government under subparagraph (C);*

21 *(2) the recipient has funds available that will be*
22 *committed to operate and maintain the vessel con-*
23 *veyed in good working condition, in the form of cash,*
24 *liquid assets, or a written loan commitment, and in*
25 *an amount of at least \$700,000; and*

1 (3) *the recipient agrees to any other conditions*
 2 *the Commandant considers appropriate.*

3 (b) *MAINTENANCE AND DELIVERY OF VESSEL.—Prior*
 4 *to conveyance of the vessel under this section, the Com-*
 5 *mandant shall, to the extent practical, and subject to other*
 6 *Coast Guard mission requirements, make every effort to*
 7 *maintain the integrity of the vessel and its equipment until*
 8 *the time of delivery. If a conveyance is made under this*
 9 *section, the Commandant shall deliver the vessel at the place*
 10 *where the vessel is located, in its present condition, and*
 11 *without cost to the Government. The conveyance of the vessel*
 12 *under this section shall not be considered a distribution in*
 13 *commerce for purposes of section 6(e) of Public Law 94–*
 14 *469 (15 U.S.C. 2605(e)).*

15 (c) *OTHER EXCESS EQUIPMENT.—The Commandant*
 16 *may convey to the recipient any excess equipment or parts*
 17 *from other decommissioned Coast Guard vessels for use to*
 18 *enhance the vessel’s operability and function as an histor-*
 19 *ical display.*

20 **SEC. 603. TONNAGE MEASUREMENT.**

21 (a) *M/V BLUEFIN.—The gross tonnage of the M/V*
 22 *BLUEFIN (United States official number 620431) as*
 23 *measured under regulations prescribed under section 14502*
 24 *of title 46, United States Code, is deemed to be 488 tons.*

1 (b) *M/V COASTAL MERCHANT*.—*The gross tonnage*
 2 *of the M/V COASTAL MERCHANT (United States official*
 3 *number 1038382) as measured under regulations prescribed*
 4 *under section 14502 of title 46, United States Code, is*
 5 *deemed to be 493 tons.*

6 (c) *TERMINATION OF APPLICATION*.—*Subsection (a) or*
 7 *(b) shall not apply on and after any date on which the*
 8 *Secretary of the Department in which the Coast Guard is*
 9 *operating determines, respectively, that the vessel M/V*
 10 *BLUEFIN or the vessel M/V COASTAL MERCHANT has*
 11 *undergone any major modification.*

12 **SEC. 604. OPERATION OF VESSEL STAD AMSTERDAM.**

13 (a) *IN GENERAL*.—*Notwithstanding section 8 of the*
 14 *Act of June 19, 1886 (46 App. U.S.C. 289), and the ruling*
 15 *by the Acting Director of the International Trade Compli-*
 16 *ance Division of the Customs Service on May 17, 2002*
 17 *(Customs Bulletins and Decisions, Vol. 36, No. 23, June*
 18 *5, 2002), the vessel STAD AMSTERDAM (International*
 19 *Maritime Organization number 9185554) shall be author-*
 20 *ized to carry within United States waters and between*
 21 *ports or places in the United States individuals who are*
 22 *not directly and substantially connected with the operation,*
 23 *navigation, ownership, or business of the vessel, who are*
 24 *friends, guests, or employees of the owner of the vessel, and*

1 *who are not actual or prospective customers for hire of the*
 2 *vessel.*

3 (b) *LIMITATION.*—*This section does not authorize the*
 4 *vessel STAD AMSTERDAM to be used to carry individuals*
 5 *for a fare or to be chartered on a for-hire basis in the coast-*
 6 *wise trade.*

7 **SEC. 605. GREAT LAKES NATIONAL MARITIME ENHANCE-**
 8 **MENT INSTITUTE.**

9 (a) *DESIGNATION.*—*The Secretary of Transportation*
 10 *may designate a National Maritime Enhancement Institute*
 11 *for the Great Lakes Region.*

12 (b) *AUTHORIZED ACTIVITIES.*—*In addition to the ac-*
 13 *tivities that may be undertaken by that Institute under sec-*
 14 *tion 8(b) of Public Law 101–115 (46 App. U.S.C. 1121–*
 15 *2), the Great Lakes National Maritime Enhancement Insti-*
 16 *tute may—*

17 (1) *conduct research and evaluate short sea ship-*
 18 *ping market opportunities on the Great Lakes, in-*
 19 *cluding the expanded use of freight ferries, improved*
 20 *mobility, and regional supply chain efficiency;*

21 (2) *evaluate markets for foreign trade between*
 22 *ports on the Great Lakes and draft-limited ports in*
 23 *Europe and Africa;*

24 (3) *evaluate the environmental benefits of water-*
 25 *borne transportation in the Great Lakes region;*

1 (4) *analyze the effect of the Harbor Maintenance*
2 *Tax on Great Lakes shipping;*

3 (5) *study the state of shipbuilding and ship re-*
4 *pair base on the Great Lakes;*

5 (6) *evaluate opportunities for passenger vessel*
6 *services on the Great Lakes;*

(7) analyze the origin to destination flow of freight cargo in the Great Lakes region that may be transported on vessels to relieve congestion in other modes of transportation;

11 (8) *evaluate the economic viability establishing*
12 *transshipment facilities for oceangoing cargoes;*

13 (9) *evaluate the adequacy of the infrastructure in*
14 *ports to meet the needs of marine commerce; and*

(10) study and develop new vessel designs for domestic and international shipping on the Great Lakes.

18 (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
19 *authorized to be appropriated to the Secretary \$5,000,000*
20 *for each of fiscal years 2004 through 2008 for the activities*
21 *described in subsection (b).*

22 SEC. 606. AGILE PORT AND INTELLIGENT BORDER SECU-
23 RITY NATIONAL DEMONSTRATION PROJECT.

24 (a) *IN GENERAL.*—*The Secretary of Transportation*
25 *may carry out an Agile Port and Intelligent Border Secu-*

1 rity National Demonstration Project under the Center for
 2 the Commercial Deployment of Transportation Technologies
 3 to develop and deploy dual use transportation technologies
 4 for commercial applications, including the following:

5 (1) Agile port facilities, including inland multi-
 6 modal transportation facilities.

7 (2) Advanced cargo and passenger vessel hull de-
 8 sign, propulsion systems, and construction.

9 (3) Regional supply chain efficiency, improved
 10 mobility, and air quality.

11 (4) Maritime, port, cargo, and supply chain se-
 12 curity, and total asset visibility.

13 (b) *AUTHORIZATION OF APPROPRIATIONS.*—To carry
 14 out the demonstration project under subsection (a) there is
 15 authorized to be appropriated to the Secretary of Transpor-
 16 tation \$5,000,000 for fiscal year 2004.

17 **SEC. 607. KOSS COVE.**

18 (a) *IN GENERAL.*—Notwithstanding any other provi-
 19 sion of law or existing policy, the cove described in sub-
 20 section (b) shall be known and designated as “Koss Cove”,
 21 in honor of the late Able Bodied Seaman Eric Steiner Koss
 22 of the National Oceanic and Atmospheric Administration
 23 vessel *RAINER* who died in the performance of a nautical
 24 charting mission off the coast of Alaska.

6 (2) $\frac{3}{4}$ mile across the mouth;

9 (4) 45 miles from Seaward, Alaska.

14 *SEC. 608. MISCELLANEOUS CERTIFICATES OF DOCUMENTA-*
15 *TION.*

(1) *OCEAN LEADER* (United States official
number 679511).

1 (2) *REVELATION* (*United States official num-*
2 *ber 1137565*).

3 **SEC. 609. DREDGING STUDY.**

4 (a) *STUDY*.—*The Director of the Congressional Budget*
5 *Office shall study and report to the Committee on Transpor-*
6 *tation and Infrastructure of the House of Representatives*
7 *on the impacts of chartering by foreign citizens of dredges*
8 *documented under the laws of the United States, on—*

9 (1) *the structure, conduct, and performance, of*
10 *the United States dredging market; and*

11 (2) *costs paid by Federal agencies for dredging*
12 *projects.*

13 (b) *FOREIGN CITIZEN DEFINED*.—*In subsection (a),*
14 *the term “foreign citizen” means any corporation, partner-*
15 *ship, or association that does not qualify as a citizen of*
16 *the United States under section 2 of the Shipping Act of*
17 *1916 (46 APP. U.S.C. 802).*

18 **SEC. 610. REPORT REGARDING SECURITY INSPECTION OF**
19 **VESSELS AND VESSEL-BORNE CARGO CON-**
20 **TAINERS ENTERING THE UNITED STATES.**

21 (a) *IN GENERAL*.—*Not later than 90 days after the*
22 *date of the enactment of this Act, the Secretary of the De-*
23 *partment in which the Coast Guard is operating shall re-*
24 *port to the Congress regarding the numbers and types of*

1 *vessels and vessel-borne cargo containers that enter the*
2 *United States in a year.*

3 (b) *CONTENTS.*—*The report under this section shall in-*
4 *clude the following:*

5 (1) *A section regarding security inspection of*
6 *vessels that includes the following:*

7 (A) *A complete breakdown of the numbers*
8 *and types of vessels that entered the United*
9 *States in the most recent 1-year period for which*
10 *information is available.*

11 (B) *The cost incurred by the Federal Gov-*
12 *ernment in inspecting such vessels in such 1-year*
13 *period, including specification and comparison*
14 *of such cost for each type of vessel.*

15 (C) *An estimate of the per-vessel cost that*
16 *would be incurred by the Federal Government in*
17 *inspecting in a foreign port each type of vessel*
18 *that enters the United States each year, includ-*
19 *ing costs for personnel, vessels, equipment, and*
20 *funds.*

21 (D) *An estimate of the annual total cost*
22 *that would be incurred by the Federal Govern-*
23 *ment in inspecting in foreign ports all vessels*
24 *that enter the United States each year, including*

1 *costs for personnel, vessels, equipment, and*
2 *funds.*

3 *(2) A section regarding security inspection of*
4 *containers that includes the following:*

5 *(A) A complete breakdown of the numbers*
6 *and types of vessel-borne cargo containers that*
7 *entered the United States in the most recent 1-*
8 *year period for which information is available,*
9 *including specification of the number of 1 TEU*
10 *containers and the number of 2 TEU containers.*

11 *(B) The cost incurred by the Federal Gov-*
12 *ernment in inspecting such containers in such 1-*
13 *year period, including specification and com-*
14 *parison of such cost for a 1 TEU container and*
15 *for a 2 TEU container.*

16 *(C) An estimate of the per-container cost*
17 *that would be incurred by the Federal Govern-*
18 *ment in inspecting in a foreign port each type*
19 *of vessel-borne container that enters the United*
20 *States each year, including costs for personnel,*
21 *vessels, equipment, and funds.*

22 *(D) An estimate of the annual total cost*
23 *that would be incurred by the Federal Govern-*
24 *ment in inspecting in foreign ports all vessel-*
25 *borne containers that enter the United States*

1 each year, including costs for personnel, vessels,
2 equipment, and funds.

3 **TITLE VII—AMENDMENTS RE-**
4 **LATING TO OIL POLLUTION**
5 **ACT OF 1990**

6 **SEC. 701. VESSEL RESPONSE PLANS FOR NONTANK VES-**
7 **SELS OVER 400 GROSS TONS.**

8 (a) *NONTANK VESSEL DEFINED.*—Section 311(j) of the
9 *Federal Water Pollution Control Act (33 U.S.C. 1321(j))*
10 *is amended by adding at the end the following:*

11 “(9) *NONTANK VESSEL DEFINED.*—In this sub-
12 section, the term ‘nontank vessel’ means a self-pro-
13 pelled vessel of 400 gross tons (as measured under sec-
14 tion 14502 of title 46, United States Code, or an al-
15 ternate tonnage measured under section 14302 of such
16 title as prescribed by the Secretary under section
17 14104 of such title) or greater, other than a tank ves-
18 sel, that carries oil of any kind as fuel for main pro-
19 pulsion and that—

20 “(A) is a vessel of the United States; or

21 “(B) operates on the navigable waters of the
22 United States.”.

23 (b) *AMENDMENTS TO REQUIRE RESPONSE PLANS.*—
24 Section 311(j) of the *Federal Water Pollution Control Act*
25 (33 U.S.C. 1321(j)) is amended—

1 (1) in paragraph (5) in the heading by inserting
2 “, NONTANK VESSEL,” after “VESSEL”;

3 (2) in paragraph 5(A) by inserting “, nontank
4 vessel,” after “vessel”;

5 (3) in paragraph (5)(B), in the matter preceding
6 clause (i), by inserting “, nontank vessels,” after “ves-
7 sels”;

8 (4) in paragraph (5)(B), by redesignating
9 clauses (ii) and (iii) as clauses (iii) and (iv), respec-
10 tively, and by inserting after clause (i) the following:

11 “(ii) A nontank vessel.”;

12 (5) in paragraph (5)(D)—

13 (A) by inserting “, nontank vessel,” after
14 “vessel”;

15 (B) by striking “and” after the semicolon at
16 the end of clause (iii);

17 (C) by striking the period at the end of
18 clause (iv) and inserting “; and”; and

19 (D) by adding after clause (iv) the fol-
20 lowing:

21 “(v) for nontank vessels, consider any appli-
22 cable State-mandated response plan and ensure
23 consistency to the extent practicable.”;

1 (6) in paragraph (5)(E), in the matter preceding
 2 *clause (i), by inserting “nontank vessel,” after “ves-*
 3 *sel,”;*

4 (7) in paragraph (5)(E)(i) by inserting
 5 *“nontank vessel,” , after “vessel,”;*

6 (8) in paragraph (5)(F) by striking *“tank vessel*
 7 *or” and inserting “vessel or”;*

8 (9) in paragraph (5)(G) by inserting *“nontank*
 9 *vessel,” after “vessel,”;*

10 (10) in paragraph (5)(H) by inserting *“and*
 11 *nontank vessel” after “each tank vessel”;*

12 (11) in paragraph (6) in the matter preceding
 13 *subparagraph (A) by striking “Not later than 2 years*
 14 *after the date of enactment of this section, the Presi-*
 15 *dent shall require—” and inserting “The President*
 16 *may require—”;*

17 (12) in paragraph (6)(B) by inserting *“, and*
 18 *nontank vessels carrying oil of any kind as fuel for*
 19 *main propulsion,” after “cargo”; and*

20 (13) in paragraph (7) by inserting *“, nontank*
 21 *vessel,” after “vessel”.*

22 (c) *IMPLEMENTATION DATE.—The President shall not*
 23 *require the owner or operator of a nontank vessel (as defined*
 24 *section 311(j)(9) of the Federal Water Pollution Control Act*
 25 *(33 U.S.C. 1321(j)(9), as amended by this section) to pre-*

1 *pare and submit a vessel response plan for such vessel before*
 2 *the end of the one-year period beginning on the date of the*
 3 *enactment of this Act.*

4 **SEC. 702. REQUIREMENTS FOR TANK LEVEL AND PRESSURE**
 5 **MONITORING DEVICES.**

6 *Section 4110 of the Oil Pollution Act of 1990 (46*
 7 *U.S.C. 3703 note) is amended—*

8 *(1) in subsection (a), by striking “Not later than*
 9 *1 year after the date of the enactment of this Act, the*
 10 *Secretary shall” and inserting “The Secretary may”;*

11 *(2) in subsection (b)—*

12 *(A) by striking “Not later than 1 year after*
 13 *the date of the enactment of this Act, the Sec-*
 14 *retary shall” and inserting “No sooner than 1*
 15 *year after the Secretary prescribes regulations*
 16 *under subsection (a), the Secretary may”; and*

17 *(B) by striking “the standards” and insert-*
 18 *ing “any standards”.*

19 **SEC. 703. LIABILITY AND COST RECOVERY.**

20 *(a) DEFINITION OF OWNER OR OPERATOR.—Section*
 21 *1001(26) of the Oil Pollution Act of 1990 (33 U.S.C.*
 22 *2701(26)) is amended to read as follows:*

23 *“(26) ‘owner or operator’—*

24 *“(A) means—*

1 “(i) in the case of a vessel, any person
2 owning, operating, or chartering by demise,
3 the vessel;

4 “(ii) in the case of an onshore or off-
5 shore facility, any person owning or oper-
6 ating such facility;

7 “(iii) in the case of any abandoned off-
8 shore facility, the person who owned or op-
9 erated such facility immediately prior to
10 such abandonment;

11 “(iv) in the case of any facility, title or
12 control of which was conveyed due to bank-
13 ruptcy, foreclosure, tax delinquency, aban-
14 donment, or similar means to a unit of
15 State or local government, any person who
16 owned, operated, or otherwise controlled ac-
17 tivities at such facility immediately before-
18 hand;

19 “(v) notwithstanding subparagraph
20 (B)(i), any State or local government that
21 has caused or contributed to a discharge or
22 substantial threat of a discharge of oil from
23 a vessel or facility ownership or control of
24 which was acquired involuntarily through
25 bankruptcy, tax delinquency, abandonment,

1 *or other circumstances in which the govern-*
2 *ment involuntarily acquires title by virtue*
3 *of its function as sovereign; and*

4 “(vi) notwithstanding subparagraph
5 (B)(ii), a person that is a lender and that
6 holds indicia of ownership primarily to
7 protect a security interest in a vessel or fa-
8 cility if, while the borrower is still in pos-
9 session of the vessel or facility encumbered
10 by the security interest, the person—

11 “(I) exercises decisionmaking con-
12 trol over the environmental compliance
13 related to the vessel or facility, such
14 that the person has undertaken respon-
15 sibility for oil handling or disposal
16 practices related to the vessel or facil-
17 ity; or

18 “(II) exercises control at a level
19 comparable to that of a manager of the
20 vessel or facility, such that the person
21 has assumed or manifested responsi-
22 bility—

23 “(aa) for the overall manage-
24 ment of the vessel or facility en-
25 compassing day-to-day decision-

1 *making with respect to environ-*
2 *mental compliance; or*

3 “(bb) *over all or substan-*
4 *tially all of the operational func-*
5 *tions (as distinguished from fi-*
6 *nancial or administrative func-*
7 *tions) of the vessel or facility other*
8 *than the function of environ-*
9 *mental compliance; and*

10 “(B) *does not include—*

11 “(i) *a unit of State or local govern-*
12 *ment that acquired ownership or control of*
13 *a vessel or facility involuntarily through*
14 *bankruptcy, tax delinquency, abandonment,*
15 *or other circumstances in which the govern-*
16 *ment involuntarily acquires title by virtue*
17 *of its function as sovereign;*

18 “(ii) *a person that is a lender that*
19 *does not participate in management of a*
20 *vessel or facility, but holds indicia of owner-*
21 *ship primarily to protect the security inter-*
22 *est of the person in the vessel or facility;*

23 “(iii) *a person that is a lender that*
24 *did not participate in management of a ves-*

1 *sel or facility prior to foreclosure, notwith-*
2 *standing that the person—*

3 *“(I) forecloses on the vessel or fa-*
4 *cility; and*

5 *“(II) after foreclosure, sells, re-*
6 *leases (in the case of a lease finance*
7 *transaction), or liquidates the vessel or*
8 *facility, maintains business activities,*
9 *winds up operations, undertakes a re-*
10 *moval action under 311(c) of the Fed-*
11 *eral Water Pollution Control Act (33*
12 *U.S.C. 311(c)) or under the direction*
13 *of an on-scene coordinator appointed*
14 *under the National Contingency Plan,*
15 *with respect to the vessel or facility, or*
16 *takes any other measure to preserve,*
17 *protect, or prepare the vessel or facility*
18 *prior to sale or disposition,*

19 *if the person seeks to sell, re-lease (in the*
20 *case of a lease finance transaction), or oth-*
21 *erwise divest the person of the vessel or fa-*
22 *cility at the earliest practicable, commer-*
23 *cially reasonable time, on commercially rea-*
24 *sonable terms, taking into account market*

1 *conditions and legal and regulatory require-*
 2 *ments;”.*

3 **(b) OTHER DEFINITIONS.**—*Section 1001 of the Oil*
 4 *Pollution Act of 1990 (33 U.S.C. 2701) is amended by strik-*
 5 *ing “and” after the semicolon at the end of paragraph (36),*
 6 *by striking the period at the end of paragraph (37) and*
 7 *inserting a semicolon, and by adding at the end the fol-*
 8 *lowing:*

9 “(38) ‘participate in management’—

10 “(A)(i) *means actually participating in the*
 11 *management or operational affairs of a vessel or*
 12 *facility; and*

13 “(ii) *does not include merely having the ca-*
 14 *capacity to influence, or the unexercised right to*
 15 *control, vessel or facility operations; and*

16 “(B) *does not include—*

17 “(i) *performing an act or failing to act*
 18 *prior to the time at which a security inter-*
 19 *est is created in a vessel or facility;*

20 “(ii) *holding a security interest or*
 21 *abandoning or releasing a security interest;*

22 “(iii) *including in the terms of an ex-*
 23 *tension of credit, or in a contract or secu-*
 24 *rity agreement relating to the extension, a*
 25 *covenant, warranty, or other term or condi-*

1 *tion that relates to environmental compli-*
2 *ance;*

3 *“(iv) monitoring or enforcing the terms*
4 *and conditions of the extension of credit or*
5 *security interest;*

6 *“(v) monitoring or undertaking one or*
7 *more inspections of the vessel or facility;*

8 *“(vi) requiring a removal action or*
9 *other lawful means of addressing a dis-*
10 *charge or substantial threat of a discharge*
11 *of oil in connection with the vessel or facil-*
12 *ity prior to, during, or on the expiration of*
13 *the term of the extension of credit;*

14 *“(vii) providing financial or other ad-*
15 *vice or counseling in an effort to mitigate,*
16 *prevent, or cure default or diminution in*
17 *the value of the vessel or facility;*

18 *“(viii) restructuring, renegotiating, or*
19 *otherwise agreeing to alter the terms and*
20 *conditions of the extension of credit or secu-*
21 *rity interest, exercising forbearance;*

22 *“(ix) exercising other remedies that*
23 *may be available under applicable law for*
24 *the breach of a term or condition of the ex-*
25 *tension of credit or security agreement; or*

1 “(x) conducting a removal action
2 under 311(c) of the Federal Water Pollution
3 Control Act (33 U.S.C. 1321(c)) or under
4 the direction of an on-scene coordinator ap-
5 pointed under the National Contingency
6 Plan,

7 if such actions do not rise to the level of partici-
8 pating in management under subparagraph (A)
9 of this paragraph and paragraph (26)(A)(vi);

10 “(39) ‘extension of credit’ has the meaning pro-
11 vided in section 101(20)(G)(i) of the Comprehensive
12 Environmental Response, Compensation and Liabil-
13 ity Act of 1980 (42 U.S.C. 9601(20)(G)(i));

14 “(40) ‘financial or administrative function’ has
15 the meaning provided in section 101(20)(G)(ii) of the
16 Comprehensive Environmental Response, Compensa-
17 tion and Liability Act of 1980 (42 U.S.C.
18 9601(20)(G)(ii));

19 “(41) ‘foreclosure’ and ‘foreclose’ each has the
20 meaning provided in section 101(20)(G)(iii) of the
21 Comprehensive Environmental Response, Compensa-
22 tion and Liability Act of 1980 (42 U.S.C.
23 9601(20)(G)(iii));

24 “(42) ‘lender’ has the meaning provided in sec-
25 tion 101(20)(G)(iv) of the Comprehensive Environ-

1 *mental Response, Compensation and Liability Act of*
 2 *1980 (42 U.S.C. 9601(20)(G)(iv));*

3 “(43) ‘operational function’ has the meaning
 4 *provided in section 101(20)(G)(v) of the Comprehen-*
 5 *sive Environmental Response, Compensation and Li-*
 6 *ability Act of 1980 (42 U.S.C. 9601(20)(G)(v)); and*

7 “(44) ‘security interest’ has the meaning pro-
 8 *vided in section 101(20)(G)(vi) of the Comprehensive*
 9 *Environmental Response, Compensation and Liabil-*
 10 *ity Act of 1980 (42 U.S.C. 9601(20)(G)(vi)).”.*

11 (c) *DEFINITION OF CONTRACTUAL RELATIONSHIP.—*
 12 *Section 1003 of the Oil Pollution Act of 1990 (33 U.S.C.*
 13 *2703) is amended by adding at the end the following:*

14 “(d) *DEFINITION OF CONTRACTUAL RELATIONSHIP.—*

15 “(1) *IN GENERAL.—For purposes of subsection*
 16 *(a)(3) the term ‘contractual relationship’ includes, but*
 17 *is not limited to, land contracts, deeds, easements,*
 18 *leases, or other instruments transferring title or pos-*
 19 *session, unless—*

20 “(A) *the real property on which the facility*
 21 *concerned is located was acquired by the respon-*
 22 *sible party after the discharge of the oil on, in,*
 23 *or at the facility;*

24 “(B) *one or more of the circumstances de-*
 25 *scribed in subparagraph (A), (B), or (C) of*

1 paragraph (2) is established by the responsible
2 party by a preponderance of the evidence; and

3 “(C) the responsible party complies with
4 paragraph (3).

5 “(2) REQUIRED CIRCUMSTANCE.—The cir-
6 cumstances referred to in paragraph (1)(B) are the
7 following:

8 “(A) At the time the responsible party ac-
9 quired the real property on which the facility is
10 located the responsible party did not know and
11 had no reason to know that oil that is the subject
12 of the discharge or substantial threat of discharge
13 was placed on, in, or at the facility.

14 “(B) The responsible party is a government
15 entity that acquired the facility—

16 “(i) by escheat;

17 “(ii) through any other involuntary
18 transfer or acquisition; or

19 “(iii) through the exercise of eminent
20 domain authority by purchase or con-
21 demnation.

22 “(C) The responsible party acquired the fa-
23 cility by inheritance or bequest.

24 “(3) ADDITIONAL REQUIREMENTS.—For pur-
25 poses of paragraph (1)(C), the responsible party must

1 *establish by a preponderance of the evidence that the*
2 *responsible party—*

3 “(A) *has satisfied the requirements of sec-*
4 *tion 1003(a)(3)(A) and (B);*

5 “(B) *has provided full cooperation, assist-*
6 *ance, and facility access to the persons that are*
7 *authorized to conduct removal actions, including*
8 *the cooperation and access necessary for the in-*
9 *stallation, integrity, operation, and maintenance*
10 *of any complete or partial removal action;*

11 “(C) *is in compliance with any land use re-*
12 *strictions established or relied on in connection*
13 *with the removal action; and*

14 “(D) *has not impeded the effectiveness or*
15 *integrity of any institutional control employed*
16 *in connection with the removal action.*

17 “(4) *REASON TO KNOW.—*

18 “(A) *APPROPRIATE INQUIRIES.—To estab-*
19 *lish that the responsible party had no reason to*
20 *know of the matter described in paragraph*
21 *(2)(A), the responsible party must demonstrate*
22 *that—*

23 “(i) *on or before the date on which the*
24 *responsible party acquired the real property*
25 *on which the facility is located, the respon-*

sible party carried out all appropriate inquiries, as provided in subparagraphs (B) and (D), into the previous ownership and uses of the real property on which the facility is located in accordance with generally accepted good commercial and customary standards and practices; and

“(ii) the responsible party took reasonable steps to—

“(I) stop any continuing discharge;

“(II) prevent, minimize or mitigate any substantial threat of discharge; and

“(III) prevent or limit any human, environmental, or natural resource exposure to any discharged oil.

“(B) *REGULATIONS ESTABLISHING STANDARDS AND PRACTICES.*—Not later than 2 years after the date of the enactment of this paragraph, the Secretary shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under subparagraph (A).

1 “(C) *CRITERIA.*—*In promulgating regula-*
2 *tions that establish the standards and practices*
3 *referred to in subparagraph (B), the Secretary*
4 *shall include in such standards provisions re-*
5 *garding each of the following:*

6 “(i) *The results of an inquiry by an*
7 *environmental professional.*

8 “(ii) *Interviews with past and present*
9 *owners, operators, and occupants of the fa-*
10 *ility and the real property on which the fa-*
11 *ility is located for the purpose of gathering*
12 *information regarding the potential for oil*
13 *at the facility and on the real property on*
14 *which the facility is located.*

15 “(iii) *Reviews of historical sources, in-*
16 *cluding, to the extent available, chain of*
17 *title documents, aerial photographs, build-*
18 *ing department records, and land use*
19 *records, to determine previous uses and oc-*
20 *cupancies of the real property on which the*
21 *facility is located since the property was*
22 *first developed.*

23 “(iv) *Searches for recorded environ-*
24 *mental cleanup liens against the facility*
25 *and the real property on which the facility*

1 *is located that are filed under Federal,*
2 *State, or local law.*

3 “(v) *Reviews of Federal, State, and*
4 *local government records, waste disposal*
5 *records, underground storage tank records,*
6 *and waste handling, generation, treatment,*
7 *disposal, and spill records, concerning oil at*
8 *the facility and on the real property on*
9 *which the facility is located.*

10 “(vi) *Visual inspections of the facility,*
11 *the real property on which the facility is lo-*
12 *cated, and adjoining properties.*

13 “(vii) *Specialized knowledge or experi-*
14 *ence on the part of the responsible party.*

15 “(viii) *The relationship of the purchase*
16 *price to the value of the facility and the real*
17 *property on which the facility is located, if*
18 *oil was not at the facility or on the real*
19 *property.*

20 “(ix) *Commonly known or reasonably*
21 *ascertainable information about the facility*
22 *and the real property on which the facility*
23 *is located.*

24 “(x) *The degree of obviousness of the*
25 *presence or likely presence of oil at the facil-*

1 *ity and on the real property on which the*
 2 *facility is located, and the ability to detect*
 3 *the oil by appropriate investigation.*

4 “(D) INTERIM STANDARDS AND PRAC-
 5 TICES.—

6 “(i) REAL PROPERTY PURCHASED BE-
 7 FORE MAY 31, 1997.—With respect to real
 8 property purchased before May 31, 1997, in
 9 making a determination with respect to a
 10 responsible party described in subparagraph
 11 (A), a court or appropriate official shall
 12 take into account—

13 “(I) any specialized knowledge or
 14 experience on the part of the respon-
 15 sible party;

16 “(II) the relationship of the pur-
 17 chase price to the value of the facility
 18 and the real property on which the fa-
 19 cility is located, if oil was not at the
 20 facility or on the real property;

21 “(III) commonly known or rea-
 22 sonably ascertainable information
 23 about the facility and the real property
 24 on which the facility is located;

1 “(IV) *the obviousness of the pres-*
2 *ence or likely presence of oil at the fa-*
3 *cility and on the real property on*
4 *which the facility is located; and*

5 “(V) *the ability of the responsible*
6 *party to detect the oil by appropriate*
7 *inspection.*

8 “(ii) *REAL PROPERTY PURCHASED ON*
9 *OR AFTER MAY 31, 1997.—With respect to*
10 *real property purchased on or after May 31,*
11 *1997, until the Secretary promulgates the*
12 *regulations described in clause (ii), the pro-*
13 *cedures of the American Society for Testing*
14 *and Materials, including the document*
15 *known as ‘Standard E1527–97’, entitled*
16 *‘Standard Practice for Environmental Site*
17 *Assessment: Phase I Environmental Site As-*
18 *essment Process’, shall satisfy the require-*
19 *ments in subparagraph (A).*

20 “(E) *SITE INSPECTION AND TITLE*
21 *SEARCH.—In the case of real property for resi-*
22 *dential use or other similar use purchased by a*
23 *nongovernmental or noncommercial entity, in-*
24 *spection and title search of the facility and the*
25 *real property on which the facility is located*

1 *that reveal no basis for further investigation*
2 *shall be considered to satisfy the requirements of*
3 *this paragraph.*

4 “(5) *PREVIOUS OWNER OR OPERATOR.*—*Nothing*
5 *in this paragraph or in section 1003(a)(3) shall di-*
6 *minish the liability of any previous owner or oper-*
7 *ator of such facility who would otherwise be liable*
8 *under this Act. Notwithstanding this paragraph, if a*
9 *responsible party obtained actual knowledge of the*
10 *discharge or substantial threat of discharge of oil at*
11 *such facility when the responsible party owned the fa-*
12 *cility and then subsequently transferred ownership of*
13 *the facility or the real property on which the facility*
14 *is located to another person without disclosing such*
15 *knowledge, the responsible party shall be treated as*
16 *liable under 1002(a) and no defense under section*
17 *1003(a) shall be available to such responsible party.*

18 “(6) *LIMITATION ON DEFENSE.*—*Nothing in this*
19 *paragraph shall affect the liability under this Act of*
20 *a responsible party who, by any act or omission,*
21 *caused or contributed to the discharge or substantial*
22 *threat of discharge of oil which is the subject of the*
23 *action relating to the facility.”.*

Union Calendar No. 127

108TH CONGRESS
1ST SESSION

H. R. 2443

[Report No. 108-233]

A BILL

To authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes.

JULY 24, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed