

nating in the drainage basin of the Great Lakes.

Page 5, after line 16, insert:

Sec. 5. The Secretary, acting through the Bureau, and the Administrator of the environmental Protection Agency (hereinafter referred to as the "Administrator") shall enter into a memorandum-of-understanding to provide for an evaluation of the impacts to surface water and groundwater quality resulting from the groundwater recharge demonstration projects constructed pursuant to this Act. The Administrator shall consult with the United States Geological Survey and shall make maximum use of data, studies, and other technical resources and assistance available from State and local entities in conducting the evaluation. The evaluation of water quality impacts shall be completed so as to be included in the Secretary's final report to the Congress referred to in section 4(c)(2) of this Act.

Page 5, line 17, strike out "5" and insert "6".

Page 5, strike out all after line 23 over to and including line 5 on page 6, and insert:

Sec. 7. There is authorized to be appropriated for fiscal years beginning after September 30, 1983, \$20,000,000 (October 1983 price levels) to carry out phase II. Amounts shall be made available pursuant to the authorization contained in this section in sums for individual projects based on findings of feasibility by the Secretary.

Page 6 line 6, strike out "7" and insert "8".

Page 6 line 7, strike out "6" and insert "7".

Page 6 line 17, strike out "8" and insert "9".

Page 7, after line 2, insert:

Sec. 10. No funds authorized to be appropriated by this act shall be used for any activities associated with:

(1) the interstate transfer of water from the State of Arkansas; or

(2) the study or demonstration of the potential for the interstate transfer of water from the State of Arkansas.

Mr. KAZEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. TALLON). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. BROWN of Colorado. Reserving the right to object, Mr. Speaker, would the gentleman from Texas explain to the body the nature of the Senate amendments.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Speaker, H.R. 71 authorizes the construction of demonstration projects for ground water recharge.

The Senate amendments require specific line item appropriations for each demonstration project. This will give Congress the opportunity to judge each proposed project on its merits, should it choose to do so.

Another amendment involves the EPA to the extent that it would assure that none of the projects would degrade ground water resources which are, or may be, used for drinking water.

Two other amendments approved by the Senate prohibit the use of any funds authorized to be appropriated for the diversion of water from the Great Lakes or the Arkansas River Basin. Since it was never intended that the demonstration projects involve interbasin transfers of water, the amendments are not likely to have any significant impact on the demonstration program.

Mr. BROWN of Colorado. Mr. Speaker, I want to take this opportunity to congratulate Chairman KAZEN and Congressman BERETER of Nebraska who have put so much hard work into getting this bill passed. I note that the bill was essentially unchanged by the Senate, which added what are basically technical or clarifying amendments to the House bill. This speaks very well for the efforts of the subcommittee on this bill.

As many Members know, the problem of ground water overdrafting is an increasingly serious one in Colorado and in the West. According to Congressman BERETER of Nebraska:

It is likely that some areas of the High Plains will have totally exhausted their available ground water supplies by the turn of the century. Because of this projected depletion of ground water, it is estimated that more than 5 million acres in the High Plains will revert to dryland farming practices or rangeland by the year 2020.

We need to make a concerted effort now to find the best ways to deal with this problem before the crisis which some are predicting for the future becomes a reality. The ground water recharge demonstration program is a key step which will provide important new information to help in dealing with this problem.

As amended by the Senate, the bill sets up a two-phase program for demonstration projects for ground water recharge. The Bureau of Reclamation will be the principal agency to administer the program. In phase I, the Bureau of Reclamation will develop plans for demonstration projects "the purpose of which is to determine whether various recharge technologies may be applied to diverse geologic and hydrologic conditions represented in the High Plains States and other Reclamation Act States." There is \$500,000 authorized for phase I. In phase II, the Bureau of Reclamation is "authorized and directed" to design, construct, and operate a number of demonstration projects in the High Plains States. There is \$20 million authorized for phase II.

I understand the Bureau of Reclamation may issue an informational notice describing the program and

calling for project proposals by interested local areas. A preliminary selection of projects is scheduled to be made 6 months after funds are first appropriated.

I call particular attention to the fact that the bill requires that States or local communities contribute 20 percent of the cost of these projects. This requirement is intended to ensure both the fiscal soundness and the desirability of projects which are chosen, since the State and Federal Governments will both have strong interests in overseeing their investments with such a requirement in place.

The problem of ground water overdrafting is probably not susceptible to a simple solution, but I believe this bill can make a significant contribution to our understanding of the problem, and I support its passage.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas [Mr. KAZEN]?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MARINE SANCTUARIES AMENDMENTS OF 1983

Mr. BREAUX. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1102) to provide authorization of appropriations for title III of the Marine Protection, Research, and Sanctuaries Act of 1972, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. YOUNG of Alaska. Reserving the right to object, Mr. Speaker, and I will not object to this bill but merely wish to commend my colleagues for bringing it to the floor today.

While I continue to have reservations about the marine sanctuaries title of the bill, I am satisfied with the colloquy held with the chairman and hope that the legislative intent demonstrated will help to prevent any future problems for ocean resource industries.

I also want to mention my strong support for the other provisions of the bill, especially the amendments to the fishermen's contingency fund and the fisheries loan program. The amendments we will adopt today make both of those programs more responsive to the needs of our commercial fishing industry. I am especially pleased with the new provisions that allow a higher recovery for economic loss. This will certainly help those fishermen who lose gear in the course of fishing operations.

I would like to make some specific comments regarding marine sanctuaries. The intent of section 303 is to ensure that marine sanctuaries are not designated unless they are carefully screened and meet specific standards. Also, section 304 requires additional steps, including an environmental impact statement and resource assessment, before designation. Subsection 303(a) contains five mandatory standards for designation, each requiring a secretarial finding or determination following extensive interagency review. Subsection 303(b) lists nine complex factors the Secretary must carefully consider in conjunction with interagency consultations before designating a marine sanctuary. Subsections 303 (a) and (b) combined, therefore, include 14 inter-related criteria. Further, the resource assessment required under paragraph 303(b)(3) must be included in the environmental impact statement required by paragraph 304(a)(2). It is my understanding that the Congress does not condone the designation of any marine sanctuary unless it is first carefully screened and meets each of the required standards.

Before a marine sanctuary is designated, the Secretary must find that it is small enough to allow comprehensive management and that it will not be designated if present or potential uses are or will be conducted under laws, regulations, or policies adequate to protect the area. Further, consultation by the Secretary means precisely that, and not agreement after the fact by personnel in other agencies. In particular, subparagraphs 303(a)(2)(D) and 303(b)(1)(F) refer to size of a marine sanctuary. These provisions require that the area be "discrete." This means small enough to, and of a nature which would, allow coordinated and comprehensive management. Clearly, areas of the size of some marine sanctuaries that have been proposed for designation in the past are not discrete and are not of a nature which would allow coordinated and comprehensive management. If the intent of this program is to achieve coordinated and comprehensive management of special areas in the absence of existing authorities, then it should be clearly demonstrated that this program has the fiscal and

administrative capacity to do so for any proposed marine sanctuary area, particularly in terms of its physical size. Certainly, the largest of the existing marine sanctuaries is the maximum size currently contemplated to satisfy the provisions of subparagraphs 303(a)(2)(D) and 303(b)(1)(F). Furthermore, the Secretary should not designate an area as a marine sanctuary if existing authorities or programs provide the desired level of protection for the area and its resources. Specifically, subparagraph 303(a)(2)(B) directs the Secretary to make a finding that "existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area * * *" prior to designating a marine sanctuary. I believe such a finding would be difficult to make and sustain considering the many existing stringent State and Federal environmental laws and regulations which already ensure extensive protection of the marine environment.

Another issue pertains to interagency consultations prior to marine sanctuary designation and those related to implementation of a marine sanctuary including proposed regulations, covered respectively by paragraph 303(b)(2). These provisions, in a nutshell, require a secretary to consult extensively with other Federal and State agencies on a number of issues prior to designation. These before-the-fact consultations must, for each candidate for designation as a marine sanctuary, include thorough interagency discussion of proposed findings and analysis of factors evaluated to make the findings. Without adhering to strict interagency review procedures it would be impossible for the Secretary to designate a marine sanctuary or regulate it in any particular manner. The legal validity of any designation action under this legislation requires before-the-fact interagency review. It should also be noted that subparagraph 303(b)(2)(A) also requires consultation with the Congress, in particular the Merchant Marine and Fisheries Committee.

One important purpose of these amendments is to avoid disrupting ongoing programs conducted or monitored by other Federal agencies, or in the case of commercial fishing, by the Regional Fishery Management Councils. The purpose of all the before-the-fact interagency review and approval is to ensure that ongoing or planned Federal programs administered by other agencies are not disrupted by the designation of a marine sanctuary and its subsequent management. The intent is to provide the agencies whose programs would be affected by a designation with the opportunity to review the impact of designation and subsequent regulation and management of a marine sanctuary on their programs,

and not to let the Secretary unilaterally make that judgment for them.

In addition, the intent of this bill is to ensure that other agencies involved in activities in a proposed site have full rights of participation in the regulatory process, so that implementing regulations do not unduly restrict other agency activities without their prior review.

Because some of the provisions are not fully covered by legislative history, I also want to offer the following to more clearly explain congressional intent behind the various sections of this bill.

SECTION-BY-SECTION ANALYSIS OF S. 1102

TITLE I—MARINE SANCTUARIES

This title completely revises the existing law regarding marine sanctuaries.

It defines Congressional intent with respect to the marine sanctuaries program and codifies the program's existing purposes and policies as outlined in NOAA's Program Development Plan (PDP). Further, it sets specific standards and factors that the Secretary of Commerce must consider when designating a marine sanctuary and expands the consultation procedures required when designating a sanctuary to include consultation with Regional Fishery Management Councils.

The Secretary of Commerce is required to include, as part of the Draft EIS on a proposed sanctuary, a resource assessment report documenting the present and potential uses of the area, including fishing, minerals, and energy development. Procedures are established that the Secretary must follow in preparing the sanctuary proposal, including public notice and notice to the Congress, the environmental impact statement, and public hearing requirement.

Regional Fishery Management Councils are given the opportunity to draft regulations governing fishing within proposed sanctuaries. If the Council declines, or fails within a reasonable time, to prepare appropriate regulations, the Secretary shall prepare the draft regulations.

Finally, it establishes a 45-day Congressional review and reporting period prior to final site designation and sets up Congressional and gubernatorial disapproval processes. The Congressional disapproval vehicle is a prescribed joint resolution to be approved and signed by the President. If the Governor disapproves a site designation, that designation shall not take effect in state waters.

The Secretary of State, in consultation with the Secretary of Commerce, has discretionary authority to make necessary arrangements with other governments for the protection of any sanctuary and the promotion of the sanctuaries' purposes. These arrangements may well be useful, although the need for them may be reduced by the recent establishment of the United States Exclusive Economic Zone which augments previous U.S. authority over ocean areas where sanctuaries may be designated.

Appropriations are authorized as follows: FY 85—\$3 million; FY 86—\$3.3 million; FY 87—\$3.6 million; and FY 88—\$3.9 million.

House Report No. 98-187 sets forth a fuller discussion of the Congressional mandate and of each provision of the bill. The provisions regarding resource assessment report, criteria for drafting fishing regulations by the Councils, reduction of the time

for Congressional and gubernatorial disapproval, consistency with the recent *Chadha* decision, the privileged and undebatable status of the joint resolution, and clarification of access and valid rights have been modified since that report was published but to the extent possible should be interpreted as consistent with that report. The clarification of rights is merely a grandfather for certain existing rights which are all subject to regulation by the Secretary of Commerce. The word "valid" is included for emphasis only and is considered to be legally redundant and superfluous.

TITLE II—MARINE SAFETY

Subtitle A contains the Maritime Safety Act of 1984. It requires the owner, agent, or managing operator of a vessel, which is required to be inspected by the Coast Guard, to inform the Coast Guard at least 30 days, but not more than 60 days, before the vessel's current certificate of inspection expires. Further, it provides penalties for operation of a vessel without a certificate of inspection. The penalty will be up to \$2,000 per day for vessels under 1,600 tons and up to \$10,000 per day for other vessels. The Coast Guard can waive the penalty if unforeseen circumstances prevent a scheduled inspection. The Secretary of Transportation is authorized to order the owner, agent, or managing operator of the vessel, which lacks a required certificate of inspection, to return the vessel to its mooring until a certificate is issued, or take other appropriate action. In addition, it amends several existing laws relating to vessel inspection, in order to increase, and make more uniform, the civil penalty applicable for a violation of those laws. Many of the penalties are for up to \$5,000 per violation.

The owner, agent, or managing operator of any vessel of the United States is required to immediately notify the Coast Guard when that person has reason to believe, because of lack of communication with or non-appearance of the vessel or any other incident, that the vessel may have been lost or imperiled and to immediately try to determine the status of the vessel, which is required to report under USMER, is required to try immediately to determine the status of the vessel and to notify the Coast Guard if more than 48 hours have passed since hearing from the vessel. It also requires the master of the USMER vessel to report to the owner at least once every 48 hours and provides civil penalties for failure to make any of the required reports.

In addition, it raises the \$60 per ton limit of shipowner's liability for death and personal injury claims to \$420 per ton to adjust the figure due to inflation since the 1936 enactment of the \$60 per ton law.

House Report No. 98-525 contains the full statement of Congressional intent and a detailed analysis of each provision. Slight modifications have been made since the report was published, which should be interpreted to be consistent with that report.

Subtitle B concerns recreational diving safety. It requires the Rules of the Road Advisory Council and the National Boating Safety Advisory Council to report, within 180 days after enactment, recommendations to the Secretary of Transportation concerning the need for display of the red-with-diagonal-white-stripe "divers flag" to promote recreational diving safety. Any factor may be considered by each Council including those enumerated in the provision. There is a particular concern to receive a recommendation regarding preemption of state law, as approximately 30 of the 50 states have their

own statutes. The Secretary is required to report to Congress, within one year after enactment, the Councils' recommendations, the Secretary's evaluation of them, the Secretary's recommendations, and proposed legislation to implement the Secretary's recommendations if required. The intent is to set up a process for the full examination of the safety issues surrounding divers and vessels in the maritime environment. Existing law is unaffected by this provision.

TITLE III—NOAA CORPS PROVISIONS

Subtitle A concerns health care for certain NOAA personnel. It responds to a provision in the Omnibus Budget Reconciliation Act of 1981, which phased out Public Health Service (PHS) hospitals and other facilities, and subsequent determinations (effective with the enactment of the second continuing resolution for 1983) prohibiting the PHS from budgeting for health services for eligible NOAA employees.

First, it provides permanent authority for the Secretary of Commerce to budget for dental and medical care for the NOAA Corps, including dependents and survivors, and the crews of NOAA vessels, and authorizes the Secretary to provide health care by contracting directing with private facilities or by reimbursing another agency—including the Public Health Service—qualified to provide care. It changes no basic entitlements and is virtually identical to authority given to the Coast Guard.

In addition, it contains technical amendments to clarify that non-NOAA Corps crew members, dependents, and retired ships' officers who are eligible for hospitalization care are entitled to this care without regard to whether care is provided at PHS facilities or by contract with private hospitals and facilities. This section affects roughly 165 older career NOAA employees who have either been retired or in continuous active service for at least 20 years. These individuals are entitled to PHS health care by law. However, their PHS hospitalization benefits were inadvertently cut off by closure of PHS facilities. When similar care was provided on a contract basis with private facilities, there was an administrative determination that care in private facilities was not allowed under existing law. For a more detailed explanation of Subtitle A, see House Report 98-526.

Subtitle B amends the Coast and Geodetic Survey Commissioned Officers' Act of 1948 in several respects. It establishes similar involuntary separation entitlements for commissioned officers of the National Oceanic and Atmospheric Administration to those already provided for officers of the Armed Services, provides the Secretary of Commerce with greater flexibility in the assignment of NOAA Corps officers throughout the Administration by removing the restriction on the number of NOAA Corps officers who may hold temporary promotions, and provides authority to designate a limited number of positions of importance and responsibility as flag grades when held by commissioned officers. Additionally, this subtitle will align the grade structure of the NOAA Corps with that of the Navy by replacing the grade of rear admiral (lower half) with the grade of commodore.

With respect to the involuntary separation provisions, it includes the rank of lieutenant commander among the ranks which, if not otherwise qualified for retirement, may be separated from the service as recommended by a personnel board. Further, it provides that any officer who is separated from the NOAA Corps and who has com-

pleted five or more years of continuous active service immediately before that separation is entitled to the amount of separation pay which is 10 percent of the product of the years of active service times one year's salary at the time of separation or \$30,000, which ever is less, unless the Secretary determines that the payment is unwarranted. Any officer who is separated from the NOAA Corps and who has completed more than three but less than five years of continuous active service is entitled to one-half of the above amount but in no event more than \$15,000, unless the Secretary determines that the payment is unwarranted. The period for which an officer has previously received separation pay, severance pay, or readjustment pay may not be included in determining the years of creditable service. Also, an officer who has received separation pay under this section or severance pay or readjustment pay under any other provision of law and who later qualifies for retirement shall have the amount of separation pay deducted from retirement payment.

The provisions creating greater flexibility in the assignment of commissioned officers allow the President to appoint, with advice and consent of the Senate, one officer to the grade of vice admiral, three officers to the grade of rear admiral, and three officers to the grade of commodore. Certain positions within NOAA designated by the Secretary may be filled with NOAA Corps commissioned officers so appointed. An appointment under this provision creates a vacancy on the active list. However, the officer retains the permanent grade held by that officer at the time of the appointment. Savings clauses are provided so that an officer serving as rear admiral (upper half) before enactment of this Act shall, after enactment, serve in the grade of rear admiral. An officer serving as rear admiral (lower half) before enactment shall, after enactment, serve in the grade of commodore but shall retain the title and uniform of rear admiral.

In addition, these provisions remove the limit on the number of officers holding temporary promotions. An officer in any permanent grade may, under current law, be temporarily promoted to the next higher grade by the President and the temporary promotion will terminate upon the transfer of the officer to a new assignment.

Administratively, this subtitle replaces the appointment authority for flag grades contained in Reorganization Plan No. 4 of 1970 and affirms the authority of the Secretary to assign commissioned officers to a wide range of administrative and operational positions. This subtitle will also correct an obvious drafting error in Section 3(a)(1) of Public Law 95-219.

TITLE IV—FISHERIES

Subtitle A renames the Pacific Tuna Development Foundation as the Pacific Fisheries Development Foundation in order to illustrate the broader concerns of the Foundation and to make the name consistent with that of similar foundations.

Subtitle B makes changes in the Fishermen's Contingency Fund as established under the Outer Continental Shelf Lands Act Amendments (OCSLAA) of 1978. The OCSLAA were to compensate commercial fishermen for damages to vessels and gear resulting from oil and gas exploration, development, and production in areas of the Outer Continental Shelf, and for resulting economic loss. Currently, OCSLAA provides for compensation of an amount equal to 25

percent of economic loss. This subtitle increases that to an amount equal to 50 percent of loss. The term "resulting economic loss" means the gross income, as estimated by the Secretary, that a commercial fisherman eligible for compensation will lose by reason of not being able to engage in fishing or having to reduce the fisherman's fishing effort during the period before the damaged or lost fishing gear is repaired or replaced and available for use. It ensures an adequate amount of time to file claims by prescribing a minimum 90-day period to do so.

Subtitle C makes changes to the Fisheries Loan Fund (FLF). It extends through Fiscal Years 1985 and 1986 the authority of the Secretary of Commerce to deposit foreign fishing fees into the Fisheries Loan Fund, and to make loans from the Fisheries Loan Fund to fishermen to avoid default on Federal loan guarantees, to avoid default on vessel loans not guaranteed by the Federal Government, or to cover vessel operating expenses under certain circumstances. Further, it extends through Fiscal Years 1985 and 1986 the authorization of \$50,000 for the Secretary of Commerce and \$100,000 for the Department of the Interior to recruit, train, and accept volunteers to assist in fish and wildlife programs.

Finally, it provides that all monies in the Fisheries Loan Fund shall be invested by the Secretary of Commerce in United States obligations, except money needed for loans or administrative expenses. The accrued proceeds shall be credited by the Secretary of the Treasury to the debt incurred under the Title XI Fishing Vessel Loan Guarantee Program. The investment proceeds would assist in the liquidation of approximately \$18 million of debt borrowed from the Treasury by the Secretary of Commerce because of inadequate reserves to cover payments necessitated by an excessive number of defaults on government guaranteed vessel loans. The crediting of investment proceeds would be subject to appropriations.

Subtitle D approves the Governing International Fisheries Agreement between the United States and the Government of Denmark and the Faroe Islands.

TITLE V—VESSELS

This title lists seven vessels made eligible for documentation as U.S. vessels. It cures various defects in the vessels' titles under the terms of the Merchant Marine Act or title 46, United States Code. These vessels are: WINGAWAY, official number 654146; ENDLESS SUMMER, official number 296259 (House Report No. 98-514); MUSKEGON CLIPPER, official number 252908; SCUBA KING, official number 532376; ULULANI, official number 239729; NO SLACK, official number 587630; LA JOLIE, Michigan number MC2780LB (House Report No. 98-516).

The format of this title has been developed for use in drafting provisions of this nature by the Merchant Marine and Fisheries Committee and is recommended for future provisions of this nature. It is understood that any defect of the type corrected by this title, occurring subsequent to the enactment of this title, would require additional legislative action to cure it.

□ 1040

I would like to engage the subcommittee chairman, the gentleman from Louisiana [Mr. BREAUX], in a colloquy regarding marine sanctuaries in this bill. I have included detailed remarks for the congressional intent and un-

derstanding regarding sections 303 and 304, as well as various actions permitted under this legislation with regard to the designation of marine sanctuaries. In addition, I have included in my statement a detailed analysis of the entire bill, S. 1102.

Does the gentleman from Louisiana agree that this is an accurate statement regarding these sections of congressional intent on this bill?

Mr. BREAUX. Mr. Speaker, the gentleman has precisely stated the situation. I commend him for his comments. His statements accurately reflect the intent of the legislation.

Mr. YOUNG of Alaska. I thank the gentleman for his comments.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. MOLINARI].

Mr. MOLINARI. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of S. 1102.

I am particularly pleased to note that my bill, H.R. 5732, the "Diver Down Flag" bill, is incorporated as subtitle B, of title II.

Recognizing the need to promote and protect the safety of recreational skin and scuba divers across the country signifies a long awaited awareness of the needs of this large body of diving enthusiasts.

For almost 27 years, whenever divers have engaged in their sport, they have proudly displayed a bright red flag with a white diagonal strips which by tradition means "Diver down, stay clear."

I say proudly displays with good reason. The flag was diver inspired and diver designed, and is today not only instantly recognized, but is required as a safety measure by more than 30 States.

We have now reached the point where, in order to provide adequate safety for this ever-growing sport, a uniform nationwide safety standard based upon this flag, must be developed. This is what subtitle B will do.

It directs the Rules of The Road Advisory Council, and the National Boating Safety Advisory Council, to develop within 180 days, recommendations on how the traditional divers flag should be displayed. These councils will work with the recreational diving community to design appropriate standards that will assure diving safety throughout the country.

These standards and provisions are essential to safeguard the diving community of this Nation and I urge you to approve this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1102

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

TITLE I—MARINE SANCTUARIES

Sec. 101. This title may be cited as the "Marine Sanctuaries Amendments of 1983".

Sec. 102. Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended to read as follows:

"TITLE III—NATIONAL MARINE SANCTUARIES

"SEC. 301. FINDINGS, PURPOSES, AND POLICIES.

"(a) FINDINGS.—The Congress finds that—
 "(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but such efforts have been directed almost exclusively to land areas above the high-water mark;

"(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, research, educational, or esthetic qualities which give them special national significance;

"(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment;

"(4) a Federal program which identifies special areas of the marine environment will contribute positively to marine resource conservation and management; and

"(5) such a Federal program will also serve to enhance public awareness, understanding, appreciation, and wise use of the marine environment.

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

"(1) to identify areas of the marine environment of special national significance due to their resource or human-use values;

"(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas which will complement existing regulatory authorities;

"(3) to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas;

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

"(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.

"SEC. 302. DEFINITIONS.

"As used in this title, the term—

"(1) 'drift management plan' means the plan described in section 304(a)(1)(E);

"(2) 'Magnuson Act' means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

"(3) 'marine environment' means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, consistent with international law;

"(4) 'Secretary' means the Secretary of Commerce; and

"(5) 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands,

American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States.

"SEC. 303. SANCTUARY DESIGNATION STANDARDS.

"(A) STANDARDS.—The Secretary may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation if the Secretary determines that such designation will fulfill the purposes and policies of this title, and if the Secretary finds that—

"(1) the area is of special national significance due to its resource or human-use values;

"(2) existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research and public education, and that designation of such area as a national marine sanctuary will facilitate these objectives; and

"(3) the area is of a size and nature which will permit comprehensive and coordinated conservation and management.

"(b) FACTORS AND CONSULTATIONS REQUIRED IN MAKING FINDINGS.—

"(1) FACTORS.—For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a), the Secretary shall consider—

"(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, and the biogeographic representation of the site;

"(B) the area's historical, cultural, archaeological, or paleontological significance;

"(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;

"(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

"(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this title;

"(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

"(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

"(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development; and

"(I) the socioeconomic effects of sanctuary designation.

"(2) CONSULTATION.—In making such determination, the Secretary shall consult with—

"(A) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

"(B) the Secretaries of State, Defense, Transportation, the Secretary of the Department in which the Coast Guard is operating, the Secretary of the Interior, the Ad-

ministrators, and the heads of other interested Federal agencies;

"(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

"(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

"(E) other interested persons.

"(3) RESOURCE ASSESSMENT REPORT.—In making such determination, the Secretary also shall draft, as part of the environmental impact statement referred to in section 304(a)(1), a resource assessment report documenting present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial recreational uses. The Secretary, in consultation with the Secretary of the Interior, shall be responsible for drafting a resource assessment section for the report regarding any commercial or recreational resource uses in the area under consideration which are subject to the primary jurisdiction of the Department of the Interior.

"SEC. 304. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

"(a) SANCTUARY PROPOSAL.—

"(1) NOTICES.—In proposing to designate a national marine sanctuary, the Secretary shall issue in the Federal Register a notice of the proposal, proposed regulations that may be necessary and reasonable to implement such proposal and a summary of the draft management plan. The Secretary shall provide notice of the proposal in newspapers of general circulation or electronic media in the communities that may be affected by the proposal. The Secretary shall also prepare a draft environmental impact statement, as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), on the proposal. Such draft statement shall include the resource assessment report required under section 303(b)(3), and maps depicting the boundaries of the proposed designated area and the existing and potential uses and resources of the area. Copies of the draft environmental impact statement shall be available to the public. No sooner than thirty days after issuing a notice under this subsection, the Secretary shall hold at least one public hearing in the coastal area or areas that will be most affected by the proposed designation of the area as a national marine sanctuary for the purpose of receiving the views of interested parties. On the same day as such notice is issued, the Secretary shall also submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a prospectus on the proposal which shall contain—

"(A) the terms of the proposed designation;

"(B) the basis of the findings made under section 303(a) with respect to the area;

"(C) an assessment of the considerations under section 303(b)(1);

"(D) proposed mechanisms to coordinate existing regulatory and management authorities within the area;

"(E) the draft management plan detailing the proposed goals and objectives, management responsibilities, resource studies, in-

terpretive and educational programs, and enforcement and surveillance activities for the area;

"(F) an estimate of the annual cost of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education;

"(G) the draft environmental impact statement;

"(H) an evaluation of the advantages of cooperative State and Federal management where proposed marine sanctuaries lie within the territorial limits of any State or are superjacent to the subsoil and seabed within the seaward boundary of a State, as the term "boundary" is used in the Submerged Lands Act (43 U.S.C. 1301 et seq.); and

"(I) proposed regulations to implement the terms of designation and the measures referred to in subparagraphs (A), (D), and (E) and paragraph (3).

"(2) TERMS OF DESIGNATION.—The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary in order to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made.

"(3) FISHING REGULATIONS.—The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare such draft regulations for fishing within the United States Fishery Conservation Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council or a Council determination that regulations are not necessary pursuant to this paragraph shall be accepted and promulgated by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this title and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall also use as guidance the national standards of section 301(a) of the Magnuson Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare such regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to fishing regulations shall be drafted, approved and promulgated in the same manner as the original regulations.

"(4) COMMITTEE ACTION.—After receiving the prospectus under subsection (a)(1), the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate may each hold hearings on the proposed designation and on the matters set forth in the prospectus. If within the forty-five day period of continuous session of Congress beginning on the date of submission of the prospectus, either Committee issues a report concerning matters addressed in the prospectus, the Secretary shall consider such report before publishing a notice to designate the national marine sanctuary.

"(b) TAKING EFFECT OF DESIGNATIONS.—

"(1) NOTICE.—In designating a national marine sanctuary, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and submit such notice to the Congress. The Secretary shall also advise the public of the availability of the final management plan and the final environmental impact statement with respect to such sanctuary. No notice of designation may occur until the expiration of the period for Committee action under subsection (a)(4). The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on the day on which such notice is published unless—

"(A) the Congress disapproves the designation or any of its terms, by enacting a joint resolution of disapproval described in paragraph (3); or

"(B) in the case of a national marine sanctuary that is located partially or entirely within the jurisdiction 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 jurisdiction of the State.

"(2) WITHDRAWAL OF DESIGNATION.—If the Secretary considers that actions taken under paragraph (1) (A) or (B) will affect the designation in such a manner that the goals and objectives of the sanctuary cannot be fulfilled, the Secretary may withdraw the designation. If the Secretary does not withdraw the designation, only those portions of the designation not disapproved under paragraph (1)(A) or not certified under paragraph (1)(B) shall take effect.

"(3) RESOLUTION OF DISAPPROVAL.—For the purposes of this subsection, the term "resolution of disapproval" means a joint resolution which states after the resolving clause the following: "That the Congress disapproves the national marine sanctuary designation entitled _____ that was submitted to Congress by the Secretary of Commerce on _____,

the first blank space being filled with the title of the designation and the second blank space being filled with the date on which the notice was submitted to Congress. In the event that the disapproval is addressed to one or more terms of the designation, the joint resolution shall state after the resolving clause the following: "That the Congress approves the national marine sanctuary designation entitled _____ that was submitted to Congress by the Secretary of Commerce on _____ but disapproves the following terms of such designation: _____ first blank space being filled with the title of the designation, the second blank space being filled with the date on which the notice was submitted to Congress, and the third blank space referencing each term of the designation which is disapproved.

"(4) PROCEDURES.—

"(A) In computing the forty-five-day periods of continuous session of Congress pursuant to subsection (a)(4) and paragraph (1) of this subsection—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded.

"(B) When the committee to which a joint resolution has been referred has reported

such a resolution, it shall at any time thereafter be in order to move to proceed to the consideration of the resolution. The motion shall be privileged and shall be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) This subsection is enacted by Congress as an exercise of the rulemaking power of each House of Congress, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the case of resolutions described in this subsection. This subsection supersedes other rules only to the extent that they are inconsistent therewith, and is enacted with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"(5) ACCESS AND VALID RIGHTS.—Nothing in this title shall be construed as terminating, or granting to the Secretary the right to terminate, any valid lease, permit, license, right of subsistence use, or right of access: *Provided*, That such lease, permit, license or right was in existence on the date of enactment of the Marine Sanctuaries Amendments of 1983, with respect to any national marine sanctuary designated before such date: *Provided further*, That such lease, permit, license or right is in existence on the date of designation of any national marine sanctuary, with respect to any national marine sanctuary designated after the date of enactment of the Marine Sanctuaries Amendments of 1983: *And provided further*, That the exercise of such lease, permit, license or right shall be subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

"SEC. 305. INTERNATIONAL APPLICATION OF REGULATIONS AND NEGOTIATIONS.

"(a) REGULATIONS.—The regulations issued under section 304 shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which the United States is signatory. Unless the application of the regulations is in accordance with such principles or is otherwise authorized by an agreement between the United States and the foreign state of which the affected person is a citizen or, in the case of the crew of a foreign vessel, between the United States and flag state of the vessel, no regulation applicable to areas or activities outside the jurisdiction of the United States shall be applied to a person not a citizen, national, or resident alien of the United States.

"(b) NEGOTIATIONS.—After the taking effect under section 304 of the national marine sanctuary that applies to an area or activity beyond the jurisdiction of the United States, the Secretary of State shall take such action as may be appropriate to enter into negotiations with other governments in order to make necessary arrangements for the protection of the sanctuary and to promote the purposes for which it is established.

"SEC. 306. RESEARCH AND EDUCATION.

"The Secretary shall conduct such research and educational programs as are necessary and reasonable to carry out the purposes and policies of this title.

"SEC. 307. ENFORCEMENT.

"(a) IN GENERAL.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title. The Secretary shall, whenever appropriate, utilize by agreement the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities on a reimbursable basis in carrying out the Secretary's responsibilities under this title.

"(b) CIVIL PENALTIES.—

"(1) CIVIL PENALTY.—Any person subject to the jurisdiction of the United States who violates any regulation issued under this title shall be liable to the United States for a civil penalty of not more than \$50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(2) NOTICE.—No penalty shall be assessed under this subsection until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

"(3) IN REM JURISDICTION.—A vessel used in the violation of a regulation issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

"(c) JURISDICTION.—The district courts of the United States shall have jurisdiction to restrain a violation of the regulations issued under this title, and to grant such other relief as may be appropriate. Actions shall be brought by the Attorney General in the name of the United States. The Attorney General may bring suit either on his own initiative or the request of the Secretary.

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"To carry out this title, there are authorized to be appropriated not to exceed the following sums:

- "(1) \$2,264,000 for fiscal year 1984.
- "(2) \$2,500,000 for fiscal year 1985.
- "(3) \$2,750,000 for fiscal year 1986.

"SEC. 309. SEVERABILITY.

"If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application of such provision to other persons and circumstances shall not be affected thereby."

TITLE II—MARINE SAFETY

SUBTITLE A

SEC. 201. (a) Before February 12, 1984, the Secretary of the Department in which the Coast Guard is operating shall prescribe final regulations requiring exposure suits on appropriate vessels operating in waters that are less than sixty degrees Fahrenheit.

(b) A vessel may not be exempted from the requirements of this section only because that vessel carries other lifesaving equipment.

(c) An exposure suit required by this section must provide adequate thermal protection, buoyancy, and flotation stability, and any other requirement the Secretary prescribes.

(d)(1) The owner, charterer, managing operator, agent, master or individual in charge of a vessel violating this section or a regulation prescribed under this section is liable to the United States Government for a civil

penalty of not more than \$5,000. The vessel also is liable in rem for the penalty.

(2) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel violating this section or a regulation prescribed under this section may be fined not more than \$25,000, imprisoned for not more than five years, or both.

(e) The Secretary shall by regulation designate waters in specified geographic areas, and shall designate specified times of the year, that meet the temperature standards of this section. Those regulations are deemed to comply with this section.

(f) The regulations prescribed under this section shall be effective before August 31, 1984.

SUBTITLE B

SEC. 210. This subtitle may be cited as the "Maritime Safety Act of 1983".

SEC. 211. (a) Section 3309 of title 46, United States Code, is amended by adding at the end:

"(c) At least 30 days (but not more than 60 days) before the current certificate of inspection issued to a vessel under subsection (a) of this section expires, the owner, charterer, managing operator, agent, master, or individual in charge of the vessel shall submit to the Secretary in writing a notice that the vessel—

- "(1) will be required to be inspected; or
- "(2) will not be operated so as to require an inspection."

(b) Section 3311 of title 46, United States Code, is amended by—

- (1) inserting "(a)" before "A vessel";
- (2) striking the word "valid"; and
- (3) inserting at the end the following:

"(b) The Secretary may direct the owner, charterer, managing operator, agent, master, or individual in charge of a vessel subject to inspection under this chapter not having a certificate of inspection—

"(1) to have the vessel proceed to mooring and remain there until a certificate of inspection is issued; or

"(2) to take immediate steps necessary for the safety of the vessel, individuals on board the vessel, or the environment."

(c) Section 3318 of title 46, United States Code, is amended as follows:

(1) Subsection (a) is amended by—

(A) striking "The" the first time it appears and substituting "Except as otherwise provided in this part, the" and

(B) by striking "\$1,000, except that when the violation involves operation of a barge, the penalty is \$500.", and substituting "not more than \$5,000."

(2) Subsection (c) is amended by striking "\$2,000." and substituting "\$5,000."

(3) Subsection (d) is amended by striking "\$2,000." and substituting "\$5,000."

(4) Subsection (e) is amended by striking "\$2,000." and substituting "\$10,000."

(5) Subsection (f) is amended by striking "\$5,000." and substituting "\$10,000."

(6) Subsection (g) is amended by striking "shall be fined not more than \$10,000, imprisoned for not more than one year, or both," and substituting "is liable to the Government for a civil penalty of not more than \$5,000."

(7) Subsection (h) is amended by striking "United States Government for a civil penalty of not more than \$500." and substituting "Government for a civil penalty of not more than \$1,000."

(8) At the end add the following:

"(1) A person violating section 3309(c) of this title is liable to the Government for a civil penalty of not more than \$1,000.

"(J)(1) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel required to be inspected under this chapter operating the vessel without the certificate of inspection is liable to the government for a civil penalty of not more than \$10,000 for each day during which the violation occurs, except when the violation involves operation of a vessel of less than 1,600 gross tons, the penalty is not more than \$2,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

"(2) A person is not liable for a penalty under this subsection if—

"(A) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has notified the Secretary under section 3309(c) of this title;

"(B) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has complied with all other directions and requirements for obtaining an inspection under this part; and

"(C) The Secretary believes that unforeseen circumstances exist so that it is not feasible to conduct a scheduled inspection before the expiration of the certificate of inspection.

"(k) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel failing to comply with a direction issued by the Secretary under section 3311(b) of this title is liable to the Government for a civil penalty of not more than \$10,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

"(l) A person committing an act described by subsections (b)-(f) of this section is liable to the Government for a civil penalty of not more than \$5,000. If the violation involves the operation of a vessel, the vessel also is liable in rem for the penalty."

SEC. 212. (a) Chapter 23 of title 40, United States Code is amended as follows:

(1) At the end of the chapter analysis, add the following:

"2306. Vessel reporting requirements."

(2) In section 2301, strike "This chapter" and substitute "Except as provided in section 2306 of this title, this chapter."

(3) Add at the end the following:

"§ 2306. Vessel reporting requirements

"(a)(1) An owner, charterer, managing operator, or agent of a vessel of the United States having reason to believe (because of lack of communication with or nonappearance of a vessel or any other incident) that the vessel may have been lost or imperiled immediately shall use all available means to determine the status of the vessel and notify the Coast Guard.

"(2) When more than 48 hours have passed since the owner, charterer, managing operator, or agent of a vessel required to report to the United States Flag Merchant Vessel Location Filing System under authority of section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a), received a communication from the vessel, the owner, charterer, managing operator, or agent immediately shall use all available means to determine the status of the vessel and notify the Coast Guard.

"(3) A person notifying the Coast Guard under paragraph (1) or (2) of this subsection shall provide the name and identification number of the vessel, the names of individuals on board, and other information that may be requested by the Coast Guard. The owner, charterer, managing operator, or agent also shall submit written confirma-

tion to the Coast Guard within twenty-four hours after nonwritten notification to the Coast Guard under these paragraphs.

"(4) An owner, charterer, managing operator, or agent violating this subsection is liable to the United States Government for a civil penalty of not more than \$6,000 for each day during which the violation occurs.

"(b)(1) The master of a vessel of the United States required to report to the System shall report to the owner, charterer, managing operator, or agent at least once every forty-eight hours.

"(2) A master violating this subsection is liable to the Government for a civil penalty of not more than \$1,000 for each day during which the violation occurs.

"(c) The Secretary may prescribe regulations to carry out this section."

(b)(1) Section 6101 of title 46, United States Code, is amended—

(A) in subsection (a), by striking "and incidents", and

(B) by striking subsection (c).

(2) Section 6103 of title 46, United States Code, is amended by striking "or incident".

SEC. 213. (a) Subsection (b) of section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183(b)) is amended by striking out "\$60" each place it appears and insert in lieu thereof "\$420".

(b) The amendment made by subsection (a) shall apply to incidents occurring after the date of enactment of this Act.

SEC. 214. Sections 211(a) and 212 of this subtitle are effective one hundred and eighty days after the date of enactment of this Act.

TITLE III—MISCELLANEOUS

SUBTITLE A

SEC. 301. (a) Section 3 of the Act of December 31, 1970 (33 U.S.C. 857-3) is amended by adding "(a)" after "Sec. 3." and by adding at the end the following new subsection:

"(b) The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation."

(b) The matter before subsection (b) in the first section of the Act of July 19, 1963 (42 U.S.C. 253a(a)), is amended by striking "at facilities of the Public Health Service: *Provided*, That" and inserting in lieu thereof "by Public Health Service if".

(c) The first sentence of subsection (b) of the first section of that Act (42 U.S.C. 253a(b)) is amended—

(1) by striking out "at its hospitals and relief stations"; and

(2) by striking out "at hospitals of the Public Health Service: *Provided*, That" and inserting in lieu thereof "by the Public Health Service if".

SUBTITLE B

SEC. 310. (a) Chapter 9 of title 14, United States Code, is amended by inserting after section 181 the following new section:

"§ 181a. Cadet applicants; preappointment travel to Academy

"The Secretary is authorized to expend appropriated funds for selective preappointment travel to the Academy for orientation visits of cadet applicants."

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 181 the following new item:

"181a. Cadet applicants; selective preappointment travel to Academy."

Sec. 311. (a)(1) Section 42(b) of title 14, United States Code, is amended by striking out "375" both places it appears and inserting in lieu thereof "0375".

(2) Section 290 of such title is amended by striking out "Board" in the fourth sentence and inserting in lieu thereof "Boards".

(3) The table of sections at the beginning of chapter 13 of such title is amended by striking out the item relating to section 462a.

(4) Section 724 of such title is amended—
(A) by inserting "(1)" after "(b)";
(B) by striking out the last sentence; and
(C) by adding at the end thereof the following new paragraph:

"(2) The authorized number of Reserve officers in an active status not on active duty in the grades of commodore and rear admiral is a total of two. However, the Secretary may authorize an additional number of Reserve officers not on active duty in the grades of commodore and rear admiral as necessary in order to meet planned mobilization requirements."

(b)(1) The matter in the table in section 201(a) of title 37, United States Code, under the heading "Navy, Coast Guard, and National Oceanic and Atmospheric Administration" and in the columns for O-8 and O-7 is amended to read as follows:

..... "Rear admiral (Navy and Coast Guard) and Rear admiral (upper half) (National Oceanic and Atmospheric Administration)

..... "Commodore (Navy and Coast Guard) and Rear admiral (lower half) and commodore (National Oceanic and Atmospheric Administration)"

(2)(A) The heading of section 202 of such title is amended to read as follows:

"§ 202. Pay grade: retired Coast Guard commodores".

(B) The item relating to section 202 in the table of sections at the beginning of chapter 3 of such title is amended to read as follows: "202. Pay grade: retired Coast Guard commodores".

(c) The matter in the table in section 741(a) of title 10, United States Code, under the heading "Navy and Coast Guard" is amended—

(1) by striking out "Rear admiral (Navy) and Rear admiral (upper half) (Coast Guard)" and inserting in lieu thereof "Rear admiral"; and

(2) by striking out "Commodore (Navy) and Rear admiral (lower half) (Coast Guard)" and inserting in lieu thereof "Commodore".

Sec. 312. (a) Chapter 55 of title 10, United States Code, is amended as follows:

(1) Section 1072 is amended—

(A) by striking out "the Secretary of Defense" and all that follows through "may be," in paragraph (2)(D)(iii) and inserting in lieu thereof "the administering Secretary"; and

(B) by adding at the end thereof the following new paragraph:

"(3) 'Administering Secretaries' means the Secretaries of executive departments specified in section 1073 of this title as having responsibility for administering this chapter."

(2) Section 1073 is amended by striking out "and the Secretary" and all that follows through "Navy, and" and inserting in lieu thereof "the Secretary of Transportation

shall administer this chapter for the Coast Guard when the Coast Guard is not operating as a service in the Navy, and the Secretary of Health and Human Services shall administer this chapter".

(3) Section 1074 is amended by striking out "Secretary of Defense and the Secretary of Health and Human Services" each place it appears and inserting in lieu thereof "administering Secretaries".

(4) Section 1076 is amended by striking out "the Secretary of Defense and the Secretary of Health and Human Services" in subsections (b) and (d) and inserting in lieu thereof "the administering Secretaries".

(5) Section 1078 of title 10, United States Code, is amended by striking out "the Secretary of Health and Human Services" in subsections (a) and (b) and inserting in lieu thereof "the other administering Secretaries".

(6) Section 1079 is amended—

(A) by striking out "the Secretary of Defense and the Secretary of Health and Human Services" each place it appears and inserting in lieu thereof "the administering Secretaries"; and

(B) by striking out "with the Secretary of Health and Human Services" in subsections (a) and (h)(2) and inserting in lieu thereof "with the other administering Secretaries".

(7) Section 1080 is amended by striking out "the Secretary of Health and Human Services" in the second sentence and inserting in lieu thereof "the other administering Secretaries".

(8) Section 1081 is amended by striking out "the Secretary of Defense or the Secretary of Health and Human Services" and inserting in lieu thereof "one of the administering Secretaries".

(9) Section 1083 is amended by striking out "the Secretary of Health and Human Services" in the second sentence and inserting in lieu thereof "the other administering Secretaries".

(10) Section 1084 is amended—

(A) by striking out "the Secretary of Defense or the Secretary of Health and Human Services" in the first sentence and inserting in lieu thereof "an administering Secretary"; and

(B) by striking out "he" in the second sentence and inserting in lieu thereof "the administering Secretary".

(11) The text of section 1085 of title 10, United States Code, is amended to read as follows:

"If a member or former member of a uniformed service under the jurisdiction of one executive department (or a dependent of such a member or former member) receives inpatient medical or dental care in a facility under the jurisdiction of another executive department, the appropriation for maintaining and operating the facility furnishing the care shall be reimbursed at rates established by the President to reflect the average cost of providing the care."

(12) Section 1086 is amended—

(A) by striking out "the Secretary of Health and Human Services" in subsection (a) and inserting in lieu thereof "the other administering Secretaries"; and

(B) by striking out "the Secretary of Defense and the Secretary of Health and Human Services" in the second sentence of subsection (e) and inserting the lieu thereof "the administering Secretaries".

(b)(1) Before October 1, 1985, the Secretary of the department in which the Coast Guard is operating may test a flat rate per diem allowances system for military travel allowances.

(2) These flat rate per diem allowances are an amount determined by the Secretary to be sufficient to meet normal and necessary expenses in the area in which travel is performed.

(3) The allowances may be not more than \$75 for each day in the continental United States.

(4) The test may not begin before the Committees on Commerce, Science, and Transportation and Armed Services of the Senate and the Committees on Merchant Marine and Fisheries and Armed Services of the House of Representatives are notified of the test.

SUBTITLE C

Sec. 320. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the vessel Wingaway, official number 654146, owned by George M. Brereton, has the right to engage in the coastwise trade.

Sec. 321. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating shall cause the vessel Dad's Pad, official number 549526, owned by John C. Sciacca, to be documented as a vessel of the United States with the privilege of engaging in the coastwise trade, on compliance with all other requirements of law.

Sec. 322. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating shall cause the vessel Zorba, official number 229763, owned by Howard Costa, to be documented as a vessel of the United States with the privilege of engaging in the coastwise trade, on compliance with all other requirements of law.

Sec. 323. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating shall cause the vessel La Jolie, Michigan registration number MC-2807-LB, owned by Hugh Lewis, to be documented as a vessel of the United States with the privilege of engaging in the coastwise trade, on compliance with all other requirements of law.

Sec. 324. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating shall cause the vessel Endless Summer, official number 296259, owned by the Commonwealth of Virginia, to be documented as a vessel of the United States with the privilege of engaging in the coastwise trade, on compliance with all other requirements of law.

Sec. 325. (a) Section 8101(g) of title 46, United States Code, is amended by striking "or part B of this subtitle applies" and substituting "applies or which is subject to inspection under chapter 33 of this title".

(b) Section 8301(a) of title 46, United States Code, is amended by—

(1) after "lakes" inserting "(except the Great Lakes)"; and

(2) striking "to which part B of this subtitle applies" and inserting "subject to inspection under chapter 33 of this title".

(c) Section 8301(a)(1) of title 46, United States Code, is amended by inserting "propelled by machinery or carrying passengers" after "vessels".

(d) The analysis of chapter 85 of title 46, United States Code, is amended by adding: "8503. Federal pilots authorized."

(e) Section 8501(a) of title 46, United States Code is amended by striking "part," and substituting "subtitle."

(f) Chapter 85 of title 46, United States Code, is amended by adding the following new section:

“§ 8503. Federal pilots authorized

“(a) The Secretary may require a pilot licensed under section 7101 of this title on a self-propelled vessel when a pilot is not required by State law and the vessel is—

“(1) engaged in foreign commerce; and
“(2) operating on the navigable waters of the United States.

“(b) A requirement prescribed under subsection (a) of this section is terminated when the State having jurisdiction over the area involved—

“(1) establishes a requirement for a State licensed pilot; and

“(2) notifies the Secretary of that fact.

“(c) For the Saint Lawrence Seaway, the Secretary may not delegate the authority under this section to an agency except the Saint Lawrence Seaway Development Corporation.

“(d) A person violating this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of not more than \$25,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

“(e) A person that willfully and knowingly violates this section or a regulation prescribed under this section shall be fined not more than \$50,000, imprisoned for not more than five years, or both.”

(g) Section 7 of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1226) is repealed.

SUBTITLE D

Sec. 330. Section 2 of the Central, Western, and South Pacific Fisheries Development Act (Public Law 92-444; 16 U.S.C. 758e) is amended by striking out “Pacific Tuna Development Foundation” and inserting in lieu thereof “Pacific Fisheries Development Foundation”.

SUBTITLE E—SHIPPING

Sec. 340. Subtitle II of title 46, United States Code, “Shipping”, is amended as follows:

(1) Section 2101(13) is amended by striking “except an oceanographic research vessel or an offshore supply vessel.” and substituting “except a fishing, fish processing, oceanographic research, or offshore supply vessel.”

(2) Section 2101(21)(C) is amended by—
(A) striking “an offshore supply” and substituting “a fishing or fish processing vessel, a vessel exempt under section 3302(k) of this title, or an offshore supply”;

(B) striking “or” at the end of subclause (viii);

(C) striking “board.” at the end of (ix) and substituting “board; or”; and

(D) adding at the end the following:

“(x) for a fishing or fish processing vessel or a vessel exempt under section 3302(k), an individual employed in fishing or fish processing carried on board the vessel; or”; and

(3) Section 2101 is amended by inserting between clauses (10) and (11) the following: “(10a) ‘fish’ means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.”

(4) Section 2101 is amended by inserting between clauses (11) and (12) the following:

“(11a) ‘fishing’ means—
“(A) the catching, taking, or harvesting of fish;

“(B) the attempted catching, taking, or harvesting of fish; or

“(C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish.

“(11b) ‘fishing vessel’ means any vessel used primarily for, or equipped to be used primarily for, or of a type normally used primarily for, commercial fishing.

“(11c) ‘fish processing’ means processing or any other activity primarily in support of commercial fishing, including preparation, supply, storage, refrigeration, or transportation.

“(11d) ‘fish processing vessel’ means any vessel used primarily for, or equipped to be used primarily for, or of a type normally used primarily for, fish processing.”

(5) Section 3302 (b) and (c) is amended to read as follows:

“(b) A fishing vessel is exempt from section 3301 (1), (4), and (7) of this title.

“(c) A fish processing vessel is exempt from section 3301 (1), (4), (6), and (7) of this title.”

(6) Section 3302 is amended by adding the following subsection:

“(k) Before January 1, 1989, a fishing or fish processing vessel, in operation prior to January 1, 1984, carrying cargo or carrying not more than twelve individuals employed in fishing or fish processing to or from another fishing or fish processing vessel or a facility used in fish processing, or and to or from a remote community in Alaska, is exempt from section 3301 (1), (3), (4), (6), (7), and (8) of this title.”

(7) Section 3702 (c) and (d) is amended to read as follows:

“(c) This chapter does not apply to a fishing or fish processing vessel.

“(d) A fishing or fish processing vessel is subject to regulation by the Secretary when carrying flammable or combustible liquid cargo in bulk and when not used only for fishing or fish processing.”

(8)(A) Item 7111 in the analysis of chapter 71 is amended to read as follows:

“7111. Licenses for fishing and fish processing vessels.”

(B) section 7111 is amended to read as follows:

“§7111. Licenses for fishing and fish processing vessels

“Examinations for licensing individuals on fishing and fish processing vessels shall be oral.”

(9) Section 7301(a)(1) is amended by striking “fishing” and substituting “fishing or fish processing”.

(10) Section 8104(c) is amended by striking “fishing” and substituting “fishing or fish processing”.

(11) Section 8104(d) is amended by striking “a fishing or whaling vessel,” and substituting “a fishing, fish processing, or whaling vessel, a vessel exempt under section 3302(k) of this title.”

(12) Section 8701(a) is amended by—

(A) striking “and” at the end of clause (4);
(B) striking “personnel.” at the end of clause (5) and substituting “personnel; and” and

(C) adding at the end the following clause:

“(6) a vessel exempt under section 3302(k) of this title.”

(13) Section 8702(a) is amended by—

(A) striking “and” at the end of clause (4);
(B) striking “personnel.” at the end of clause (5) and substituting “personnel; and” and

(C) adding at the end the following clause:

“(6) a vessel exempt under section 3302(k) of this title.”

(14) Sections 8301(c), 8302(a)(1), 10303(c), 10309(c), 10311(e), 10313(b), 10313(e),

10313(h), 10314(e), 10504(a), 10504(d), 10505(d), 10509(c), 10901, 11103(c), and 11106(d) are amended by striking “a fishing or whaling vessel” and substituting “a fishing, fish processing, or whaling vessel”.

(15) Section 11108 is amended by striking “a fisherman employed on a fishing vessel” and substituting “an individual employed on a fishing or fish processing vessel”.

(16) Section 11109(c) is amended to read as follows:

“(c) This section applies to an individual on a fishing or fish processing vessel.”

SUBTITLE F—PACIFIC SALMON

Sec. 350. Insert in 22 U.S.C. 1978(a)(1) after “under circumstances which diminish the effectiveness of” the following: “domestic conservation efforts relating to Pacific salmon or”.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana [Mr. BREAUX].

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BREAUX: Strike all after the enacting clause and substitute:

TITLE I—MARINE SANCTUARIES

Sec. 101. This title may be cited as the “Marine Sanctuaries Amendments of 1984”.

Sec. 102. Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended to read as follows:

“TITLE III—NATIONAL MARINE SANCTUARIES

“SEC. 301. FINDINGS, PURPOSES, AND POLICIES.

“(a) FINDINGS.—The Congress finds that—
“(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but these efforts have been directed almost exclusively to land areas above the high-water mark;

“(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, research, educational, or esthetic qualities which give them special national significance;

“(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment;

“(4) a Federal program which identifies special areas of the marine environment will contribute positively to marine resource conservation and management; and

“(5) such a Federal program will also serve to enhance public awareness, understanding, appreciation, and wise use of the marine environment.

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

“(1) to identify areas of the marine environment of special national significance due to their resource or human-use values;

“(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas that will complement existing regulatory authorities;

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

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

"(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.

"SEC. 302. DEFINITIONS.

"As used in this title, the term—

"(1) 'draft management plan' means the plan described in section 304(a)(1)(E);

"(2) 'Magnuson Act' means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

"(3) 'marine environment' means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, consistent with international law;

"(4) 'Secretary' means the Secretary of Commerce; and

"(5) 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth territory, or possession of the United States.

"SEC. 303. SANCTUARY DESIGNATION STANDARDS.

"(a) **STANDARDS.**—The Secretary may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation if the Secretary—

"(1) determines that the designation will fulfill the purposes and policies of this title; and

"(2) finds that—

"(A) the area is of special national significance due to its resource or human-use values;

"(B) existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

"(C) designation of the area as a national marine sanctuary will facilitate the objectives in subparagraph (B); and

"(D) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

"(b) **FACTORS AND CONSULTATIONS REQUIRED IN MAKING DETERMINATIONS AND FINDINGS.**—

"(1) **FACTORS.**—For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a), the Secretary shall consider—

"(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, and the biogeographic representation of the site;

"(B) the area's historical, cultural, archaeological, or paleontological significance;

"(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;

"(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

"(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those

authorities to fulfill the purposes and policies of this title;

"(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

"(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

"(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development; and

"(I) the socioeconomic effects of sanctuary designation.

"(2) **CONSULTATION.**—In making determinations and findings, the Secretary shall consult with—

"(A) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

"(B) the Secretaries of State, Defense, Transportation, and the Interior, the Administrator, and the heads of other interested Federal agencies;

"(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

"(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

"(E) other interested persons.

"(3) **RESOURCE ASSESSMENT REPORT.**—In making determinations and findings, the Secretary shall draft, as part of the environmental impact statement referred to in section 304(a)(1), a resource assessment report documenting present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial or recreational uses. The Secretary, in consultation with the Secretary of the Interior, shall draft a resource assessment section for the report regarding any commercial or recreational resource uses in the area under consideration that are subject to the primary jurisdiction of the Department of the Interior.

"SEC. 304. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

"(a) **SANCTUARY PROPOSAL.**—

"(1) **NOTICE.**—In proposing to designate a national marine sanctuary, the Secretary shall—

"(A) issue, in the Federal Register, a notice of the proposal, proposed regulations that may be necessary and reasonable to implement the proposal, and a summary of the draft management plan;

"(B) provide notice of the proposal in newspapers of general circulation or electronic media in the communities that may be affected by the proposal; and

"(C) on the same day the notice required by subparagraph (A) is issued, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a prospectus on the proposal which shall contain—

"(i) the terms of the proposed designation;

"(ii) the basis of the findings made under section 303(a) with respect to the area;

"(iii) an assessment of the considerations under section 303(b)(1);

"(iv) proposed mechanisms to coordinate existing regulatory and management authorities within the area;

"(v) the draft management plan detailing the proposed goals and objectives, management responsibilities, resource studies, interpretive and educational programs, and enforcement, including surveillance, activities for the area;

"(vi) an estimate of the annual cost of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education;

"(vii) the draft environmental impact statement;

"(viii) an evaluation of the advantages of cooperative State and Federal management if all or part of a proposed marine sanctuary is within the territorial limits of any State or is superjacent to the subsoil and seabed within the seaward boundary of a State, as that boundary is established under the Submerged Lands Act (43 U.S.C. 1301 et seq.); and

"(ix) the proposed regulations referred to in subparagraph (A).

"(2) **ENVIRONMENTAL IMPACT STATEMENT.**—The Secretary shall—

"(A) prepare a draft environmental impact statement, as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), on the proposal that includes the resource assessment report required under section 303(b)(3), maps depicting the boundaries of the proposed designated area, and the existing and potential uses and resources of the area; and

"(B) make copies of the draft environmental impact statement available to the public.

"(3) **PUBLIC HEARING.**—No sooner than thirty days after issuing a notice under this subsection, the Secretary shall hold at least one public hearing in the coastal area or areas that will be most affected by the proposed designation of the area as a national marine sanctuary for the purpose of receiving the views of interested parties.

"(4) **TERMS OF DESIGNATION.**—The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made.

"(5) **FISHING REGULATIONS.**—The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the United States Fishery Conservation Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this title and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson Act (16 U.S.C. 1851) to the extent that the standards are consistent and

compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations.

"(6) COMMITTEE ACTION.—After receiving the prospectus under subsection (a)(1)(C), the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate may each hold hearings on the proposed designation and on the matters set forth in the prospectus. If within the forty-five day period of continuous session of Congress beginning on the date of submission of the prospectus, either Committee issues a report concerning matters addressed in the prospectus, the Secretary shall consider this report before publishing a notice to designate the national marine sanctuary.

"(b) TAKING EFFECT OF DESIGNATIONS.—

"(1) NOTICE.—In designating a national marine sanctuary, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and submit such notice to the Congress. The Secretary shall advise the public of the availability of the final management plan and the final environmental impact statement with respect to such sanctuary. No notice of designation may occur until the expiration of the period for Committee action under subsection (a)(6). The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on the day on which such notice is published unless—

"(A) the designation or any of its terms is disapproved by enactment of a joint resolution of disapproval described in paragraph (3); or

"(B) 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) WITHDRAWAL OF DESIGNATION.—If the Secretary considers that action taken under paragraph (1) (A) or (B) will affect the designation of a national marine sanctuary in a manner that the goals and objectives of the sanctuary cannot be fulfilled, the Secretary may withdraw the entire designation. If the Secretary does not withdraw the designation, only those terms of the designation not disapproved under paragraph (1)(A) or not certified under paragraph (1)(B) shall take effect.

"(3) RESOLUTION OF DISAPPROVAL.—For the purposes of this subsection, the term 'resolution of disapproval' means a joint resolution which states after the resolving clause the following: 'That the Congress disapproves the national marine sanctuary designation entitled _____ that was submitted to Congress by the Secretary of Commerce on _____, the first blank space being filled with the title of the designation and the second blank space being filled with

the date on which the notice was submitted to Congress. In the event that the disapproval is addressed to one or more terms of the designation, the joint resolution shall state after the resolving clause the following: 'That the Congress approves the national marine sanctuary designation entitled _____ that was submitted to Congress by the Secretary of Commerce on _____ but disapproves the following terms of such designation: the first blank space being filled with the title of the designation, the second blank space being filled with the date on which the notice was submitted to Congress, and the third blank space referencing each term of the designation which is disapproved.

"(4) PROCEDURES.—

"(A) In computing the forty-five-day periods of continuous session of Congress pursuant to subsection (a)(6) and paragraph (1) of this subsection—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded.

"(B) When the committee to which a joint resolution has been referred has reported such a resolution, it shall at any time thereafter be in order to move to proceed to the consideration of the resolution. The motion shall be privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) This subsection is enacted by Congress as an exercise of the rulemaking power of each House of Congress, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the case of resolutions described in this subsection. This subsection supersedes other rules only to the extent that they are inconsistent therewith, and is enacted with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rules of such House.

"(c) ACCESS AND VALD RIGHTS.—

"(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 if the lease, permit, license, or right—

"(A) was in existence on the date of enactment of the Marine Sanctuaries Amendments of 1984, with respect to any national marine sanctuary designated before that date; or

"(B) is in existence on the date of designation of any national marine sanctuary, with respect to any national marine sanctuary designated after the date of enactment of the Marine Sanctuaries Amendments of 1984.

"(2) The exercise of a lease, permit license, or right is subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

SEC. 305. APPLICATION OF REGULATIONS AND INTERNATIONAL NEGOTIATIONS.

"(a) REGULATIONS.—The regulations issued under section 304 shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. No

regulation shall apply to a person who is not a citizen, national, or resident alien of the United States, unless in accordance with—

"(1) generally recognized principles of international law;

"(2) an agreement between the United States and the foreign state of which the person is a citizen; or

"(3) an agreement between the United States and the flag state of a foreign vessel, if the person is a crewmember of the vessel.

"(b) NEGOTIATIONS.—The Secretary of State, in consultation with the Secretary, shall take appropriate action to enter into negotiations with other governments to make necessary arrangements for the protection of any national marine sanctuary and to promote the purposes for which the sanctuary is established.

"SEC. 306. RESEARCH AND EDUCATION.

"The Secretary shall conduct research and educational programs as are necessary and reasonable to carry out the purposes and policies of this title.

"SEC. 307. ENFORCEMENT.

"(a) IN GENERAL.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title. The Secretary shall, whenever appropriate, utilize by agreement the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities on a reimbursable basis in carrying out the Secretary's responsibilities under this title.

"(b) CIVIL PENALTIES.—

"(1) CIVIL PENALTY.—Any person subject to the jurisdiction of the United States who violates any regulation issued under this title shall be liable to the United States for a civil penalty of not more than \$50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(2) NOTICE.—No penalty shall be assessed under this subsection until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

"(3) IN REM JURISDICTION.—A vessel used in the violation of a regulation issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

"(c) JURISDICTION.—The district courts of the United States shall have jurisdiction to restrain a violation of the regulations issued under this title, and to grant such other relief as may be appropriate. Actions shall be brought by the Attorney General in the name of the United States. The Attorney General may bring suit either on the Attorney General's own initiative or at the request of the Secretary.

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"To carry out this title, there are authorized to be appropriated:

"(1) \$3,000,000 for fiscal year 1985.

"(2) \$3,300,000 for fiscal year 1986.

"(3) \$3,600,000 for fiscal year 1987.

"(4) \$3,900,000 for fiscal year 1988.

"SEC. 309. SEVERABILITY.

"If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application

of such provision to other persons and circumstances shall not be affected thereby.”

TITLE II—MARINE SAFETY

Subtitle A—Inspection and Reporting Requirements

Sec. 210. This subtitle may be cited as the “Maritime Safety Act of 1984”.

Sec. 211. (a) Section 3309 of title 46, United States Code, is amended by adding at the end:

“(c) At least 30 days (but not more than 60 days) before the current certificate of inspection issued to a vessel under subsection (a) of this section expires, the owner, charterer, managing operator, agent, master, or individual in charge of the vessel shall submit to the Secretary in writing a notice that the vessel—

“(1) will be required to be inspected; or
“(2) will not be operated so as to require an inspection.”

(b) Section 3311 of title 46, United States Code, is amended by—

(1) striking “A vessel” and substituting “(a) Except as provided in subsection (b), a vessel”;

(2) striking the word “valid”; and

(3) inserting at the end the following:

“(b) The Secretary may direct the owner, charterer, managing operator, agent, master, or individual in charge of a vessel subject to inspection under this chapter and not having on board a certificate of inspection—

“(1) to have the vessel proceed to mooring and remain there until a certificate of inspection is issued;

“(2) to take immediate steps necessary for the safety of the vessel, individuals on board the vessel, or the environment; or

“(3) to have the vessel proceed to a place to make repairs necessary to obtain a certificate of inspection.”

(c) Section 3318 of title 46, United States Code, is amended as follows:

(1) Subsection (a) is amended by—

(A) striking “The” the first time it appears and substituting “Except as otherwise provided in this part, the” and

(B) striking “\$1,000, except that when the violation involves operation of a barge, the penalty is \$500.”, and substituting “not more than \$5,000.”

(2) Subsection (c) is amended by striking “\$2,000,” and substituting “\$5,000.”

(3) Subsection (d) is amended by striking “\$2,000,” and substituting “\$5,000.”

(4) Subsection (e) is amended by striking “\$2,000,” and substituting “\$10,000.”

(5) Subsection (f) is amended by striking “\$5,000,” and substituting “\$10,000.”

(6) Subsection (g) is amended by striking “shall be fined not more than \$10,000, imprisoned for not more than one year, or both,” and substituting “is liable to the Government for a civil penalty of not more than \$5,000.”

(7) Subsection (h) is amended by striking “United States Government for a civil penalty of not more than \$500,” and substituting “Government for a civil penalty of not more than \$1,000.”

(8) At the end add the following:

“(i) A person violating section 3309(c) of this title is liable to the Government for a civil penalty of not more than \$1,000.

“(j)(1) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel required to be inspected under this chapter operating the vessel without the certificate of inspection is liable to the Government for a civil penalty of not more than \$10,000 for each day during which the violation occurs, except when the

violation involves operation of a vessel of less than 1,600 gross tons, the penalty is not more than \$2,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

“(2) A person is not liable for a penalty under this subsection if—

“(A) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has notified the Secretary under section 3309(c) of this title;

“(B) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has complied with all other directions and requirements for obtaining an inspection under this part; and

“(C) The Secretary believes that unforeseen circumstances exist so that it is not feasible to conduct a scheduled inspection before the expiration of the certificate of inspection

“(k) The owner, charterer, managing operator, agent, master, or individual in charge of the vessel failing to comply with a direction issued by the Secretary under section 3311(b) of this title is liable to the Government for a civil penalty of not more than \$10,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

“(l) A person committing an act described by subsections (b)-(f) of this section is liable to the Government for a civil penalty of not more than \$5,000. If the violation involves the operation of a vessel, the vessel also is liable in rem for the penalty.”

Sec. 212. (a) Chapter 23 of title 46, United States Code is amended as follows:

(1) At the end of the chapter analysis, add the following:

“2306. Vessel reporting requirements.”

(2) In section 2301, strike “This chapter” and substitute “Except as provided in section 2306 of this title, this chapter”.

(3) Add at the end the following:

“§ 2306. Vessel reporting requirements

“(a)(1) An owner, charterer, managing operator, or agent of a vessel of the United States, having reason to believe (because of lack of communication with or nonappearance of a vessel of any other incident) that the vessel may have been lost or imperiled, immediately shall—

(A) notify the Coast Guard; and

(B) use all available means to determine the status of the vessel.

“(2) When more than 48 hours have passed since the owner, charterer, managing operator, or agent of a vessel required to report to the United States Flag Merchant Vessel Location Filing System under authority of section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a), has received a communication from the vessel, the owner, charterer, managing operator, or agent immediately shall—

(A) notify the Coast Guard; and

(B) use all available means to determine the status of the vessel.

“(3) A person notifying the Coast Guard under paragraph (1) or (2) of this subsection shall provide the name and identification number of the vessel, the names of individuals on board, and other information that may be requested by the Coast Guard. The owner, charterer, managing operator, or agent also shall submit written confirmation to the Coast Guard within 24 hours after nonwritten notification to the Coast Guard under those paragraphs.

“(4) An owner, charterer, managing operator, or agent violating this subsection is liable to the United States Government for

a civil penalty of not more than \$5,000 for each day during which the violation occurs.

“(b)(1) The master of a vessel of the United States required to report to the System shall report to the owner, charterer, managing operator, or agent at least once every 48 hours.

“(2) A master violating this subsection is liable to the Government for a civil penalty of not more than \$1,000 for each day during which the violation occurs.

“(c) The Secretary may prescribe regulations to carry out this section.”

(b)(1) Section 6101 of title 46, United States Code, is amended—

(A) in subsection (a), by striking “and incidents”; and (B) by striking subsection (c).

(2) Section 6103 of title 46, United States Code, is amended by striking “or incident”.

Sec. 213. (a) Subsection (b) of section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183(b)) is amended by striking out “\$60” each place it appears and inserting in lieu thereof “\$420”.

(b) The amendment made by subsection (a) shall apply to incidents occurring after the date of enactment of this Act.

Sec. 214. Sections 211(a) and 212 of this subtitle are effective 180 days after the date of enactment of this Act.

Subtitle B—Recreational Diving Safety

Sec. 220. (a) Within 180 days after the date of enactment of this section, the Rules of the Road Advisory Council and the National Boating Safety Advisory Council shall report to the Secretary of the department in which the Coast Guard is operating recommendations regarding the need for the display of a divers flag (traditionally recognized as a bright or fluorescent red flag having a diagonal white stripe) or any other signal, if appropriate, to promote safety in recreational diving operations and navigation under the jurisdiction of the United States. In developing the recommendations, the councils shall consider, as a minimum: visibility requirements; restriction of diver and vessel operations in a diving area; adequacy of, and conformity with, the laws of the States and international practice and with the laws of the United States governing navigation safety; appropriate penalties; and the views of the recreational diving community.

(b) Within one year after the date of enactment of this section, the Secretary of the department in which the Coast Guard is operating shall transmit to Congress the recommendations required under subsection (a) of this section and the Secretary's evaluation and recommendations for recreational diving safety and, as appropriate, proposed legislation to implement those recommendations.

TITLE III—NOAA CORPS

SUBTITLE A—HEALTH CARE

Sec. 310. (a) Section 3 of the Act of December 31, 1970 (33 U.S.C. 857-3) is amended by adding “(a)” after “Sec. 3.” and by adding at the end the following new subsection:

“(b) The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.”

(b) The matter before subsection (b) in the first section of the Act of July 19, 1963 (42 U.S.C. 253a(a)), is amended by striking “at facilities of the Public Health Service: Provided, That” and inserting in lieu thereof “by the Public Health Service if”.

(c) The first sentence of subsection (b) of the first section of that Act (42 U.S.C. 253a(b)) is amended—

(1) by striking "at its hospitals and relief stations"; and

(2) by striking "at hospitals of the Public Health Service: *Provided, That*" and inserting in lieu thereof "by the Public Health Service if".

SUBTITLE B—PERSONNEL PROVISIONS

SEC. 320. (a)(1) Sections 8 and 9 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853g, 853h) are amended to read as follows:

"Sec. 8. (a) as recommended by the Personnel board—

"(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

"(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

"(b) In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest four percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

"(c) Any retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary of Commerce approves the retirement or separation, except that if the officer concerned requests earlier retirement or separation, the date shall be as determined by the Secretary.

"Sec. 9. (a) An officer who is separated under section 8 and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary of Commerce determines that the conditions under which the officer is separated do not warrant payment of that pay.

"(b)(1) In the case of an officer who has completed five or more years of continuous active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is 10 percent of the product of (A) the years of active service creditable to the officer, and (B) 12 times the monthly basic pay to which the officer was entitled at the time of separation, or \$30,000, whichever is less.

"(2) In the case of an officer who has completed three but fewer than five years of continuous active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is one-half of the amount computed under paragraph (1), but in no event more than \$15,000.

"(C) In determining an officer's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

"(d)(1) A period for which an officer has previously received separation pay, severance pay, or readjustment pay under any other provision of law based on service in a uniformed service may not be included in determining the years of creditable service that may be counted in computing the separation pay of the officer under this section.

"(2) The total amount that an officer may receive in separation pay under this section and separation pay, severance pay, and readjustment pay under any other provision of law based on service in a uniformed service may not exceed \$30,000.

"(e)(1) An officer who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in a uniformed service and who later qualifies for retired pay under this Act shall have deducted from each payment of retired pay so much of that pay as is based on the service for which the officer received that separation pay, severance pay, or readjustment pay until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay received.

"(2) An officer who has received separation pay under this section may not be deprived, by reason of receipt of that pay, of any disability compensation to which the officer is entitled under the laws administered by the Veterans' Administration, but there shall be deducted from that disability compensation an amount equal to the total amount of separation pay received. Notwithstanding the preceding sentence, no deduction may be made from disability compensation for the amount of separation pay received because of an earlier discharge, separation, or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty."

(2) Section 1174(h)(1) of title 10, United States Code, is amended by striking out "severance pay" the first and second place it appears and inserting in lieu thereof "separation pay, severance pay".

(b) Section 12(c) of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853j-1(c)) is amended—

(1) by striking out "deemed necessary or desirable" and inserting in lieu thereof "determined";

(2) by striking out "alone provided" and inserting in lieu thereof "alone. Any";

(3) by striking out "will terminate" and inserting in lieu thereof "terminates"; and

(4) by striking out "assignment," and all that follows and inserting in lieu thereof "assignment."

(c)(1) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a et seq.) is amended by adding at the end thereof the following new section:

"Sec. 24. (a) The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that commissioned officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or commodore as designated by the Secretary for each position, and may assign officers to those positions. An officer assigned to any position under this section has the grade designated for that position if appointed to that grade by the President, by and with the advice and consent of the Senate.

"(b) The number of officers serving on active duty under appointments under this section may not exceed—

"(1) one in the grade of vice admiral;

"(2) three in the grade of rear admiral; and

"(3) three in the grade of commodore.

"(c) An officer appointed to a grade under this section, while serving in that grade, shall have the pay and allowances of the grade to which appointed.

"(d) An appointment of an officer under this section—

"(1) does not vacate the permanent grade held by the officer; and

"(2) creates a vacancy on the active list.

"(e) The provisions of section 2(g) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.) apply to an officer who serves in a grade above captain under an appointment under this section in the same manner as if the officer served in that grade under section 2(d) or 2(f) of that Reorganization Plan."

(2) After the date of the enactment of this Act, no appointment of a commissioned officer may be made under section 2(d) or 2(f) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.).

(3) Effective as of December 28, 1977, section 3(a)(1) of Public Law 95-219 is amended by striking out "Section 2" and inserting in lieu thereof "Section 2(e)".

(4)(A) An officer of the commissioned corps of the National Oceanic and Atmospheric Administration who on the day before the date of the enactment of this Act was carried on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half shall after that date be serving in the grade of rear admiral.

(B) An officer who on the day before the date of the enactment of this Act was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half shall after that date be serving in the grade of commodore, but shall (while serving in that grade) retain the title of rear admiral and be entitled to wear the uniform and insignia of a rear admiral.

(C) An officer who on the date before the date of the enactment of this Act held the grade of rear admiral on the retired list retains the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral.

TITLE IV—FISHERIES

SUBTITLE A—PACIFIC FISHERIES DEVELOPMENT FOUNDATION

SEC. 410. Section 2 of the Central, Western, and South Pacific Fisheries Development Act (Public Law 92-444; 16 U.S.C. 758e) is amended by striking out "Pacific Tuna Development Foundation" and inserting in lieu thereof "Pacific Fisheries Development Foundation".

Subtitle B—Fishermen's Contingency Fund
SEC. 420. Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1841 et seq.) is amended—

(1) by striking in section 403(a)(1) "limitation on" and substituting "limitation of not less than 90 days on";

(2) by striking out "25 per centum" in section 403(c)(1) and inserting in lieu thereof "50 percent";

(3) by striking out ", except" and all that follows thereafter in section 405(a) and inserting in lieu thereof "under subsection (d)(1)."; and

(4) by inserting "time," before "form" in section 405(d)(1).

Subtitle C—Fisheries Loan Fund

SEC. 430. The Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) is amended—

(1) by striking out "September 30, 1984" each place it appears in section 4(c) and inserting in lieu thereof "September 30, 1986"; and

(2) by striking out "1982, 1983, and 1984." in section 7(c)(6) and inserting in lieu thereof "1982, 1983, 1984, 1985, and 1986."

Sec. 431. Section 221(a) of the American Fisheries Promotion Act (16 U.S.C. 742(c) note) is amended—

(1) by amending subsection (a)—

(A) by amending the side heading to read as follows: "LOAN AUTHORITY—", and

(B) by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1986";

(2) by amending subsection (b)—

(A) by striking out "each of fiscal years 1982, 1983, 1984," in paragraph (2)(A) and inserting in lieu thereof "each of fiscal years 1982, 1983, 1984, 1985, and 1986," and

(B) by striking out "1981, 1982, 1983, and 1984" in paragraph (2)(C) and inserting in lieu thereof "1981, 1982, 1983, 1984, 1985, and 1986"; and

(3) by striking out "any of fiscal years 1981, 1982, 1983, and 1984," in subsection (c)(1) and inserting in lieu thereof "any of fiscal years 1981, 1982, 1983, 1984, 1985, and 1986."

Sec. 432. All moneys in the Fisheries Loan Fund established under Section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c), as amended, shall be invested by the Secretary of Commerce in obligations of the United States, except so much as shall be currently needed for loans or administrative expenses authorized under the Fisheries Loan Fund. All accrued proceeds from such investment shall be, subject to amounts provided in advance by appropriations, credited by the Secretary of the Treasury to the debt of the Secretary of Commerce incurred under Section 1105(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1275), as amended, in connection with fisheries financing under title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1280), as amended, for so long as such debt exists. All accrued proceeds from such investment, after such debt has been liquidated, shall be, subject to amounts provided in advance by appropriations, credited to the fisheries portion of the Federal Ship Financing Fund established under Section 1102 of the Merchant Marine Act, 1936 (46 U.S.C. 1272), as amended, and used for the fisheries purposes provided in title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1280), as amended.

Subtitle D—Governing International Fishery Agreement With the Home Government of the Faroe Islands and the Government of Denmark

Sec. 440. Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act of 1976, the Governing International Fishery Agreement between the Government of the United States of America of the One Part and the Home Government of the Faroe Islands and the Government of Denmark of the Other Part Concerning Faroese Fishing in Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated July 13, 1984—

(1) is approved by Congress as a governing international fishery agreement for purposes of that Act; and

(2) may enter into force with respect to the United States in accordance with the terms of Article XVI of the Agreement following the enactment of this title.

TITLE V—VESSELS

Sec. 510. Notwithstanding sections 12105(d), 12106(a)(2), 12107(a)(2), and 12108(a)(2) of title 46, United States Code,

and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 833), as applicable, the Secretary of the department in which the Coast Guard is operating may issue certificates of documentation for the following vessels—

(a) Wingaway, official number 654146;

(b) Endless Summer, official number 296259;

(c) Muskegon Clipper, official number 252908;

(d) Scuba King, official number 532376;

(e) Ululani, official number 239729;

(f) No Lack, official number 587630; and

(g) La Jolie, Michigan registration number MC2780LB.

Mr. BREAUX (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Louisiana [Mr. BREAUX].

The amendment in the nature of a substitute was agreed to.

Mr. BREAUX. Mr. Speaker, I am pleased to rise in support of S. 1102 which, I believe, will substantially strengthen the existing Marine Sanctuaries Program. In addition, titles II through V of this bill contain several noncontroversial yet very important provisions that have been worked out among our committee and the Senate relating to maritime safety, the NOAA corps, fisheries and the documentation of certain vessels under U.S. law.

Since its inception in 1972, the Marine Sanctuaries Program has been wrought with controversy largely attributable to the initial failure of Congress to provide clear and specific guidance regarding the objectives of this program. The bill before us represents the product of an extensive and commendable effort on the part of the Members and staffs of the House and the Senate to rectify many of the deficiencies in existing law.

First, title I of the bill clarifies that the Marine Sanctuaries Program is not to be used as an oceanwide management tool but is simply a means to protect relatively small, discrete areas of the marine environment where existing State and Federal authorities are inadequate. Such areas must possess certain unique characteristics of national significance which not only should, but can be practically managed as a unit. Furthermore, this legislation specifies that while the overall thrust of the program is to protect certain unique areas from degradation, we have not created another wilderness area system in which man's activities are to be uniformly excluded. Instead, man's activities are to be permitted, and in some cases, encouraged in marine sanctuaries to the extent

that such activities do not detract from the integrity of the sanctuary.

Over the years, many ocean resource user groups have indicated a need for greater access to a better defined decisionmaking process regarding marine sanctuary designations. In this bill we have provided explicit guidelines for the Secretary of Commerce, in full cooperation with other affected Federal agencies, to evaluate and ultimately select proposed marine sanctuary sites. This evaluation must include the preparation of an environmental impact statement along with a resource assessment report documenting the present and potential uses of the area, including fishing, minerals, and energy development.

Marine sanctuary proposals are then to be submitted to the Merchant Marine and Fisheries Committee and the Committee on Commerce, Science, and Transportation in the Senate for their evaluation. It is intended that these committees will provide a forum to hear and evaluate disputes raised by those interests directly impacted by proposed marine sanctuary designations and to make responsible recommendations to the Secretary thereon. I fully expect that the Secretary will seriously consider the recommendations of Congress in making final marine sanctuary designations. If this is not found to be the case, I believe it will be appropriate for Congress to assert greater authority in designing marine sanctuaries through an affirmative sanctuary approval process.

Title I of the bill further directs the regional fishery management councils to develop draft regulations which pertain to fishing within marine sanctuaries. It is intended that the Secretary of Commerce shall promulgate such regulations according to proper administrative procedure to the extent that such draft regulations are consistent with the purposes and policies of the Marine Sanctuaries Act and the goals and objectives of the proposed sanctuary designation. It is further intended that, in developing such draft regulations, the regional fishery management councils will apply the national standards for fishery management of the Fishery Conservation and Management Act.

Title II of this bill contains the Maritime Safety Act of 1984 which addresses a number of deficiencies in existing law regarding the safe operation of U.S. merchant vessels. These provisions include a requirement for the owner, agent, or managing operator of a vessel to notify the Coast Guard well in advance of any upcoming inspection requirements of vessels under their purview, as well as stiff civil penalties for the operation of a vessel without a certificate of inspection.

In order to facilitate and expedite a timely response to maritime disaster

by the U.S. Coast Guard, title II further requires the owner, agent or managing operator and the master of a merchant vessel to maintain frequent scheduled communications as a means to keep constant track of vessels. Immediate notification of the U.S. Coast Guard is also required if scheduled communications with a vessel are broken and there is a reason to believe that such vessel may have been lost or imperiled.

Lastly, the Maritime Safety Act of 1984 contained in title II of this bill attempts to modernize a 1936 law which imposes a \$60 per ton limit of shipowner's liability for death and personal injury claims by raising that limit, consistent with inflation, to \$420 per ton.

Title II of the bill also contains a noncontroversial provision relating to the safety of recreational diving in U.S. waters. The bill directs the rules of the Road Advisory Council and the National Boating Safety Advisory Council in cooperation with the U.S. Coast Guard to fully examine and report on the safety issues surrounding divers and vessels in the maritime environment, particularly with respect to the need for display of the divers flag to promote diving safety as it relates to existing State laws.

Briefly, title III of S. 1102 attempts to bring the health care and retirement benefits of certain National Oceanic and Atmospheric Administration [NOAA] personnel, particularly those in the NOAA Corps which is responsible for operating the NOAA vessel fleet, more into line with other similar agencies. The health care provisions respond to the fact that the Public Health Service facilities which provide services to the NOAA Corps personnel have been phased out of existence. These provisions change no basic entitlements and are virtually identical to the authority given to the U.S. Coast Guard. In order to improve the administration and functioning of the NOAA Corps, this title of the bill also provides the Secretary of Commerce with the flexibility to assign commissioned officers in the NOAA Corps to a wide range of administrative operational positions.

Title IV of the bill contains several noncontroversial but very important provisions relating to fisheries. Briefly, section 410 amends the Central, Western, and South Pacific Fisheries Development Act to change the name of the Pacific Tuna Development Foundation to the Pacific Fisheries Development Foundation. This change simply reflects the intention of the National Marine Fisheries Service and the Foundation to expand their traditional tuna fishery development activities to include the development activities to include the development of other fishery resources in the central, western, and south Pacific region.

Section 420 amends the fishermen's contingency fund established under title IV of the Outer Continental Shelf Lands Act. As you know, the fishermen's contingency fund provides compensation to U.S. commercial fishermen for vessel, gear, and economic loss resulting from obstructions related to oil and gas exploration and development on the Outer Continental Shelf [OCS]. The fund is entirely capitalized by assessments on the oil and gas industry operating on the OCS.

Because of difficulties in program administration and with fishermen meeting the current statutory deadline for filing claims within 60 days, the amendment directs the Secretary of Commerce to establish by regulation a timeframe for claim filing procedures which is more responsive to the needs of both industry and the National Marine Fisheries Service which administers this program. The amendment does specify, however, that in no case shall the limit on the time for filing a claim be less than 90 days. In addition to these provisions, section 420 of the bill amends the fishermen's contingency fund to increase the level of compensation for a fishermen's economic loss—that being the gross revenue lost during the time required for gear or vessel repair—from 25 percent to 50 percent. This level of compensation will preserve the strong disincentive for fraudulent economic loss claims yet will provide a much more equitable settlement to an aggrieved fishing industry.

Section 430 of the bill reauthorizes the fisheries loan fund established pursuant to the Fish and Wildlife Act of 1956. As you know, this fund is currently used primarily to provide short-term assistance to commercial fishermen in danger of defaulting first, on Federal loan guarantees under the Title XI Obligation Guaranty Program and, second, on other non-Federal loans. As such, the fund has served as an important protection for Federal investments in a number of fisheries throughout the United States and is capitalized entirely by fees assessed on foreign fishermen for the privilege of fishing in U.S. waters.

Section 430 also amends the Fisheries Loan Fund Program to deposit the moneys in the fund in an interest bearing account which will generate revenue, subject to appropriations, to assist in compensating any defaults which have or will occur under the title XI program. I think this provision represents a sound business approach to the management of these funds and is a very appropriate use of foreign fishing fees to assist our Government and fishing industry.

Finally, section 440 of this title provides the necessary congressional approval of a Governing International Fishery Agreement [GIFA] recently negotiated by the State Department

between the United States and Denmark on behalf of the Faroe Islands. This agreement will permit the Faroese shark fishermen to continue to operate a small fishery in U.S. waters in the North Atlantic and will contribute to the maintenance of very positive fishery relations with this Nation.

Last, title V of the bill authorizes the Secretary of the department in which the Coast Guard is operating to issue certificates of documentation for seven vessels so that they may engage in coastwise trade in the United States.

● Mr. JONES of North Carolina. Mr. Speaker, S. 1102 is a bill composed of a number of different parts that include various measures of interest to the Committee on Merchant Marine and Fisheries.

The primary bill, to which all other legislative vehicles have been attached, would reauthorize and make some important changes to the National Marine Sanctuaries Program. The House bill, H.R. 2062, was passed by this body on June 14, 1983, under suspension of the rules by a 379-38 vote. This bill that has been sent to us from the other body maintains the essential features and integrity of H.R. 2062.

The concept of protecting special areas of the public domain is not a new one: This Nation has dedicated 81.5 million acres as national parks; 90 million acres as national wildlife refuges; and millions more acres as national forests, wilderness areas, wild and scenic rivers, and other special designations. Applying the concept to special areas of the ocean environment is relatively new.

In 1972, title III of the Marine Protection, Research and Sanctuaries Act gave a broad mandate for protection of special ocean areas. While that broad mandate has led to certain misunderstandings, it has not led, as some have suggested, to widespread misuse. In the program's 10-year history, only six sites have been designated as national marine sanctuaries, encompassing some 1.5 million acres. This amounts to only 0.15 percent of the entire Outer Continental Shelf [OCS]. By any standard, the program has been a modest one.

While the concept is a sound one, and its administration has been modest, legitimate questions and concerns have arisen regarding the program's future directions and long-range objectives. The original, broad mandate of title III is not sufficient to resolve such concerns. H.R. 2062, a bill which passed the House by a vote of 379-38, refined and clarified that original mandate. S. 1102 is virtually identical to that bill, and achieves the same objectives, which I will enumerate:

First, a clear and consistent statement of findings and purposes clarifies that the primary and overriding objective of a national marine sanctuary is resource protection. Although management is to be based on the concept of multiple use of sanctuary resources, the emphasis is on active conservation and management—including regulation where necessary—to control the mix of uses and maintain the recognized values of the site.

Second, a system of checks and balances is instilled within the legislation to prevent duplicative protections and regulations. Several provisions of this legislation are designed to ensure that sanctuary designation will occur only where there is evidence that existing authorities are insufficient to achieve the desired protections. In addition, sanctuary management is to rely primarily on coordination and enhancement of existing authorities, and only secondarily on additional regulation.

Third, exhaustive procedural clarifications provide a step-by-step outline for decisionmaking. Clear designation standards and compulsory consultation will facilitate more effective public involvement. Enhanced congressional review, including advanced notification and reporting requirements and opportunity for disapproval of any designation, will lead to a process which is more sensitive to the concerns of affected parties.

While both the House-passed and Senate-passed bills are virtually identical organizationally, procedurally, and programmatically, several differences need explanation:

(1) The Senate bill contains the requirement of a resource assessment report, in conjunction with development of an environmental impact statement, which is designed to ensure that all present and potential uses of sanctuary resources are cataloged and considered. Such information would be available without this requirement, but this provision would ensure that it is consolidated and presented in report form;

(2) Common to both bills is a requirement that the relevant regional fishery management councils draft any regulations to govern fishing within a sanctuary. Although S. 1102 places greater restrictions on the Secretary's authority to reject or modify such draft regulations, the operative clause of both bills is identical: Regulations drafted by a regional council must fulfill the purposes and policies of title III and the goals and objectives of the proposed designation;

(3) The vehicle for disapproval of a proposed designation is changed from a concurrent resolution—in H.R. 2062—to a joint resolution—in S. 1102. This change was necessitated by the recent decision of the U.S. Supreme Court in *Chadda* against the U.S. Immigration and Naturalization Service.

Additionally, under S. 1102, a resolution of disapproval would, once reported from committee, be considered a privileged motion. The latter constitutes an amendment to the rules of the House for which we have received consent from the Committee on Rules; and

(4) A provision safeguarding access and valid rights to use sanctuary resources was added to the Senate bill to ensure that sanctuary designation would not be used as a mechanism to terminate access or rights which had been established prior to designation of an area as a sanctuary. Such rights include permits, leases, licenses and subsistence use rights. It is clear, however, that all such rights are subject to regulation, by the Secretary, as necessary to provide protection to sanctuary resources.

The Members and staff of both bodies have worked through both sessions of the 98th Congress to arrive at this measure. It is thoroughly considered, and it will serve well to balance the needs for development and protection of that Nation's ocean margins. This is not an easy task, and it will not come without conflict, but this measure will ensure that such conflicts are addressed directly, and resolved fairly.

● Mr. Speaker, I would also like to address the colloquy between the gentleman from Louisiana and the gentleman from Alaska.

I would like to take this opportunity to clarify for the record that these distinguished members of the committee are offering their comments on the marine sanctuaries portion of S. 1102 on their individual capacities and not on behalf of the Committee on Merchant Marine and Fisheries. To the extent that their comments differ from the interpretations or statements of intention that are contained in the committee's report, the latter should be understood to reflect the views of the committee, while the former reflects the views of these individual members. To clarify the record, I would like to take a few moments to point out several areas in which the gentlemen's colloquy differs from the committee's understanding of the legislation.

First, there is no intention to favor the selection of small sites as implied in the colloquy.

The colloquy erroneously interprets the bill to require that no marine sanctuary may be designated unless the Secretary finds that "it is small enough to allow comprehensive management * * *". In fact, the bill requires a finding that "the area is of a size and nature that will permit comprehensive and coordinated conservation and management. While an area may be too large for comprehensive management, it is also possible that an area may be too small, and therefore, insufficient to control activities affect-

ing sanctuary resources. In addition, the House report—page 21—allows that:

The Secretary retains the flexibility to tailor the boundaries of a sanctuary in order to protect the resources of the area. However, the Secretary should limit the size of sanctuaries to the geographic area necessary to protect these resources.

The bill's intent is to ensure that a sanctuary is of a proper size to achieve the stated purpose—resource protection—no bigger and no smaller.

Second, the colloquy incorrectly claims that the term "discrete" refers to, and places limitations on, the size of a sanctuary.

The colloquy suggests that these amendments require that marine sanctuaries be discrete and that this term means "small enough to, and of a nature which would, allow coordinated and comprehensive management." I must clarify for the record the committee's understanding of the term "discrete."

Section 303(a) authorizes the Secretary to " * * * designate any discrete area of the marine environment as a national marine sanctuary * * *". The term is also applied in section 303(b)(1)(F) which requires the Secretary to consider:

The manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities.

The term is not defined in the legislation and was not discussed in the House report. The intent was that the plain meaning of the term would apply. Webster's new collegiate dictionary defines the term to mean "constituting a separate entity or individually distinct." Furthermore, the context in which the term is applied in section 303(b)(1)(F) reveals that the term "discrete" does not modify or refer to size. Rather, it refers to ecological considerations and to the stated preference that the sanctuary constitute an ecological unit with clearly definable boundaries.

Third, there is no requirement for demonstration of fiscal and administrative capacities prior to designation of a sanctuary.

The colloquy suggests that no sanctuary should be designated unless it is first:

Clearly demonstrated that this program has the fiscal and administrative capacity to * * * achieved coordinated and comprehensive management.

It should be noted that the bill itself requires no demonstration of fiscal or administrative capacity prior to designation. Section 304(a)(1)(C) requires the Secretary to provide specific information to the Congress regarding each proposed designation, and clause (vi) identifies the following information:

An estimate of the annual cost of the proposed designation, including costs of personnel, equipment, and facilities, enforcement, research, and public education.

However, the intent of this provision is simply to facilitate more informed review of the proposal by the Congress. In addition, the House report—page 21—references “fiscal and staff constraints” as one additional factor which the Secretary should evaluate in establishing sanctuary boundaries. However, in no manner could this be construed as a requirement for demonstration of such capacity prior to designation.

Fourth, there is no basis for asserting that any of the established standards will be difficult to sustain.

Section 303(a) outlines five standards which must be met by any area proposed for designation as a marine sanctuary. Section 303(a)(2)(B) requires a finding that:

Existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area * * *

The colloquy concludes that:

* * * such a finding would be difficult to make and sustain considering the many existing stringent State and Federal environmental laws and regulations which already ensure extensive protection of the marine environment.

Under section 303(a), there is no basis for a judgment that one of the five standards would be any more or less difficult to sustain than the others. Neither is this interpretation supported by the detailed discussion of this standard in the House report. Furthermore, such an interpretation is not compatible with the general intent of the bill as expressed in the House report and floor debate on H.R. 2062. The future designation of marine sanctuaries is clearly anticipated in the findings—section 301(a)—and the purposes and policies—section 301(b). The degree of difficulty associated with any one of the findings will turn on the facts of each case. In general, the committee intended to adopt a set of findings that would, as a whole, constitute reasonable and appropriate standards to govern the designation process. It did not, however, intend by these requirements to erect a set of difficult barriers to the designation of marine sanctuaries, just as it did not intend these findings to be mere formalities.

Lastly, it is not the intent of these amendments to ensure that the activities of other Federal agencies are not disrupted, but rather, that they are disrupted only to the extent necessary to achieve the desired protection.

The colloquy strongly implies that a designation is not to occur if it would disrupt the ongoing or planned activities of another Federal agency. Such interpretation is contradictory to the authority which is granted to the Sec-

retary of Commerce by these amendments. The Secretary is authorized to designate marine sanctuaries and to promulgate regulations necessary to implement that designation. There is no condition on the Secretary's authority to regulate activities affecting the sanctuary except those provided in sections 304(a)(5) and 304(c), governing fishing regulations and access and valid rights respectively. Neither of these provisions precludes, either explicitly or implicitly, disruption of Federal agency activities.

While interagency consultation is designed to inform the Secretary of the concerns of other Federal agencies, it is the Secretary who is empowered with final decisionmaking authority, including the decision to designate a site and to regulate activities affecting the resources of that site. Such decisions may necessarily involve the disruption of other Federal agency activities. However, such disruptions are to be limited to the extent necessary to achieve protection of the resource.

Finally, the colloquy implies that the views of Federal agencies are to be elevated above those of other potentially affected or interested parties enumerated in section 303(b). This implication is inappropriate. The views of all parties should be afforded due consideration by the Secretary. ●

● Mr. D'AMOURS. Mr. Speaker, I rise in support of S. 1102, which, among other things, reauthorizes the National Marine Sanctuary Program. The House counterpart to this provision is H.R. 2062 which was introduced by myself and Mr. PRITCHARD and passed the House on June 14, 1983, by the overwhelming vote of 379 to 38.

The National Marine Sanctuary Program was created in 1972 in order to provide a mechanism to protect and manage valuable areas of our marine environment. Six sanctuaries have been designated to date. These sanctuaries have been designated to protect such diverse areas as the historically and culturally significant Civil War ironclad U.S.S. *Monitor*, recreationally and educationally valuable reef areas off Georgia and Florida, and marine mammal and bird habitats off California that are important for their ecological conservation and research values.

S. 1102 reauthorizes the program for 4 years. The authorization levels start at \$3 million for fiscal year 1985 and increase to \$3.9 million for fiscal year 1988. These levels will allow the designation and management of one new sanctuary per year.

The program has not been without controversy. This is largely because of mistaken public perceptions about the goals and purposes of this program and because of the failure of Congress to provide clear policy directives. Many of the early problems were successfully solved by the current pro-

gram managers, and this bill attempts to correct the remaining outstanding problems.

H.R. 2062, as passed by the House, would substantially amend title III of the Marine Protection, Research and Sanctuaries Act. It reaffirms that the mission of the program is the establishment of a system of national marine sanctuaries based on identification, designation, and comprehensive management of special marine areas for the long-term benefit and enjoyment of the public. It sets forth explicit purposes and policies for the program by codifying the program's existing goals and policies as set forth in the January 1982 “program development plan” for the National Marine Sanctuary Program. It establishes standards and factors for the Secretary of Commerce to apply when assessing areas of the marine environment for sanctuary designation. It outlines site designation procedures for the Secretary to follow, including broadened consultations with affected parties, participation by regional fishery management councils in the drafting of fishing-related regulations and a review period for Congress to analyze proposed sanctuaries.

All of the major provisions of H.R. 2062 were acceptable to the Senate and are contained in S. 1102. Some modifications and clarifications are contained in the Senate-passed version and I want to briefly highlight them:

S. 1102 requires the Secretary of Commerce, in consultation with the Secretary of the Interior, to complete a resource assessment report documenting present and potential uses of an area, including fishing, research and education, minerals and energy development, subsistence uses, and other commercial or recreational uses;

S. 1102 clarifies the specific criteria used to determine when it is appropriate for regional fishery management councils rather than the Secretary of Commerce to assume responsibility for drafting of sanctuary regulations. The Senate version is identical to the previous House version, however, in making clear that even when it falls to the regional councils to draft the regulations, it is up to the Secretary to make the final determination that the regulations are consistent with the purposes and policies of the program and the goals and objectives of the proposed sanctuary;

S. 1102 reduces the time for congressional and gubernatorial disapproval from 90 days to 45 days and changes the concurrent resolution to a joint resolution, consistent with the Chadha decision;

S. 1102 makes in order a privileged and nondebatable motion to consider a joint resolution on the floor; and

S. 1102 seeks to protect existing access and valid rights in current and

proposed sanctuaries, with the understanding that access and rights are subject to regulation by the Secretary consistent with the purpose of the sanctuary designation.

Mr. Speaker, these modifications are constructive and I see no reason why we should not adopt them.

S. 1102 and its companion bill H.R. 2062 represent carefully crafted compromises. The amendments will allow program managers to protect and comprehensively manage marine areas for the long-term benefit and enjoyment of the public by designating representative areas of the marine environment that are important because of their resource or human-use values, yet will still ensure that affected parties can be active participants in the designation process.

This bill represents long hours of effort on the part of many people. I want to commend the Members of both Houses for their work on the bill. The sanctuary program is an important marine program, and I strongly believe that S. 1102 will strengthen the program. I urge my colleagues to support this bill.●

● Mr. CARPER. Mr. Speaker, I rise as a strong supporter of the Marine Sanctuaries Program. The need for a functional and effective program is no less now than it was when Congress passed the original legislation in 1972. Indeed, the increase in human activity in our coastal waters has made this program even more important by allowing for the protection of discrete but significant areas of our coastal waters. The richness and diversity of our offshore areas are no less deserving of responsible management and protection than our national parks, wilderness areas, wildlife refuges and other components of our treasured natural heritage.

It is for this reason that I am concerned by some comments which have been made on the House floor regarding the legislative intent behind this worthwhile bill. First, I feel the Marine Sanctuaries Amendments of 1983 speak eloquently, in their own way, of the purpose intended for this legislation. Furthermore, members of both the House and Senate committees have worked diligently to clarify the proposed law in their committee reports.

It is correctly asserted that the Secretary of Commerce must, according to this legislation, determine that proposed sanctuaries meet five standards before they are designated. The Secretary is also requested to consider nine other factors in reaching his decisions. Clearly, neither the House Merchant Marine and Fisheries Committee nor the Senate Commerce Committee intend that the standards set by this bill would be so restrictive that no sanctuaries would be designated. The purpose of this legislation is to provide

for the conservation and management of nationally significant marine areas, not to establish insurmountable hurdles to the designation of marine sanctuaries.

Another issue of concern involves the size of areas to be designated as marine sanctuaries. This legislation authorizes the Secretary of Commerce to "designate any discrete area of the marine environment as a national marine sanctuary" and to promulgate appropriate regulations (sec. 303(a)). In an earlier colloquy, it was interpreted that discrete means "small." Indeed, the true meaning of the word and the intent in using this term, is that a designated area be "individually distinct" and easily definable in geographic scope and ecological, cultural or other character. A careful review of the bill shows clearly that a designated area should be limited to a "size and nature which will permit comprehensive and coordinated conservation management" (sec. 303(a)(3)). This requirement is a hard and fast standard that must be met by all designated sites, and constitutes the only restriction on the size of sanctuaries designated by the Secretary.

In order to make a reasonable determination on sanctuary designations, the Secretary is required to consult with the House Merchant Marine and Fisheries Committee and with the Senate Commerce Committee, several Federal agencies, State and local governments, the appropriate Regional Fishery Management Council, and other interested persons. In no case, however, is the Secretary required to secure the approval of these parties—a point clearly made by the legislation and both House and Senate reports.

There are, however, a number of public and private uses of ocean resources that could be affected by the designation of a national marine sanctuary, including fishing and energy development. Under this legislation, public and private uses of the resources in a marine sanctuary may be allowed provided they are "compatible with the primary objective of resource protection" (sec. 301(b)(5)). Specific protection for fisheries (sec. 304 a 3) and for preexisting leases and permits (sec. 304(b)(5)) are included in the bill.

Moreover, contrary to the assertions made in the colloquy, the existing protections afforded the marine environment by existing statutes are not necessarily adequate for the proper management of valuable resources. A Congressional Research Service report in 1980 and a 1981 General Accounting Office report indicate the Marine Sanctuary Program can provide environmental protection not otherwise available. This finding is reinforced by the Merchant Marine and Fisheries Committee report (H. Rept. 98-187, pp. 20-21) which states:

Depending on the location, the resources, and the existing mechanisms, a sanctuary could either complement existing mechanisms by filling specific gaps or could form a management umbrella over a fragmented system to help coordinate diverse but related efforts.

For many reasons, our coastal waters need careful and responsible protection. Their biological productivity is far more than a scientific curiosity, it is the underpinning of this Nation's bountiful fisheries resources. Protection of selected areas of our offshore waters is a pressing need in the face of accelerating coastal development and human activity.

Once again, I am delighted to see this important legislation reach this stage on its path toward enactment. I commend my colleagues in both Houses for their work on this bill.●

● Mrs. BOXER. Mr. Speaker, I rise in strong support of S. 1102, which reauthorizes and amends title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

Under the current administration, we have seen increased pressure to develop our marine resources, more often than not, at the expense of our environment. The marine sanctuaries program authorized by this bill recognizes that "certain areas of the marine environment possess conservation, recreational, ecological, historical, research, educational, or esthetic qualities which give them special national significance." For the purposes of environmental protection and preservation, our National Marine Sanctuaries Program identifies areas of the marine environment of special national significance and provides for the coordinated conservation and management of these areas.

The chairman of the Merchant Marine and Fisheries Committee has indicated that the colloquy entered into by the Members managing this bill on the House floor does not represent the views of the committee. I concur with the chairman.

The meaning and intent of the Marine Sanctuaries Amendments of 1984 are amply explained in the House report (H. Rept. 98-187) and Senate report (S. Rept. 98-280). As the House report clearly states, these amendments codify the existing administration of the marine sanctuaries program.

As a member of the Merchant Marine and Fisheries Committee who participated in the hearings and vote on H.R. 2062, the companion bill to S. 1102, my understanding of congressional intent in passing the 1984 amendments is to grant the Secretary of Commerce unambiguous authority to designate areas as marine sanctuaries and adopt regulations to protect the natural resources of these areas.

The bill directs the Secretary of Commerce to consult with the House

Mechant Marine and Fisheries Committee, the Senate Commerce Committee, several Federal agencies, State and local governments, the appropriate Regional Fishery Management Council, and other interested persons. Nowhere do the 1984 amendments require the Secretary to secure the approval of these parties. Nowhere do the 1984 amendments require congressional approval in the designation of marine sanctuaries.

The 1984 amendments do require, however, that before designating a national marine sanctuary, the Secretary of Commerce must determine that such designation will fulfill the purposes and policies of the act and find that the proposed sanctuary meets four standards. The committee did not intend to create barriers or obstacles to the designation of marine sanctuaries. The standards in section 303 are not intended to be standards that are difficult to meet. Rather, these standards are intended to be reasonable ones that will ensure that marine areas of special national significance are designated as national marine sanctuaries.

While the marine sanctuaries program encourages the coordination of existing Federal programs in the area of a proposed marine sanctuary, this does not mean that the marine sanctuary program should avoid disruption of Federal activities. The primary purpose of the marine sanctuaries program and the 1984 amendments is to protect marine resources. Toward that end, the designation and implementing regulations of marine sanctuaries will inevitably involve some disruption of other Federal activities in the area.

Off the coast of my district, the Point Reyes-Farallon Islands National Marine Sanctuary is home to a unique seabird community and various marine mammal populations, including the gray whale, California sea lion, harbor seal, and elephant seal. The designation of this outstanding area as a marine sanctuary was greatly hailed in my State of California. While the sanctuary represents only a minuscule fraction of the Outer Continental Shelf, it is a critical habitat for many bird and pinniped species. I strongly support the Marine Sanctuaries Amendments of 1984 which continue the program's historical emphasis on resource protection by excluding disruptive activities such as oil and gas development. ●

● Mr. D'AMOURS. Mr. Speaker, I rise in support of S. 1102, which, among other things, reauthorizes the National Marine Sanctuary Program. The House counterpart to this provision is H.R. 2062 which was introduced by myself and Mr. PRITCHARD and passed the House on June 14, 1983 by the overwhelming vote of 379 to 38.

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provide a mechanism to protect and manage valuable areas of our marine environment. Six sanctuaries have been designated to date. These sanctuaries have been designated to protect such diverse areas as the historically and culturally significant Civil War ironclad U.S.S. *Monitor*, recreationally and educationally valuable reef areas off Georgia and Florida, and marine mammal and bird habitats off California that are important for their ecological, conservation, and research values.

S. 1102 reauthorizes the program for 4 years. The authorization levels start at \$3 million for fiscal year 1985 and increase to \$3.9 million for fiscal year 1988. These levels will allow the designation and management of one new sanctuary per year.

The program has not been without controversy. This is largely because of mistaken public perceptions about the goals and purposes of this program and because of the failure of Congress to provide clear policy directives. Many of the early problems were successfully solved by the current program managers, and this bill attempts to correct the remaining outstanding problems.

H.R. 2062, as passed by the House, would substantially amend title III of the Marine Protection, Research, and Sanctuaries Act. As set forth in the committee's report on the bill (H. Rept. 98-187, p. 1) H.R. 2062 reaffirms that the mission of the program is the establishment of a system of national marine sanctuaries based on identification, designation, and comprehensive management of special marine areas for the long-term benefit and enjoyment of the public.

It sets forth explicit purposes and policies for the program by codifying the program's existing goals and policies as set forth in the January 1982 program development plan for the National Marine Sanctuary Program. It establishes standards and factors for the Secretary of Commerce to apply when assessing areas of the marine environment for sanctuary designation. It outlines site designation procedures for the Secretary to follow, including broadened consultations with affected parties, participation by regional fishery management councils in the drafting of fishing-related regulations and a review period for Congress to analyze proposed sanctuaries.

All of the major provisions of H.R. 2062 were acceptable to the Senate and are contained in S. 1102. Some modifications, clarifications, and structural changes are contained in the Senate-passed version and in the version we take up today and I want to briefly highlight them:

S. 1102 requires the Secretary of Commerce, in consultation with the Secretary of the Interior, to complete a resource assessment report docu-

menting present and potential uses of an area, including fishing, research and education, minerals and energy development, subsistence uses, and other commercial or recreational uses.

S. 1102 clarifies the specific criteria used to determine when it is appropriate for regional fishery management councils rather than the Secretary of Commerce to assume responsibility for drafting of sanctuary regulations. The Senate version is identical to the previous House version, however, in making clear that even when it falls to the regional councils to draft the regulations, it is up to the Secretary to make the final determination that the regulations are consistent with the purposes and policies of the program and the goals and objectives of the proposed sanctuary.

S. 1102 reduces the time for congressional and gubernatorial disapproval from 90 days to 45 days and changes the concurrent resolution to a joint resolution, consistent with the Chadha decision.

S. 1102 makes in order a privileged and nondebatable motion to consider a joint resolution on the floor.

S. 1102 seeks to protect existing access and valid rights in current and proposed sanctuaries, with the understanding that access and rights are subject to regulation by the Secretary consistent with the purposes of the sanctuary designation.

Mr. Speaker, these modifications are constructive and I see no reason why we should not adopt them.

S. 1102, like its counterpart H.R. 2062 establishes definite procedures for the Secretary of Commerce to follow when designating and managing national marine sanctuaries. Section 303(a) requires that before designating any area as a marine sanctuary, the Secretary must determine that the designation will fulfill the purposes and policies as set forth in section 301, and must make four findings: First, the area is of special national significance because of its values; second, existing State and Federal regulatory and management mechanisms are not adequate to provide for coordinated and comprehensive management of the area; third, designation as a sanctuary will facilitate coordinated and comprehensive management; and fourth, a proposed sanctuary will be of a size and nature that will facilitate comprehensive and coordinated conservation and management.

Section 303(b)(1) outlines nine factors for the Secretary to consider when making the determination and findings of section 303(a). There is no requirement that a sanctuary must meet all nine factors in order to be designated, but rather the Secretary must use the factors to evaluate proposed sanctuaries.

Section 303(b)(2) obligates the Secretary to consult with several persons and organizations before designating an area as a marine sanctuary. As it is made clear in the House report, inadequate or ill-timed consultation has led to problems in the past. In order to alleviate these problems, the Secretary is expected to consult with all interested persons and groups of all important stages of the site evaluation and designation process. However, it is understood that the Secretary has the ultimate authority to designate sanctuaries.

The issue of the size of a national marine sanctuary received considerable discussion within the Merchant Marine and Fisheries Committee. Ultimately the committee chose not to legislatively limit the size of sanctuaries, but rather to provide factors to guide the Secretary in tailoring the boundaries of a sanctuary in order to protect the resources of the area. These factors include but are not limited to distribution of the area's resources; human activities in the area; fiscal and staff constraints; accessibility; potential enforcement and surveillance problems; and the capabilities of State and Federal authorities. The committee concurred with a NOAA policy statement that the upper limit of the sanctuary size spectrum is represented by the Channel Islands National Marine Sanctuary.

Another issue that received considerable attention in discussions before the Merchant Marine and Fisheries Committee involved the regulation of activities within established sanctuaries, especially fishing activities. The committee discussed the variety of uses that are likely to take place within sanctuaries and what controls might be necessary to control the mix of uses in order to maintain the recognized values of a site. The committee affirmed that it may be both necessary and proper to regulate specific uses in order to conserve or manage a site's inherent resource or human-use values. The committee made it clear in section 301(b)(5) that public and private uses of the resources of a marine sanctuary may be allowed provided that they are compatible with the primary objective of resource protection. This emphasis upon resource protection is also explicitly expressed regarding fisheries in section 304(a)(3) and preexisting leases and permits in section 304(c)(2).

Mr. Speaker, S. 1102 and its companion bill, H.R. 2062, represent carefully crafted compromises. The amendments will allow program managers to protect and comprehensively manage marine areas for the long-term benefit and enjoyment of the public by designating representative areas of the marine environment that are important because of their resource or human-use values, yet will still ensure

that affected parties can be active participants in the designation process.

This bill represents long hours of effort on the part of many people. I want to commend the Members of both Houses for their work on the bill. The sanctuary program is an important marine program, and I strongly believe that S. 1102 will strengthen the program. I urge my colleagues to support this bill. ●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members who wish to do so may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

CORRECTING ERRORS IN ENROLLMENT OF S. 1538, DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 141) to correct technical errors in the enrollment of the Senate bill (S. 1538) to amend the Federal Food, Drug, and Cosmetic Act to revise the procedures for new drug applications, to amend title XXXV, United States Code, to authorize the extension of the patents for certain regulated products, and for other purposes, and ask for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 141

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1538) to amend the Federal Food, Drug, and Cosmetic Act to revise the procedures for new drug applications, to amend title 35, United States Code, to authorize the extension of the patents for certain regulated products, and for other purposes, the Secretary of the Senate shall make the following changes. In sections 505(j)(4)(B)(iii)(III) and 505(c)(3)(C)(iii) of the Federal Food, Drug, and Cosmetic Act as added by sections 101 and 103(b) of the bill, respectively, strike out "not invalid" and insert in lieu thereof "invalid".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BLILEY. Mr. Speaker, reserving the right to object—and I shall not object—will the gentleman from Cali-

fornia [Mr. WAXMAN] explain the resolution?

Mr. WAXMAN. If the gentleman will yield. This concurrent resolution is necessary to correct an error in S. 1538, the Drug Price Competition and Patent Term Restoration Act, which has been passed by the House and the Senate. In title I of the bill, the phrase, "if the court decides that such patent is not invalid or not infringed" appears in sections 101 and 103. The double negative "not invalid" is incorrect. This concurrent resolution will correct the phrase to read, "if the court decides that such patent is invalid or not infringed."

Mr. BLILEY. I thank the gentleman for his explanation.

Mr. Speaker, I support the bill, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

INDIAN HEALTH CARE AMENDMENTS OF 1984

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 560 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 560

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4567) to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Interior and Insular Affairs and Energy and Commerce now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 6039 as an original bill for the purpose of amendment under the five-minute rule, each section of said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5(a) of rule XXI are hereby waived. At the conclusion