

MARPOL ANNEX VI IMPLEMENTATION ACT OF 2006

SEPTEMBER 19, 2006.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 5811]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 5811) to implement the Protocol of 1997 to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “MARPOL Annex VI Implementation Act of 2006”.

SEC. 2. REFERENCES.

Wherever in this Act an amendment or repeal is expressed in terms of an amendment to or a repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

SEC. 3. DEFINITIONS.

Section 2(a) (33 U.S.C. 1901(a)) is amended—

(1) by redesignating the paragraphs (1) through (12) as paragraphs (2) through (13), respectively;

(2) by inserting before paragraph (2), as so redesignated, the following:

“(1) ‘Administrator’ means the Administrator of the Environmental Protection Agency;”;

(3) in paragraph (5), as so redesignated, by striking “and V” and inserting “V, and VI”; and

(4) in paragraph (6), as so redesignated, by striking “‘discharge’ and ‘garbage’ and ‘harmful substance’ and ‘incident’” and inserting “‘discharge’, ‘emission’, ‘garbage’, ‘harmful substance’, and ‘incident’”.

SEC. 4. APPLICABILITY.

Section 3 (33 U.S.C. 1902) is amended—

(1) in subsection (a)—

(A) by striking “and” after the semicolon at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting “, and”;

(C) and by adding at the end the following new paragraph:

“(5) with respect to Annex VI to the Convention, and to the extent consistent with international law, to a ship, other than a ship referred to in paragraph (1), that—

“(A) is in a port, shipyard, offshore terminal, or the internal waters of the United States;

“(B) is in the territorial sea of the United States as defined in Presidential Proclamation 5928 of December 27, 1988;

“(C) is in an emission control area designated pursuant to section 4; or

“(D) is bound for, or departing a port, shipyard, offshore terminal, or the internal waters of the United States; and is in any other area that the Administrator, in consultation with the Secretary, has designated by regulation and based on the best available scientific data as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment.”;

(2) in subsection (b)(1) by inserting “or (3)” after “paragraph (2)”;

(3) in subsection (b) by adding at the end the following new paragraph:

“(3) With respect to Annex VI to the Convention, the head of a Federal department or agency may determine that some or all of the requirements under this Act shall apply to one or more classes of public vessels operated under the authority of such department or agency.”; and

(4) in subsection (d)—

(A) by inserting “, or the Administrator as authorized by section 4,” after “Secretary”;

(B) by inserting “(or an applicable Annex)” after “MARPOL Protocol” the first place it appears; and

(C) by inserting “and Annex VI” after “Annex V”.

SEC. 5. ADMINISTRATION AND ENFORCEMENT.

Section 4(b) (33 U.S.C. 1903(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by inserting after paragraph (1) the following new paragraphs:

“(2) In prescribing regulations under this section to carry out the provisions of Annex VI to the Convention, the Secretary shall consult with the Administrator with respect to Regulations 12 and 16 of such Annex and with the Administrator and the Secretary of the Interior with respect to Regulation 19 of such Annex.

“(3) In addition to the authority the Secretary has to prescribe regulations under this section to carry out Annex VI to the Convention, the Administrator, in consultation with the Secretary, shall prescribe any necessary or desired regulations to carry out Regulations 13, 14, 15, and 18 of such Annex.”; and

(3) by adding at the end the following new paragraph:

“(5) No standard issued by any person or Federal agency regarding emissions from tank vessels that are subject to Regulation 15 of Annex VI to the Convention shall be effective until six months after the date on which the Secretary submits a notification to the International Maritime Organization that such standard has been established.”.

SEC. 6. CERTIFICATES.

Section 5 (33 U.S.C. 1904) is amended—

(1) in subsection (a)—

(A) by striking “The” and inserting “(1) Except as provided in paragraph

(2), the”;

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

“(2) The Administrator shall, and no other person may, issue an Engine International Air Pollution Prevention Certificate in accordance with Annex VI to the Convention and the International Maritime Organization’s Technical Code on Control of Emissions of Nitrogen Oxides from Marine Diesel Engines, on behalf of the United States. The issuance of such certificates shall be consistent with any applicable requirements under the Clean Air Act (42 U.S.C. 7401 et seq.) and regulations promulgated thereunder.”;

(2) by striking subsection (b) and inserting the following:

“(b) A certificate issued by a country that is a party to the MARPOL Protocol has the same validity as a certificate issued by the Secretary under the authority of this Act, or by the Administrator under the authority of subsection (a)(2).”; and

(3) in subsection (e) by inserting “or the public health or welfare” after “marine environment”.

SEC. 7. RECEPTION FACILITIES.

Section 6 (33 U.S.C. 1905) is amended—

(1) in subsection (a) by adding at the end the following new paragraph:

“(3) The Secretary, after consulting with appropriate Federal agencies, shall establish regulations to require that ports and terminals provide reception facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues or ensure that such facilities are available. The regulations shall establish criteria for determining the adequacy of reception facilities for receiving such substances, equipment, or residues at a port or terminal and such additional measures and requirements as are appropriate to ensure such adequacy.

“(4) The Secretary may establish regulations to certify, and may issue certificates to the effect, that a port’s or terminal’s facilities for receiving such substances, equipment, and residues from ships are adequate.”;

(2) in subsection (c)(2)(A) by inserting “or (a)(3)” after “subsection (a)(2)”;

(3) by striking subsection (e)(2) and inserting the following:

“(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide adequate reception facilities for garbage, ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues if the port or terminal is not in compliance with such regulations.”; and

(4) in subsection (f)(1) by striking “MARPOL Protocol or the Antarctic Protocol” and inserting “MARPOL Protocol, the Antarctic Protocol, or this Act”.

SEC. 8. INSPECTIONS.

Section 8(f) (33 U.S.C. 1907(f)) is amended to read as follows:

“(f)(1) The Secretary may inspect a ship to which this Act applies as provided under section 3(a)(5), to verify whether the ship is in compliance with Annex VI to the Convention and this Act.

“(2) If an inspection under this subsection or any other information indicates that a violation has occurred, the Secretary may undertake enforcement action under this section.”.

SEC. 9. AMENDMENTS TO THE PROTOCOL.

Section 10(b) (33 U.S.C. 1909(b)) is amended by striking “Annex I, II, or V” and by inserting “Annex I, II, V, or VI”.

SEC. 10. EFFECT ON OTHER LAWS.

Section 15 (33 U.S.C. 1911) is amended to read as follows:

“SEC. 15. EFFECT ON OTHER LAWS.

“Authorities, requirements, and remedies of this Act supplement and neither amend nor repeal any other authorities, requirements, or remedies conferred by any other provision of law. Nothing in this Act shall limit, deny, amend, modify, or repeal any other authority, requirement, or remedy available to the United States or any other person, except as expressly provided in this Act.”.

SEC. 11. TECHNICAL CORRECTIONS.

Subsections (a), (b), and (d) of section 9 (33 U.S.C. 1908(a), (b), and (d)) are amended by striking the second comma after “MARPOL Protocol” each place it appears.

PURPOSE OF THE LEGISLATION

H.R. 5811, the MARPOL Annex VI Implementation Act of 2006, would implement vessel emission standards that were agreed to under Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL Convention) for purposes of United States law.

BACKGROUND AND NEED FOR THE LEGISLATION

In 1997, the International Maritime Organization adopted Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL Convention) which establishes international regulations that set limits on sulfur oxide and nitrogen oxide emissions from ship exhausts and prohibits deliberate emissions of ozone depleting substances. In April of this year, the Senate ac-

ceded to the treaty by unanimous consent. Annex VI entered into force internationally on May 19, 2006.

Under the Act to Prevent Pollution from Ships, the Coast Guard currently enforces Annexes I, II, and V to the MARPOL Convention on U.S.-flag and foreign-flag vessels operating in the navigable waters of the United States. The Coast Guard also enforces regulations that require ports and terminals to provide adequate access to trash receptacle facilities. Any violations of these regulations found by the Coast Guard may result in administrative, civil, or criminal actions.

H.R. 5811 would amend the Act to Prevent Pollution from Ships to require the Coast Guard to administer and enforce vessel emission standards and requirements that are outlined under Annex VI to the MARPOL Convention.

SUMMARY OF THE LEGISLATION

H.R. 5811, the MARPOL Annex VI Implementation Act of 2006, requires the Coast Guard and, in some cases, the Environmental Protection Agency (EPA) to promulgate regulations to implement vessel air emission standards and requirements that are outlined under Annex VI to the MARPOL Convention.

The Committee recognizes that the Coast Guard may not have the specialized expertise necessary to solely conduct the rule-making process to implement several standards regarding the emission of nitrogen oxide (NO_x), sulfur oxide (SO_x), and volatile organic compounds and quality standards for vessel fuel oil. For this reason, the bill would require the EPA to promulgate regulations to establish such standards in consultation with the Coast Guard. However, the Committee does not intend to transfer any authorities under current law regarding the promulgation, administration or enforcement of regulations regarding vessel requirements under MARPOL Annexes I, II, and V, Annex IV to the Antarctic Protocol.

Section 1 states that the legislation may be referred to as the "MARPOL Annex VI Implementation Act of 2006".

Section 2 clarifies that any reference to a section or other provision refers to a section or other provision of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

Section 3 adds a definition of "Administrator" to the Act to mean the Administrator of the Environmental Protection Agency and makes several conforming changes to existing law to reflect the adoption of MARPOL Annex VI.

Section 4 establishes applicability for vessel air emission regulations issued under section 4 of the Act to Prevent Pollution from Ships. Under this section, U.S. vessels, vessels that are operating in the territorial sea, in emission control areas, and in areas designated by the Administrator, in consultation with the Secretary of the department in which the Coast Guard is operating, are required to comply with vessel air emission regulations that are issued by the Coast Guard and EPA. This section also authorizes, but does not require, heads of each Federal department or agency to determine that some or all of the requirements regarding vessel air emissions for public vessels operated under that department or agency's authority.

Under Annex VI to the MARPOL Convention, vessel air emission standards regarding nitrogen oxides (NO_x) apply only to vessels with marine engines rated above 130 kilowatts, or 175 horsepower. Section 4 does not apply standards under Annex VI to the MARPOL Convention to any vessel equipped with an engine below this threshold.

Section 5 requires the Secretary of the department in which the Coast Guard is operating and the Administrator of the Environmental Protection Agency to promulgate regulations to carry out Annex VI to the MARPOL Convention. In accordance with Annex VI, this section also prohibits any standard regarding the emission of volatile organic compounds from vessels from taking effect until six months after the International Maritime Organization has been notified that such standards have been established.

Section 6 prohibits any person other than the Administrator of the Environmental Protection Agency from issuing Engine International Air Pollution Prevention Certificates on behalf of the United States and requires that such certificates are issued consistently with regulations and requirements under the Clean Air Act. Under the Convention, each vessel greater than 400 gross tons and offshore terminal is issued an International Air Pollution Prevention Certificate to certify that the equipment vessel is in compliance with all applicable requirements under MARPOL Annex VI and an Engine International Air Pollution Prevention Certificate to certify that each engine or engine group is in compliance with nitrogen NO_x standards under Regulation 13 of Annex VI to the Convention. This section also includes language that recognizes, for purposes of compliance under U.S. law, a certificate issued by another nation that is party to the MARPOL protocol. Section 6 does not authorize the Administrator to issue any certificate under this Act other than the Engine International Air Pollution Prevention Certificate.

Section 7 requires the Secretary of the Department in which the Coast Guard is operating to promulgate regulations that require ports and terminals to provide or ensure the availability of adequate reception facilities for ozone depleting substances, equipment containing such substances and exhaust cleaning residues. This section also authorizes the Coast Guard to deny a vessel entry into a port or terminal that, in the Coast Guard's determination, is not in compliance with such regulations.

The Committee recommends that the Coast Guard take efforts to develop regulations under this section to be consistent with existing regulations regarding the availability of reception facilities for garbage under MARPOL Annex V and section 6 of the Act to Prevent Pollution from Ships.

Section 8 authorizes the Coast Guard to carry out inspections to verify that vessels are in compliance with requirements under MARPOL Annex VI and to carry out enforcement actions for violations of such requirements and regulations.

Section 9 makes a conforming change to current law to reflect the adoption of MARPOL Annex VI.

Section 10 includes language that clarifies that authorities, requirements and remedies that are provided under the Act to Prevent Pollution from Ships do not amend or repeal any authorities,

requirements and remedies provided under any other provision of law.

Section 11 makes several clerical corrections to current law.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

H.R. 5811, the MARPOL Annex VI Implementation Act of 2006, was introduced by Committee on Transportation and Infrastructure Chairman Don Young on July 17, 2006, and is co-sponsored by Committee on Transportation and Infrastructure Ranking Minority Member James L. Oberstar and Subcommittee on Coast Guard and Maritime Transportation Chairman Frank A. LoBiondo and Ranking Minority Member Bob Filner.

The Subcommittee on Coast Guard and Maritime Transportation held a legislative hearing on July 11, 2006, to review a draft bill which was nearly identical to H.R. 5811, as introduced. During a Full Committee mark-up on July 19, 2006, the Subcommittee was discharged from further consideration of the bill. At the mark-up, Subcommittee Chairman Frank A. LoBiondo offered an en bloc amendment that gave the EPA limited authorities to issue regulations, in consultation with the Coast Guard, regarding the emissions of nitrogen oxides, sulfur oxides, and volatile organic compounds and the use of an improved quality of fuel oil by vessels covered by MARPOL Annex VI and the Act to Prevent Pollution from Ships. The LoBiondo amendment was approved by unanimous voice vote and the bill, as amended, was ordered favorably reported by unanimous voice vote.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no rollcall votes during consideration of the bill.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals of H.R. 5811 are to implement vessel emission standards and requirements under MARPOL Annex VI for purposes of U.S. law.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5811 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 27, 2006.

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5811, the MARPOL Annex VI Implementation Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis and Susanne Mehlman.

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

H.R. 5811—MARPOL Annex VI Implementation Act of 2006

H.R. 5811 would implement the Protocol of 1997 to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL). Based on information provided by the U.S. Coast Guard (USCG) and the Environmental Protection Agency (EPA), CBO estimates that implementing H.R. 5811 would cost EPA \$2 million over the next three years. Enacting the bill would not affect direct spending or revenues.

Under H.R. 5811, EPA and the USCG would establish regulations to implement MARPOL Annex VI, which addresses air pollution from ships. The USCG would enforce those regulations. Based on information provided by EPA, CBO estimates that developing the necessary regulations would cost the agency about \$2 million over the next three years. CBO estimates that implementing the bill would have no significant effect on the Coast Guard's operating budget because the agency already has enforcement responsibilities under MARPOL that would probably not change significantly.

CBO has not reviewed H.R. 5811 for the presence of intergovernmental or private-sector mandates. Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that H.R. 5811 falls within that exclusion because it would implement Annex VI of the MARPOL Convention.

The CBO staff contacts for this estimate are Deborah Reis and Susanne Mehlman. This estimate was approved by Robert A. Sunshine, Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT TO PREVENT POLLUTION FROM SHIPS

* * * * *

SEC. 2. (a) Unless the context indicates otherwise, as used in this Act—

(1) “Administrator” means the Administrator of the Environmental Protection Agency;

[(1)] (2) “Antarctica” means the area south of 60 degrees south latitude;

[(2)] (3) “Antarctic Protocol” means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, and includes any future amendments thereto which have entered into force;

[(3)] (4) “MARPOL Protocol” means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention;

[(4)] (5) “Convention” means the International Convention for the Prevention of Pollution from Ships, 1973, including Protocols I and II and Annexes I, II, [and V] V, and VI thereto, including any modification or amendments to the Convention,

Protocols or Annexes which have entered into force for the United States;

[(5) “discharge” and “garbage” and “harmful substance” and “incident”] (6) “discharge”, “emission”, “garbage”, “harmful substance”, and “incident” shall have the meanings provided in the Convention;

[(6)] (7) “owner” means any person holding title to, or in the absence of title, any other indicia of ownership of, a ship or terminal, but does not include a person who, without participating in the management or operation of a ship or terminal, holds indicia of ownership primarily to protect a security interest in the ship or terminal;

[(7)] (8) “operator” means—
(a) * * *

* * * * *
[(8)] (9) “person” means an individual, firm, public or private corporation, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body;

[(9)] (10) “Secretary” means the Secretary of the department in which the Coast Guard is operating;

[(10)] (11) “ship” means a vessel of any type whatsoever, including hydrofoils, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating platforms;

[(11)] (12) “submersible” means a submarine, or any other vessel designed to operate under water; and

[(12)] (13) “terminal” means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

* * * * *
SEC. 3. (a) This Act shall apply—
(1) * * *

* * * * *
(3) with respect to the requirements of Annex V to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters or the exclusive economic zone of the United States; [and]

(4) with respect to regulations prescribed under section 6 of this Act, any port or terminal in the United States[.]; and

(5) with respect to Annex VI to the Convention, and to the extent consistent with international law, to a ship, other than a ship referred to in paragraph (1), that—

(A) is in a port, shipyard, offshore terminal, or the internal waters of the United States;

(B) is in the territorial sea of the United States as defined in Presidential Proclamation 5928 of December 27, 1988;

(C) is in an emission control area designated pursuant to section 4; or

(D) is bound for, or departing a port, shipyard, offshore terminal, or the internal waters of the United States; and

is in any other area that the Administrator, in consultation with the Secretary, has designated by regulation and based on the best available scientific data as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment.

(b)(1) Except as provided in paragraph (2) or (3), this Act shall not apply to—

(A) * * *

* * * * *

(3) *With respect to Annex VI to the Convention, the head of a Federal department or agency may determine that some or all of the requirements under this Act shall apply to one or more classes of public vessels operated under the authority of such department or agency.*

* * * * *

(d) The Secretary, or the Administrator as authorized by section 4, shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol (or an applicable Annex), including regulations conforming to and giving effect to the requirements of Annex V and Annex VI as they apply under subsection (a) of section 3, to ensure that their treatment is not more favorable than that accorded ships to parties to the MARPOL Protocol.

* * * * *

SEC. 4. (a) * * *

(b)(1) * * *

(2) *In prescribing regulations under this section to carry out the provisions of Annex VI to the Convention, the Secretary shall consult with the Administrator with respect to Regulations 12 and 16 of such Annex and with the Administrator and the Secretary of the Interior with respect to Regulation 19 of such Annex.*

(3) *In addition to the authority the Secretary has to prescribe regulations under this section to carry out Annex VI to the Convention, the Administrator, in consultation with the Secretary, shall prescribe any necessary or desired regulations to carry out Regulations 13, 14, 15, and 18 of such Annex.*

[(2)] (4) The Secretary of the department in which the Coast Guard is operating shall—

(A) * * *

* * * * *

(5) *No standard issued by any person or Federal agency regarding emissions from tank vessels that are subject to Regulation 15 of Annex VI to the Convention shall be effective until six months after the date on which the Secretary submits a notification to the International Maritime Organization that such standard has been established.*

* * * * *

SEC. 5. (a) [The] (1) *Except as provided in paragraph (2), the Secretary shall designate those persons authorized to issue on behalf of the United States the certificates required by the MARPOL Protocol. A certificate required by the MARPOL Protocol shall not be issued to a ship which is registered in or of the nationality of a country which is not a party to the MARPOL Protocol.*

(2) *The Administrator shall, and no other person may, issue an Engine International Air Pollution Prevention Certificate in accordance with Annex VI to the Convention and the International Maritime Organization's Technical Code on Control of Emissions of Nitrogen Oxides from Marine Diesel Engines, on behalf of the United States. The issuance of such certificates shall be consistent with any applicable requirements under the Clean Air Act (42 U.S.C. 7401 et seq.) and regulations promulgated thereunder.*

[(b) A certificate issued by a country which is a party to the MARPOL Protocol has the same validity as a certificate issued by the Secretary under the authority of the MARPOL Protocol.]

(b) *A certificate issued by a country that is a party to the MARPOL Protocol has the same validity as a certificate issued by the Secretary under the authority of this Act, or by the Administrator under the authority of subsection (a)(2).*

* * * * *

(e) In addition to the penalties prescribed in section 9 of the Act, a ship required by the MARPOL Protocol to have a certificate—

(1) * * *

* * * * *

shall be detained by order of the Secretary at the port or terminal where the violation is discovered until, in the opinion of the Secretary, the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment or the public health or welfare. The detention order may authorize the ship to proceed to the nearest appropriate available shipyard rather than remaining at the place where the violation was discovered.

* * * * *

SEC. 6. (a)(1) * * *

* * * * *

(3) *The Secretary, after consulting with appropriate Federal agencies, shall establish regulations to require that ports and terminals provide reception facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues or ensure that such facilities are available. The regulations shall establish criteria for determining the adequacy of reception facilities for receiving such substances, equipment, or residues at a port or terminal and such additional measures and requirements as are appropriate to ensure such adequacy.*

(4) *The Secretary may establish regulations to certify, and may issue certificates to the effect, that a port's or terminal's facilities for receiving such substances, equipment, and residues from ships are adequate.*

* * * * *

(c)(1) * * *

(2)(A) Subject to subparagraph (B), if reception facilities of a port or terminal meet the requirements of Annex V to the Convention and the regulations prescribed under subsection (a)(2) or (a)(3), the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect to the person in charge of the port or terminal.

* * * * *

(e)(1) * * *

[(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide adequate reception facilities for garbage if the port or terminal is not in compliance with those regulations.]

(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide adequate reception facilities for garbage, ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues if the port of terminal is not in compliance with such regulations.

(f)(1) The Secretary is authorized to conduct surveys of existing reception facilities in the United States to determine measures needed to comply with the [MARPOL Protocol or the Antarctic Protocol] *MARPOL Protocol, the Antarctic Protocol, or this Act.*

* * * * *

SEC. 8. (a) * * *

* * * * *

[(f) Remedies and requirements of this Act supplement and neither amend nor repeal any other provisions of law, except as expressly provided in this Act. Nothing in this Act shall limit, deny, amend, modify, or repeal any other remedy available to the United States or any other person, except as expressly provided in this Act.]

(f)(1) The Secretary may inspect a ship to which this Act applies as provided under section 3(a)(5), to verify whether the ship is in compliance with Annex VI to the Convention and this Act.

(2) If an inspection under this subsection or any other information indicates that a violation has occurred, the Secretary may undertake enforcement action under this section.

SEC. 9. (a) A person who knowingly violates the MARPOL Protocol, [Annex IV to the Antarctic Protocol, This Act, or the regulations issued thereunder commits a class D felony. In the discretion of the Court, an amount equal to not more than 1/2 of such fine may be paid to the person giving information leading to conviction.

(b) A person who is found by the Secretary, after notice and an opportunity for a hearing, to have—

(1) violated the MARPOL Protocol, [Annex IV to the Antarctic Protocol, this Act, or the regulations issued thereunder shall be liable to the United States for a civil penalty, not to exceed \$25,000 for each violation; or

(2) made a false, fictitious, or fraudulent statement or representation in any matter in which a statement or representation is required to be made to the Secretary under the MARPOL Protocol, [Annex IV to the Antarctic Protocol, this Act, or the regulations thereunder, shall be liable to the United States for a civil penalty, not to exceed \$5,000 for each statement or representation.

* * * * *

(d) A ship operated in violation of the MARPOL Protocol, [Annex IV to the Antarctic Protocol, this Act, or the regulations thereunder is liable in rem for any fine imposed under subsection (a) or civil penalty assessed pursuant to subsection (b), and may be

proceeded against in the United States district court of any district in which the ship may be found.

* * * * *

SEC. 10. (a) * * *

(b) A proposed amendment to [Annex I, II, or V] *Annex I, II, V, or VI* to the Convention, appendices to those Annexes, or Protocol I of the Convention received by the United States from the Secretary-General of the International Maritime Organization pursuant to Article VI of the MARPOL Protocol, may be the subject of appropriate action on behalf of the United States by the Secretary of State following consultation with the Secretary, who shall inform the Secretary of State as to what action he considers appropriate at least 30 days prior to the expiration of the period specified in Article VI of the MARPOL Protocol during which objection may be made to any amendment received.

* * * * *

[SEC. 15. Nothing in this Act shall be construed as limiting, diminishing, or otherwise restricting any of the authority of the Secretary under the Port and Tanker Safety Act of 1978 (Public Law 95-474).]

SEC. 15. EFFECT ON OTHER LAWS.

Authorities, requirements, and remedies of this Act supplement and neither amend nor repeal any other authorities, requirements, or remedies conferred by any other provision of law. Nothing in this Act shall limit, deny, amend, modify, or repeal any other authority, requirement, or remedy available to the United States or any other person, except as expressly provided in this Act.

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COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, September 19, 2006.

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Rayburn House Office Building,
Washington, DC.*

DEAR CHAIRMAN YOUNG: I write regarding H.R. 5811, MARPOL Annex VI Implementation Act of 2006. This legislation contains provisions that fall within the jurisdiction of the Committee on Energy and Commerce.

I recognize your desire to bring this legislation before the House in an expeditious manner. Accordingly, I will not exercise my Committee's right to a referral. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over H.R. 5811. In addition, the Energy and Commerce Committee reserves its right to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this or similar legislation. I ask for your commitment to support any request by the Energy and Commerce Committee for conferees on H.R. 5811 or similar legislation.

I request that you include this letter in the Committee's report on H.R. 5811, and I look forward to working with you as we prepare to pass this important energy legislation for the American people.

Sincerely,

JOE BARTON,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, September 19, 2006.

Hon. JOE BARTON,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Rayburn Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of September 19, 2006 regarding H.R. 5811, the MARPOL Annex VI Implementation Act of 2006. Your assistance in expediting consideration of the bill is very much appreciated.

I agree that there are certain provisions in the bill that are of jurisdictional interest to the Committee on Energy and Commerce and I agree that by foregoing a sequential referral, the Committee on Energy and Commerce is not waiving its jurisdiction. Be assured that I will support your request to be represented in conference on H.R. 5811 or similar legislation on those provisions within the jurisdiction of the Energy and Commerce Committee.

As you have requested, I will include this exchange of letters in the Committee report on the bill. Thank you for your cooperation.

Sincerely,

DON YOUNG,
Chairman.

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