

Calendar No. 262

104TH CONGRESS
1ST Session

H. R. 1350

AN ACT

To amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, and for other purposes.

DECEMBER 7, 1995

Received; read twice and placed on the calendar

Calendar No. 262

104TH CONGRESS
1ST SESSION

H. R. 1350

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 1995

Received; read twice and placed on the calendar

AN ACT

To amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Maritime Security Act
5 of 1995”.

1 **SEC. 2. MARITIME SECURITY PROGRAM.**

2 Title VI of the Merchant Marine Act, 1936 (46 App.
3 U.S.C. 1171 et seq.) is amended—

4 (1) by striking the title heading and inserting
5 the following:

6 “TITLE VI—VESSEL OPERATING ASSISTANCE
7 PROGRAMS

8 “Subtitle A—Operating-Differential Subsidy Program”;
9 and

10 (2) by adding at the end the following new sub-
11 title:

12 “Subtitle B—Maritime Security Fleet Program

13 “ESTABLISHMENT OF FLEET

14 “SEC. 651. (a) IN GENERAL.—The Secretary of
15 Transportation shall establish a fleet of active, militarily
16 useful, privately-owned vessels to meet national defense
17 and other security requirements and maintain a United
18 States presence in international commercial shipping. The
19 Fleet shall consist of privately owned, United States-flag
20 vessels for which there are in effect operating agreements
21 under this subtitle, and shall be known as the Maritime
22 Security Fleet.

23 “(b) VESSEL ELIGIBILITY.—A vessel is eligible to be
24 included in the Fleet if the vessel is self-propelled and—

25 “(1)(A) is operated by a person as an ocean
26 common carrier;

1 “(B) whether in commercial service, on charter
2 to the Department of Defense, or in other employ-
3 ment, is either—

4 “(i) a roll-on/roll-off vessel with a carrying
5 capacity of at least 80,000 square feet or 500
6 twenty-foot equivalent units; or

7 “(ii) a lighter aboard ship vessel with a
8 barge capacity of at least 75 barges; or

9 “(C) any other type of vessel that is determined
10 by the Secretary to be suitable for use by the United
11 States for national defense or military purposes in
12 time of war or national emergency;

13 “(2)(A)(i) is a United States-documented ves-
14 sel; and

15 “(ii) on the date an operating agreement cover-
16 ing the vessel is entered into under this subtitle, is—

17 “(I) a LASH vessel that is 25 years of age
18 or less; or

19 “(II) any other type of vessel that is 15
20 years of age or less;

21 except that the Secretary of Transportation may
22 waive the application of clause (ii) if the Secretary,
23 in consultation with the Secretary of Defense, deter-
24 mines that the waiver is in the national interest; or

1 “(B) it is not a United States-documented ves-
2 sel, but the owner of the vessel has demonstrated an
3 intent to have the vessel documented under chapter
4 121 of title 46, United States Code, if it is included
5 in the Fleet, and the vessel will be less than 10
6 years of age on the date of that documentation;

7 “(3) the Secretary of Transportation deter-
8 mines that the vessel is necessary to maintain a
9 United States presence in international commercial
10 shipping or, after consultation with the Secretary of
11 Defense, determines that the vessel is militarily use-
12 ful for meeting the sealift needs of the United States
13 with respect to national emergencies; and

14 “(4) at the time an operating agreement for the
15 vessel is entered into under this subtitle, the vessel
16 will be eligible for documentation under chapter 121
17 of title 46, United States Code.

18 “OPERATING AGREEMENTS

19 “SEC. 652. (a) IN GENERAL.—The Secretary of
20 Transportation shall require, as a condition of including
21 any vessel in the Fleet, that the owner or operator of the
22 vessel enter into an operating agreement with the Sec-
23 retary under this section. Notwithstanding subsection (g),
24 the Secretary may enter into an operating agreement for,
25 among other vessels that are eligible to be included in the
26 Fleet, any vessel which continues to operate under an op-

1 erating-differential subsidy contract under subtitle A or
2 which is under charter to the Department of Defense.

3 “(b) REQUIREMENTS FOR OPERATION.—An operat-
4 ing agreement under this section shall require that, during
5 the period a vessel is operating under the agreement—

6 “(1) the vessel—

7 “(A) shall be operated exclusively in the
8 foreign trade or in mixed foreign and domestic
9 trade allowed under a registry endorsement is-
10 sued under section 12105 of title 46, United
11 States Code, and

12 “(B) shall not otherwise be operated in the
13 coastwise trade; and

14 “(2) the vessel shall be documented under chap-
15 ter 121 of title 46, United States Code.

16 “(c) REGULATORY RELIEF.—A contractor of a vessel
17 included in an operating agreement under this subtitle
18 may operate the vessel in the foreign commerce of the
19 United States without restriction, and shall not be subject
20 to any requirement under section 801, 808, 809, or 810.
21 Participation in the program established by this subtitle
22 shall not subject a contractor to section 805 or to any
23 provision of subtitle A.

24 “(d) EFFECTIVENESS AND ANNUAL PAYMENT RE-
25 QUIREMENTS OF OPERATING AGREEMENTS.—

1 “(1) EFFECTIVENESS.—The Secretary of
2 Transportation may enter into an operating agree-
3 ment under this subtitle for fiscal year 1996. The
4 agreement shall be effective only for 1 fiscal year,
5 but shall be renewable, subject to the availability of
6 appropriations, for each subsequent fiscal year
7 through the end of fiscal year 2005.

8 “(2) ANNUAL PAYMENT.—An operating agree-
9 ment under this subtitle shall require, subject to the
10 availability of appropriations and the other provi-
11 sions of this section, that the Secretary of Transpor-
12 tation pay each fiscal year to the contractor, for
13 each vessel that is covered by the operating agree-
14 ment, an amount equal to \$2,300,000 for fiscal year
15 1996 and \$2,100,000 for each fiscal year thereafter
16 in which the agreement is in effect. The amount
17 shall be paid in equal monthly installments at the
18 end of each month. The amount shall not be reduced
19 except as provided by this section.

20 “(e) CERTIFICATION REQUIRED FOR PAYMENT.—As
21 a condition of receiving payment under this section for a
22 fiscal year for a vessel, the contractor for the vessel shall
23 certify, in accordance with regulations issued by the Sec-
24 retary of Transportation, that the vessel has been and will
25 be operated in accordance with subsection (b)(1) for at

1 least 320 days in the fiscal year. Days during which the
2 vessel is drydocked, surveyed, inspected, or repaired shall
3 be considered days of operation for purposes of this sub-
4 section.

5 “(f) OPERATING AGREEMENT IS OBLIGATION OF
6 UNITED STATES GOVERNMENT.—An operating agree-
7 ment under this subtitle constitutes a contractual obliga-
8 tion of the United States Government to pay the amounts
9 provided for in the agreement to the extent of actual ap-
10 propriations.

11 “(g) LIMITATIONS.—The Secretary of Transpor-
12 tation shall not make any payment under this subtitle for
13 a vessel with respect to any days for which the vessel is—

14 “(1) subject to an operating-differential subsidy
15 contract under subtitle A or under a charter to the
16 United States Government, other than a charter
17 pursuant to section 653;

18 “(2) not operated or maintained in accordance
19 with an operating agreement under this subtitle; or

20 “(3) more than 25 years of age, except that the
21 Secretary may make such payments for a LASH
22 vessel for any day for which the vessel is more than
23 25 years of age if that vessel—

24 “(A) is modernized after January 1, 1994,

1 “(B) is modernized before it is 25 years of
2 age, and

3 “(C) is not more than 30 years of age.

4 “(h) PAYMENTS.—With respect to payments under
5 this subtitle for a vessel covered by an operating agree-
6 ment, the Secretary of Transportation—

7 “(1) except as provided in paragraph (2), shall
8 not reduce any payment for the operation of a vessel
9 to carry military or other preference cargoes under
10 section 2631 of title 10, United States Code, the Act
11 of March 26, 1934 (46 App. U.S.C. 1241–1), sec-
12 tion 901(a), 901(b), or 901b of this Act, or any
13 other cargo preference law of the United States;

14 “(2) shall not make any payment for any day
15 that a vessel is engaged in transporting more than
16 7,500 tons of civilian bulk preference cargoes pursu-
17 ant to section 901(a), 901(b), or 901b that is cargo;
18 and

19 “(3) shall make a pro rata reduction in pay-
20 ment for each day less than 320 in a fiscal year that
21 a vessel covered by an operating agreement is not
22 operated in accordance with subsection (b)(1), with
23 days during which the vessel is drydocked or under-
24 going survey, inspection, or repair considered to be
25 days on which the vessel is operated.

1 “(i) PRIORITY FOR AWARDING AGREEMENTS.—Sub-
2 ject to the availability of appropriations, the Secretary
3 shall enter into operating agreements according to the fol-
4 lowing priority:

5 “(1) VESSELS OWNED BY CITIZENS.—

6 “(A) PRIORITY.—First, for any vessel that
7 is—

8 “(i) owned and operated by persons
9 who are citizens of the United States
10 under section 2 of the Shipping Act, 1916;
11 or

12 “(ii) less than 10 years of age and
13 owned and operated by a corporation that
14 is—

15 “(I) eligible to document a vessel
16 under chapter 121 of title 46, United
17 States Code; and

18 “(II) affiliated with a corporation
19 operating or managing for the Sec-
20 retary of Defense other vessels docu-
21 mented under that chapter, or char-
22 tering other vessels to the Secretary
23 of Defense.

24 “(B) LIMITATION ON NUMBER OF OPERAT-
25 ING AGREEMENTS.—The total number of oper-

1 ating agreements that may be entered into by
2 a person under the priority in subparagraph
3 (A)—

4 “(i) for vessels described in subpara-
5 graph (A)(i), may not exceed the sum of—

6 “(I) the number of United
7 States-documented vessels the person
8 operated in the foreign commerce of
9 the United States (except mixed
10 coastwise and foreign commerce) on
11 May 17, 1995; and

12 “(II) the number of United
13 States-documented vessels the person
14 chartered to the Secretary of Defense
15 on that date; and

16 “(ii) for vessels described in subpara-
17 graph (A)(ii), may not exceed 5 vessels.

18 “(C) TREATMENT OF RELATED PAR-
19 TIES.—For purposes of subparagraph (B), a re-
20 lated party with respect to a person shall be
21 treated as the person.

22 “(2) OTHER VESSELS OWNED BY CITIZENS AND
23 GOVERNMENT CONTRACTORS.—To the extent that
24 amounts are available after applying paragraph (1),

1 any vessel that is owned and operated by a person
2 who is—

3 “(A) a citizen of the United States under
4 section 2 of the Shipping Act, 1916, that has
5 not been awarded an operating agreement
6 under the priority established under paragraph
7 (1); or

8 “(B)(i) eligible to document a vessel under
9 chapter 121 of title 46, United States Code;
10 and

11 “(ii) affiliated with a corporation operating
12 or managing other United States-documented
13 vessels for the Secretary of Defense or charter-
14 ing other vessels to the Secretary of Defense.

15 “(3) OTHER VESSELS.—To the extent that
16 amounts are available after applying paragraphs (1)
17 and (2), any other eligible vessel.

18 “(j) TRANSFER OF OPERATING AGREEMENTS.—A
19 contractor under an operating agreement may transfer the
20 agreement (including all rights and obligations under the
21 agreement) to any person eligible to enter into that operat-
22 ing agreement under this subtitle after notification of the
23 Secretary in accordance with regulations prescribed by the
24 Secretary, unless the transfer is disapproved by the Sec-
25 retary within 90 days after the date of that notification.

1 A person to whom an operating agreement is transferred
2 may receive payments from the Secretary under the agree-
3 ment only if each vessel to be covered by the agreement
4 after the transfer is an eligible vessel under section
5 651(b).

6 “(k) REVERSION OF UNUSED AUTHORITY.—The ob-
7 ligation of the Secretary to make payments under an oper-
8 ating agreement under this subtitle shall terminate with
9 respect to a vessel if the contractor fails to engage in oper-
10 ation of the vessel for which such payment is required—

11 “(1) within one year after the effective date of
12 the operating agreement, in the case of a vessel in
13 existence on the effective date of the agreement, or

14 “(2) within 30 months after the effective date
15 of the operating agreement, in the case of a vessel
16 to be constructed after that effective date.

17 “(l) PROCEDURE FOR CONSIDERING APPLICATION;
18 EFFECTIVE DATE FOR CERTAIN VESSELS.—

19 “(1) PROCEDURES.—No later than 30 days
20 after the date of the enactment of the Maritime Se-
21 curity Act of 1995, the Secretary shall accept appli-
22 cations for enrollment of vessels in the Fleet, and
23 within 90 days after receipt of an application for en-
24 rollment of a vessel in the Fleet, the Secretary shall
25 enter into an operating agreement with the applicant

1 or provide in writing the reason for denial of that
2 application.

3 “(2) EFFECTIVE DATE.—Unless an earlier date
4 is requested by the applicant, the effective date for
5 an operating agreement with respect to a vessel
6 which is, on the date of entry into an operating
7 agreement, either subject to a contract under sub-
8 title A or on charter to the United States Govern-
9 ment, other than a charter under section 653, shall
10 be the expiration or termination date of the contract
11 under subtitle A or of the Government charter cover-
12 ing the vessel, respectively, or any earlier date the
13 vessel is withdrawn from that contract or charter.

14 “(m) EARLY TERMINATION.—An operating agree-
15 ment under this subtitle shall terminate on a date speci-
16 fied by the contractor if the contractor notifies the Sec-
17 retary, by not later than 60 days before the effective date
18 of the termination, that the contractor intends to termi-
19 nate the agreement. Vessels covered by an operating
20 agreement terminated under this subsection shall remain
21 documented under chapter 121 of title 46, United States
22 Code, until the date the operating agreement would have
23 terminated according to its terms. A contractor who termi-
24 nates an operating agreement pursuant to this subsection
25 shall continue to be bound by the provisions of section 653

1 until the date the operating agreement would have termi-
2 nated according to its terms. All terms and conditions of
3 an Emergency Preparedness Agreement entered into
4 under section 653 shall remain in effect until the date the
5 operating agreement would have terminated according to
6 its terms, except that the terms of such Emergency Pre-
7 paredness Agreement may be modified by the mutual con-
8 sent of the contractor and the Secretary of Transportation
9 and the Secretary of Defense.

10 “(n) NONRENEWAL FOR LACK OF FUNDS.—If, by
11 the first day of a fiscal year, sufficient funds have not
12 been appropriated under the authority provided by section
13 655 for that fiscal year, the Secretary of Transportation
14 shall notify the Congress that operating agreements au-
15 thorized under this subtitle for which sufficient funds are
16 not available will not be renewed for that fiscal year if
17 sufficient funds are not appropriated by the 60th day of
18 that fiscal year. If funds are not appropriated under the
19 authority provided by section 655 for any fiscal year by
20 the 60th day of that fiscal year, then each vessel covered
21 by an operating agreement under this subtitle for which
22 funds are not available is thereby released from any fur-
23 ther obligation under the operating agreement, and the
24 vessel owner or operator may transfer and register such
25 vessel under a foreign registry deemed acceptable by the

1 Secretary of Transportation, notwithstanding any other
2 provision of law. If section 902 is applicable to such vessel
3 after registration of the vessel under such a registry, the
4 vessel is available to be requisitioned by the Secretary of
5 Transportation pursuant to section 902.

6 “(o) AWARD OF OPERATING AGREEMENTS.—

7 “(1) IN GENERAL.—The Secretary of Transpor-
8 tation, subject to paragraph (4), shall award operat-
9 ing agreements within each priority under subsection
10 (i)(1), (2), and (3) under regulations prescribed by
11 the Secretary.

12 “(2) NUMBER OF AGREEMENTS AWARDED.—
13 Regulations under paragraph (1) shall provide that
14 if appropriated amounts are not sufficient for oper-
15 ating agreements for all vessels within a priority
16 under subsection (i)(1), (2), or (3), the Secretary
17 shall award to each person submitting a request a
18 number of operating agreements that bears approxi-
19 mately the same ratio to the total number of vessels
20 in the priority, as the amount of appropriations
21 available for operating agreements for vessels in the
22 priority bears to the amount of appropriations nec-
23 essary for operating agreements for all vessels in the
24 priority.

1 “(3) TREATMENT OF RELATED PARTIES.—For
2 purposes of paragraph (2), a related party with re-
3 spect to a person shall be treated as the person.

4 “(4) PREFERENCE FOR U.S.-BUILT VESSELS.—
5 In awarding operating agreements for vessels within
6 a priority under subsection (i) (1), (2), or (3), the
7 Secretary shall give preference to a vessel that was
8 constructed in the United States, to the extent such
9 preference is consistent with establishment of a fleet
10 described in the first sentence of section 651(a)
11 (taking into account the age of the vessel, the nature
12 of service provided by the vessel, and the commercial
13 viability of the vessel).

14 “(p) NOTICE TO U.S. SHIPBUILDERS REQUIRED.—
15 The Secretary shall include in any operating agreement
16 under this subtitle a requirement that the contractor
17 under the agreement shall, by not later than 30 days after
18 soliciting any bid or offer for the construction of any vessel
19 in a foreign shipyard and before entering into a contract
20 for construction of a vessel in a foreign shipyard, provide
21 notice of the intent of the contractor to enter into such
22 a contract to each shipyard in the United States that is
23 capable of constructing the vessel.

24 “NATIONAL SECURITY REQUIREMENTS

25 “SEC. 653. (a) EMERGENCY PREPAREDNESS AGREE-
26 MENT.—

1 “(1) REQUIREMENT TO ENTER AGREEMENT.—
2 The Secretary of Transportation shall establish an
3 Emergency Preparedness Program under this sec-
4 tion that is approved by the Secretary of Defense.
5 Under the program, the Secretary of Transportation
6 shall include in each operating agreement under this
7 subtitle a requirement that the contractor enter into
8 an Emergency Preparedness Agreement under this
9 section with the Secretary. The Secretary shall nego-
10 tiate and enter into an Emergency Preparedness
11 Agreement with each contractor as promptly as
12 practicable after the contractor has entered into an
13 operating agreement under this subtitle.

14 “(2) TERMS OF AGREEMENT.—An Emergency
15 Preparedness Agreement under this section shall re-
16 quire that upon a request by the Secretary of De-
17 fense during time of war or national emergency, or
18 whenever determined by the Secretary of Defense to
19 be necessary for national security (including any
20 natural disaster, international peace operation, or
21 contingency operation (as that term is defined in
22 section 101 of title 10, United States Code)), a con-
23 tractor for a vessel covered by an operating agree-
24 ment under this subtitle shall make available com-
25 mercial transportation resources (including services).

1 The basic terms of the Emergency Preparedness
2 Agreements shall be established pursuant to con-
3 sultations among the Secretary, the Secretary of De-
4 fense, and Maritime Security Program contractors.
5 In any Emergency Preparedness Agreement, the
6 Secretary and a contractor may agree to additional
7 or modifying terms appropriate to the contractor's
8 circumstances if those terms have been approved by
9 the Secretary of Defense.

10 “(3) PARTICIPATION AFTER EXPIRATION OF
11 OPERATING AGREEMENT.—Except as provided by
12 section 652(m), the Secretary may not require,
13 through an Emergency Preparedness Agreement or
14 operating agreement, that a contractor continue to
15 participate in an Emergency Preparedness Agree-
16 ment when the operating agreement with the con-
17 tractor has expired according to its terms or is oth-
18 erwise no longer in effect. After expiration of an
19 Emergency Preparedness Agreement, a contractor
20 may volunteer to continue to participate in such an
21 agreement.

22 “(b) RESOURCES MADE AVAILABLE.—The commer-
23 cial transportation resources to be made available under
24 an Emergency Preparedness Agreement shall include ves-
25 sels or capacity in vessels, intermodal systems and equip-

1 ment, terminal facilities, intermodal and management
2 services, and other related services, or any agreed portion
3 of such nonvessel resources for activation as the Secretary
4 may determine to be necessary, seeking to minimize dis-
5 ruption of the contractor's service to commercial shippers.

6 “(c) COMPENSATION.—

7 “(1) IN GENERAL.—The Secretary of Transpor-
8 tation shall provide in each Emergency Preparedness
9 Agreement for fair and reasonable compensation for
10 all commercial transportation resources provided
11 pursuant to this section.

12 “(2) SPECIFIC REQUIREMENTS.—Compensation
13 under this subsection—

14 “(A) shall not be less than the contractor's
15 commercial market charges for like transpor-
16 tation resources;

17 “(B) shall include all the contractor's costs
18 associated with provision and use of the con-
19 tractor's commercial resources to meet emer-
20 gency requirements;

21 “(C) in the case of a charter of an entire
22 vessel, shall be fair and reasonable;

23 “(D) shall be in addition to and shall not
24 in any way reflect amounts payable under sec-
25 tion 652; and

1 “(E) shall be provided from the time that
2 a vessel or resource is diverted from commercial
3 service until the time that it reenters commer-
4 cial service.

5 “(3) APPROVAL OF AMOUNT BY SECRETARY OF
6 DEFENSE.—No compensation may be provided for a
7 vessel under this subsection unless the amount of
8 the compensation is approved by the Secretary of
9 Defense.

10 “(d) TEMPORARY REPLACEMENT VESSELS.—Not-
11 withstanding any other provision of this subtitle or of
12 other law to the contrary—

13 “(1) a contractor may operate or employ in for-
14 eign commerce a foreign-flag vessel or foreign-flag
15 vessel capacity, as a temporary replacement for a
16 United States-documented vessel or United States-
17 documented vessel capacity that is activated under
18 an Emergency Preparedness Agreement; and

19 “(2) such replacement vessel or vessel capacity
20 shall be eligible during the replacement period to
21 transport preference cargoes subject to section 2631
22 of title 10, United States Code, the Act of March
23 26, 1934 (46 App. U.S.C. 1241–1), and sections
24 901(a), 901(b), and 901b of this Act to the same ex-

1 tent as the eligibility of the vessel or vessel capacity
2 replaced.

3 “(e) REDELIVERY AND LIABILITY OF U.S. FOR DAM-
4 AGES.—

5 “(1) IN GENERAL.—All commercial transpor-
6 tation resources activated under an Emergency Pre-
7 paredness Agreement shall, upon termination of the
8 period of activation, be redelivered to the contractor
9 in the same good order and condition as when re-
10 ceived, less ordinary wear and tear, or the Govern-
11 ment shall fully compensate the contractor for any
12 necessary repair or replacement.

13 “(2) LIMITATION ON LIABILITY OF U.S.—Ex-
14 cept as may be expressly agreed to in an Emergency
15 Preparedness Agreement, or as otherwise provided
16 by law, the Government shall not be liable for dis-
17 ruption of a contractor’s commercial business or
18 other consequential damages to a contractor arising
19 from activation of commercial transportation re-
20 sources under an Emergency Preparedness Agree-
21 ment.

22 “(3) LIMITATION ON APPLICATION OF OTHER
23 REQUIREMENTS.—Sections 902 and 909 of this Act
24 shall not apply to a vessel while it is covered by an
25 Emergency Preparedness Agreement under this sub-

1 title. Any Emergency Preparedness Agreement en-
2 tered into by a contractor shall supersede any other
3 agreement between that contractor and the Govern-
4 ment for vessel availability in time of war or na-
5 tional emergency.

6 “DEFINITIONS

7 “SEC. 654. In this subtitle:

8 “(1) BULK CARGO.—The term ‘bulk cargo’
9 means cargo that is loaded and carried in bulk with-
10 out mark or count.

11 “(2) CONTRACTOR.—The term ‘contractor’
12 means an owner or operator of a vessel that enters
13 into an operating agreement for the vessel with the
14 Secretary of Transportation under section 652.

15 “(3) OCEAN COMMON CARRIER.—The term
16 ‘ocean common carrier’ means a person holding it-
17 self out to the general public to operate vessels to
18 provide transportation by water of passengers or
19 cargo between the United States and a foreign coun-
20 try for compensation, that—

21 “(A) assumes responsibility for the trans-
22 portation from the port or point of receipt to
23 the port or point of destination, and

24 “(B) utilizes, for all or part of that trans-
25 portation, a vessel operating on the high seas or
26 the Great Lakes between a port in the United

1 States and a port in a foreign country, except
2 that the term does not include a common car-
3 rier engaged in ocean transportation by ferry
4 boat, ocean tramp, or chemical parcel-tanker.
5 As used in this paragraph, ‘chemical parcel-
6 tanker’ means a vessel whose cargo-carrying ca-
7 pability consists of individual cargo tanks for
8 bulk chemicals that are a permanent part of the
9 vessel, that have segregation capability with
10 piping systems to permit simultaneous carriage
11 of several bulk chemical cargoes with minimum
12 risk of cross-contamination, and that has a
13 valid certificate of fitness under the Inter-
14 national Maritime Organization Code for the
15 Construction and Equipment of Ships Carrying
16 Dangerous Chemicals in Bulk.

17 “(4) FLEET.—The term ‘Fleet’ means the Mar-
18 itime Security Fleet established pursuant to section
19 651(a).

20 “(5) LASH VESSEL.—The term ‘LASH vessel’
21 means a lighter aboard ship vessel.

22 “(6) UNITED STATES-DOCUMENTED VESSEL.—
23 The term ‘United States-documented vessel’ means a
24 vessel documented under chapter 121 of title 46,
25 United States Code.

1 “AUTHORIZATION OF APPROPRIATIONS

2 “SEC. 655. There are authorized to be appropriated
3 for operating agreements under this subtitle, to remain
4 available until expended, \$100,000,000 for fiscal year
5 1996 and such sums as may be necessary, not to exceed
6 \$100,000,000, for each fiscal year thereafter through fis-
7 cal year 2005.”.

8 **SEC. 3. TERMINATION OF OPERATING-DIFFERENTIAL SUB-**
9 **SIDY PROGRAM.**

10 (a) LIMITATION ON PAYMENTS FOR OLDER VES-
11 SELS.—Section 605(b) of the Merchant Marine Act, 1936
12 (46 App. U.S.C. 1175(b)), is amended to read as follows:

13 “(b) No operating-differential subsidy shall be paid
14 for the operation of a vessel after the calendar year the
15 vessel becomes 25 years of age, unless the Secretary of
16 Transportation has determined, before the date of enact-
17 ment of the Maritime Security Act of 1995, that it is in
18 the public interest to grant such financial aid for the oper-
19 ation of such vessel.”.

20 (b) WIND-UP OF PROGRAM.—Subtitle A of such Act
21 (46 App. U.S.C. 1171 et seq.), as designated by the
22 amendment made by section 2(1), is further amended by
23 adding at the end the following new section:

24 “SEC. 616. (a) After the date of enactment of the
25 Maritime Security Act of 1995, the Secretary of Transpor-

1 tation shall not enter into any new contract for operating-
2 differential subsidy under this subtitle.

3 “(b) Notwithstanding any other provision of this Act,
4 any operating-differential subsidy contract in effect under
5 this title on the day before the date of enactment of the
6 Maritime Security Act of 1995 shall continue in effect and
7 terminate as set forth in the contract, unless voluntarily
8 terminated at an earlier date by the parties (other than
9 the United States Government) to the contract.

10 “(c) The essential service requirements of section
11 601(a) and 603(b), and the provisions of sections 605(c)
12 and 809(a), shall not apply to the operating-differential
13 subsidy program under this subtitle effective upon the ear-
14 lier of—

15 “(1) the date that a payment is made, under
16 the Maritime Security Program established by sub-
17 title B to a contractor under that subtitle who is not
18 party to an operating-differential subsidy contract
19 under this subtitle, with the Secretary to cause no-
20 tice of the date of such payment to be published in
21 the Federal Register as soon as possible; or

22 “(2) with respect to a particular contractor
23 under the operating-differential subsidy program,
24 the date that contractor enters into a contract with

1 the Secretary under the Maritime Security Program
2 established by subtitle B.

3 “(d)(1) Notwithstanding any other provision of law,
4 a vessel may be transferred and registered under an effec-
5 tive United States-controlled foreign flag if—

6 “(A) the operator of the vessel receives an oper-
7 ating-differential subsidy pursuant to a contract
8 under this subtitle which is in force on October 1,
9 1994, and the Secretary approves the replacement
10 of such vessel with a comparable vessel, or

11 “(B) the vessel is covered by an operating
12 agreement under subtitle B, and the Secretary ap-
13 proves the replacement of such vessel with a com-
14 parable vessel for inclusion in the Maritime Security
15 Fleet established under subtitle B.

16 “(2) Any such vessel may be requisitioned by the Sec-
17 retary of Transportation pursuant to section 902.”.

18 **SEC. 4. DOMESTIC OPERATIONS.**

19 (a) IN GENERAL.—Subtitle B of title VI of the Mer-
20 chant Marine Act, 1936, as amended by section 102 of
21 this title, is further amended by adding at the end the
22 following new section:

23 “NONCONTIGUOUS DOMESTIC TRADES

24 “SEC. 656. (a)(1) Except as otherwise provided in
25 this section, no contractor or related party shall receive
26 payments pursuant to this subtitle during a period when

1 it participates in a noncontiguous domestic trade, except
2 upon written permission of the Secretary of Transpor-
3 tation. Such written permission shall also be required for
4 any material change in the number or frequency of
5 sailings, the capacity offered, or the domestic ports called
6 by a contractor or related party in a noncontiguous domes-
7 tic trade. The Secretary may grant such written permis-
8 sion pursuant to written application of such contractor or
9 related party unless the Secretary finds that—

10 “(A) existing service in that trade is adequate;

11 or

12 “(B) the service sought to be provided by the
13 contractor or related party—

14 “(i) would result in unfair competition to
15 any other person operating vessels in such non-
16 contiguous domestic trade, or

17 “(ii) would be contrary to the objects and
18 policy of this Act.

19 “(2) For purposes of this subsection, “written per-
20 mission of the Secretary” means permission which states
21 the capacity offered, the number and frequency of sailings,
22 and the domestic ports called, and which is granted follow-
23 ing—

24 “(A) written application containing the infor-
25 mation required by paragraph (e)(1) by a person

1 seeking such written permission, notice of which ap-
2 plication shall be published in the Federal Register
3 within 15 days of filing of such application with the
4 Secretary;

5 “(B) holding of a hearing on the application
6 under section 554 of title 5, United States Code, in
7 which every person, firm or corporation having any
8 interest in the application shall be permitted to in-
9 tervene and be heard; and

10 “(C) final decision on the application by the
11 Secretary within 120 days following conclusion of
12 such hearing.

13 “(b) Subsection (a) shall not apply in any way to pro-
14 vision by a contractor of service within the level of service
15 provided by that contractor as of the date established by
16 subsection (c) or to provision of service permitted by sub-
17 section (d).

18 “(c) The date referred to in subsection (b) shall be
19 August 9, 1995: *Provided, however,* That with respect to
20 tug and barge service to Alaska the date referred to in
21 subsection (b) shall be July 1, 1992.

22 “(d) A contractor may provide service in a trade in
23 addition to the level of service provided as of the applicable
24 date established by subsection (c) in proportion to the an-
25 nual increase in real gross product of the noncontiguous

1 State or Commonwealth served since the applicable date
2 established by subsection (c).

3 “(e)(1) A person applying for award of an agreement
4 under this subtitle shall include with the application a de-
5 scription of the level of service provided by that person
6 in each noncontiguous domestic trade served as of the date
7 applicable under subsection (c). The application also shall
8 include, for each such noncontiguous domestic trade: a list
9 of vessels operated by that person in such trade, their con-
10 tainer carrying capacity expressed in twenty-foot equiva-
11 lent units (TEUs) or other carrying capacity, the itinerary
12 for each such vessel, and such other information as the
13 Secretary may require by regulation. Such description and
14 information shall be made available to the public. Within
15 15 days of the date of an application for an agreement
16 by a person seeking to provide service pursuant to sub-
17 sections (b) and (c) of this section, the Secretary shall
18 cause to be published in the Federal Register notice of
19 such description, along with a request for public comment
20 thereon. Comments on such description shall be submitted
21 to the Secretary within 30 days of publication in the Fed-
22 eral Register. Within 15 days after receipt of comments,
23 the Secretary shall issue a determination in writing either
24 accepting, in whole or part, or rejecting use of the appli-
25 cant’s description to establish the level of service provided

1 as of the date applicable under subsection (c): *Provided*,
2 That notwithstanding the provisions of this subsection,
3 processing of the application for an award of an agreement
4 shall not be suspended or delayed during the time in which
5 comments may be submitted with respect to the deter-
6 mination or during the time prior to issuance by the Sec-
7 retary of the required determination: *Provided further*,
8 That if the Secretary does not make the determination re-
9 quired by this paragraph within the time provided by this
10 paragraph, the description of the level of service provided
11 by the applicant shall be deemed to be the level of service
12 provided as of the applicable date until such time as the
13 Secretary makes the determination.

14 “(2) No contractor shall implement the authority
15 granted in subsection (d) of this section except as follows:

16 “(A) An application shall be filed with the Sec-
17 retary which shall state the increase in capacity
18 sought to be offered, a description of the means by
19 which such additional capacity would be provided,
20 the basis for applicant’s position that such increase
21 in capacity would be in proportion to or less than
22 the increase in real gross product of the relevant
23 noncontiguous State or Commonwealth since the ap-
24 plicable date established by subsection (c), and such
25 information as the Secretary may require so that the

1 Secretary may accurately determine such increase in
2 real gross product of the relevant noncontiguous
3 State or Commonwealth.

4 “(B) Such increase in capacity sought by appli-
5 cant and such information shall be made available to
6 the public.

7 “(C) Within 15 days of the date of an applica-
8 tion pursuant to this paragraph the Secretary shall
9 cause to be published in the Federal Register notice
10 of such application, along with a request for public
11 comment thereon.

12 “(D) Comments on such application shall be
13 submitted to the Secretary within 30 days of publi-
14 cation in the Federal Register.

15 “(E) Within 15 days after receipt of comments,
16 the Secretary shall issue a determination in writing
17 either accepting, in whole or part, or rejecting, the
18 increase in capacity sought by the applicant as being
19 in proportion to or less than the increase in real
20 gross product of the relevant noncontiguous State or
21 Commonwealth since the applicable date established
22 by subsection (c): *Provided* That, notwithstanding
23 the provisions of this section, if the Secretary does
24 not make the determination required by this para-
25 graph within the time provided by this paragraph,

1 the increase in capacity sought by applicant shall be
2 permitted as being in proportion to or less than such
3 increase in real gross product until such time as the
4 Secretary makes the determination.

5 “(f) With respect to provision by a contractor of serv-
6 ice in a noncontiguous domestic trade not authorized by
7 this section, the Secretary shall deny payments under the
8 operating agreement with respect to the period of provi-
9 sion of such service but shall deny payments only in part
10 if the extent of provision of such unauthorized service was
11 de minimis or not material.

12 “(g) Notwithstanding any other provision of this sub-
13 title, the Secretary may issue temporary permission for
14 any United States citizen, as that term is defined in sec-
15 tion 2 of the Shipping Act, 1916, to provide service to
16 a noncontiguous State or Commonwealth upon the request
17 of the Governor of such noncontiguous State or Common-
18 wealth, in circumstances where an Act of God, a declara-
19 tion of war or national emergency, or any other condition
20 occurs that prevents ocean transportation service to such
21 noncontiguous State or Commonwealth from being pro-
22 vided by persons currently providing such service. Such
23 temporary permission shall expire 90 days from date of
24 grant, unless extended by the Secretary upon written re-
25 quest of the Governor of such State or Commonwealth.

1 “(h) As used in this section:

2 “(1) The term ‘level of service provided by a
3 contractor’ in a trade as of a date means—

4 “(A) with respect to service other than
5 service described in (B), the total annual capac-
6 ity provided by the contractor in that trade for
7 the 12 calendar months preceding that date:
8 *Provided, That,* with respect to unscheduled,
9 contract carrier tug and barge service between
10 points in Alaska south of the Arctic Circle and
11 points in the contiguous 48 States, the level of
12 service provided by a contractor shall include
13 100 percent of the capacity of the equipment
14 dedicated to such service on the date specified
15 in subsection (c) and actually utilized in that
16 service in the two-year period preceding that
17 date, excluding service to points between An-
18 chorage, Alaska and Whittier, Alaska, served by
19 common carrier service unless such unscheduled
20 service is only for carriage of oil or pursuant to
21 a contract with the United States military: *Pro-*
22 *vided further,* That, with respect to scheduled
23 barge service between the contiguous 48 States
24 and Puerto Rico, such total annual capacity
25 shall be deemed as such total annual capacity

1 plus the annual capacity of two additional
2 barges, each capable of carrying 185 trailers
3 and 100 automobiles; and

4 “(B) with respect to service provided by
5 container vessels, the overall capacity equal to
6 the sum of—

7 “(i) 100 percent of the capacity of
8 vessels operated by or for the contractor on
9 that date, with the vessels’ configuration
10 and frequency of sailing in effect on that
11 date, and which participate solely in that
12 noncontiguous domestic trade; and

13 “(ii) 75 percent of the capacity of ves-
14 sels operated by or for the contractor on
15 that date, with the vessels’ configuration
16 and frequency of sailing in effect on that
17 date, and which participate in that non-
18 contiguous domestic trade and in another
19 trade, provided that the term does not in-
20 clude any restriction on frequency, or num-
21 ber of sailings, or on ports called within
22 such overall capacity.

23 “(2) The level of service set forth in paragraph
24 (1) shall be described with the specificity required by
25 subsection (e)(1) and shall be the level of service in

1 a trade with respect to the applicable date estab-
2 lished by subsection (c) only if the service is not
3 abandoned thereafter, except for interruptions due
4 to military contingency or other events beyond the
5 contractor's control.

6 “(3) The term ‘participates in a noncontiguous
7 domestic trade’ means directly or indirectly owns,
8 charters, or operates a vessel engaged in transpor-
9 tation of cargo between a point in the contiguous 48
10 states and a point in Alaska, Hawaii, or Puerto
11 Rico, other than a point in Alaska north of the Arc-
12 tic Circle.

13 “(4) The term ‘related party’ means—

14 “(A) a holding company, subsidiary, affili-
15 ate, or associate of a contractor who is a party
16 to an operating agreement under this subtitle;
17 and

18 “(B) an officer, director, agent, or other
19 executive of a contractor or of a person referred
20 to in subparagraph (A).”.

21 (b) CONFORMING AMENDMENT.—Section 805 of the
22 Merchant Marine Act, 1936 (46 App. U.S.C. 1223) is
23 amended—

1 (1) by striking “title VI of this Act” each place
2 it appears and inserting “subtitle A of title VI of
3 this Act”; and

4 (2) by striking “under title VI” each place it
5 appears and inserting “under subtitle A of title VI”.

6 **SEC. 5. USE OF FOREIGN-FLAG VESSELS.**

7 (a) IN GENERAL.—Section 804 of the Merchant Ma-
8 rine Act, 1936 (46 App. U.S.C. 1222) is amended by add-
9 ing at the end the following new subsection:

10 “(f) The provisions of subsection (a) shall not pre-
11 clude a contractor receiving assistance under subtitle A
12 or B of title VI, or any holding company, subsidiary, or
13 affiliate of the contractor, or any officer, director, agent,
14 or executive thereof, from—

15 “(1) owning, chartering, or operating any for-
16 eign-flag vessel on a voyage or a segment of a voy-
17 age that does not call at a port in the United States;

18 “(2) owning, chartering, or operating any for-
19 eign-flag vessel in line haul service between the Unit-
20 ed States and foreign ports if—

21 “(A) the foreign-flag vessel was owned,
22 chartered, or operated by, or is a replacement
23 for a foreign-flag vessel owned, chartered, or
24 operated by, such owner or operator, or any
25 holding company, subsidiary, affiliate, or associ-

1 ate of such owner or operator, on the date of
2 enactment of the Maritime Security Act of
3 1995;

4 “(B) the owner or operator, with respect to
5 each additional foreign-flag vessel, other than a
6 time chartered vessel, has first applied to have
7 that vessel covered by an operating agreement
8 under subtitle B of title VI, and the Secretary
9 has not awarded an operating agreement with
10 respect to that vessel within 90 days after the
11 filing of the application; or

12 “(C) the vessel has been placed under for-
13 eign documentation pursuant to section 9 of the
14 Shipping Act, 1916 (46 App. U.S.C. 808), ex-
15 cept that any foreign-flag vessel, other than a
16 time chartered vessel, a replacement vessel
17 under section 653(d), or a vessel operated by
18 the owner or operator on the date of enactment
19 of the Maritime Security Act of 1995, in line
20 haul service between the United States and for-
21 eign ports is registered under the flag of an ef-
22 fective United States-controlled foreign flag,
23 and available to be requisitioned by the Sec-
24 retary of Transportation pursuant to section
25 902 of this Act;

1 “(3) owning, chartering, or operating foreign-
2 flag bulk cargo vessels that are operated in foreign-
3 to-foreign service or the foreign commerce of the
4 United States;

5 “(4) chartering or operating foreign-flag vessels
6 that are operated solely as replacement vessels for
7 United States-flag vessels or vessel capacity that are
8 made available to the Secretary of Defense pursuant
9 to section 653 of this Act; or

10 “(5) entering into time or space charter or
11 other cooperative agreements with respect to foreign-
12 flag vessels or acting as agent or broker for a for-
13 eign-flag vessel or vessels.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply to a contractor under subtitle
16 B of title VI of the Merchant Marine Act, 1936, as amend-
17 ed by this Act, upon enactment of this Act, and shall apply
18 to a contractor under subtitle A of title VI of that Act,
19 upon the earlier of—

20 (1) the date that a payment is made, under the
21 Maritime Security Program under subtitle B of that
22 title to a contractor under subtitle B of that title
23 who is not party to an operating-differential subsidy
24 contract under subtitle A of that title, with the Sec-
25 retary of Transportation to cause notice of the date

1 of such payment to be published in the Federal Reg-
2 ister as soon as possible; or

3 (2) with respect to a particular contractor
4 under the operating-differential subsidy program
5 under subtitle A of that title, the date that contrac-
6 tor enters into a contract with the Secretary under
7 the Maritime Security Program established by sub-
8 title B of that title.

9 **SEC. 6. AMENDMENT TO SHIPPING ACT, 1916.**

10 Section 9 of the Shipping Act, 1916 (46 App. U.S.C.
11 808) is amended by adding at the end the following:

12 “(e) Notwithstanding subsection (c)(2), the Merchant
13 Marine Act, 1936, or any contract entered into with the
14 Secretary of Transportation under that Act, a vessel may
15 be placed under a foreign registry, without approval of the
16 Secretary, if—

17 “(1)(A) the Secretary determines that at least
18 one replacement vessel of a capacity that is equiva-
19 lent or greater, as measured by deadweight tons,
20 gross tons, or container equivalent units, as appro-
21 priate, is documented under chapter 121 of title 46,
22 United States Code, by the owner of the vessel
23 placed under the foreign registry; and

24 “(B) the replacement vessel is not more than
25 10 years of age on the date of that documentation;

1 “(2)(A) an application for an operating agree-
2 ment under subtitle B of title VI of the Merchant
3 Marine Act, 1936 has been filed with respect to a
4 vessel which is eligible to be included in the Mari-
5 time Security Fleet under section 651(b)(1) of that
6 Act; and

7 “(B) the Secretary has not awarded an operat-
8 ing agreement with respect to that vessel within 90
9 days after the date of that application;

10 “(3) a contract covering the vessel under sub-
11 title A of title VI of the Merchant Marine Act, 1936
12 has expired, and that vessel is more than 15 years
13 of age on the date the contract expires; or

14 “(4) an operating agreement covering the vessel
15 under subtitle B of title VI of the Merchant Marine
16 Act, 1936 has expired.”.

17 **SEC. 7. CONSTRUCTION DIFFERENTIAL SUBSIDY RESTRIC-**
18 **TIONS.**

19 Title V of the Merchant Marine Act, 1936 (46 App.
20 U.S.C. 1151 et seq.) is amended by adding at the end
21 the following new section:

22 **“SEC. 512. LIMITATION ON RESTRICTIONS.**

23 “Notwithstanding any other provision of law or con-
24 tract, all restrictions and requirements under sections
25 503, 506, and 802 applicable to a liner vessel constructed,

1 reconstructed, or reconditioned with the aid of construc-
2 tion-differential subsidy shall terminate upon the expira-
3 tion of the 25-year period beginning on the date of the
4 original delivery of the vessel from the shipyard.”.

5 **SEC. 8. REGULATIONS.**

6 (a) IN GENERAL.—The Secretary of Transportation
7 may prescribe rules as necessary to carry out this Act and
8 the amendments made by this Act.

9 (b) INTERIM RULES.—The Secretary of Transpor-
10 tation may prescribe interim rules necessary to carry out
11 this Act and the amendments made by this Act. For this
12 purpose, the Secretary of Transportation is excepted from
13 compliance with the notice and comment requirements of
14 section 553 of title 5, United States Code. All rules pre-
15 scribed under the authority of this subsection that are not
16 earlier superseded by final rules shall expire no later than
17 270 day after the date of enactment of this Act.

18 **SEC. 9. MERCHANT SHIP SALES ACT OF 1946 AMENDMENT.**

19 Section 11 of the Merchant Ship Sales Act of 1946
20 (50 App. U.S.C. 1744) is amended as follows:

21 (1) In subsection (b)(2) by striking “Secretary
22 of the Navy,” and inserting “Secretary of Defense,”.

23 (2) By striking subsection (c) and redesignating
24 subsection (d) as subsection (c).

1 **SEC. 10. REEMPLOYMENT RIGHTS FOR CERTAIN MER-**
2 **CHANT SEAMEN.**

3 (a) IN GENERAL.—Title III of the Merchant Marine
4 Act, 1936 (46 App. U.S.C. 1131) is amended by inserting
5 after section 301 the following new section:

6 “SEC. 302. (a) An individual who is certified by the
7 Secretary of Transportation under subsection (c) shall be
8 entitled to reemployment rights and other benefits sub-
9 stantially equivalent to the rights and benefits provided
10 for by chapter 43 of title 38, United States Code, for any
11 member of a Reserve component of the Armed Forces of
12 the United States who is ordered to active duty.

13 “(b) An individual may submit an application for cer-
14 tification under subsection (c) to the Secretary of Trans-
15 portation not later than 45 days after the date the individ-
16 ual completes a period of employment described in sub-
17 section (c)(1)(A) with respect to which the application is
18 submitted.

19 “(c) Not later than 20 days after the date the Sec-
20 retary of Transportation receives from an individual an
21 application for certification under this subsection, the Sec-
22 retary shall—

23 “(1) determine whether or not the individual—
24 “(A) was employed in the activation or op-
25 eration of a vessel—

1 “(i) in the National Defense Reserve
2 Fleet maintained under section 11 of the
3 Merchant Ship Sales Act of 1946, in a pe-
4 riod in which that vessel was in use or
5 being activated for use under subsection
6 (b) of that section;

7 “(ii) that is requisitioned or pur-
8 chased under section 902 of this Act; or

9 “(iii) that is owned, chartered, or con-
10 trolled by the United States and used by
11 the United States for a war, armed con-
12 flict, national emergency, or maritime mo-
13 bilization need (including for training pur-
14 poses or testing for readiness and suit-
15 ability for mission performance); and

16 “(B) during the period of that employ-
17 ment, possessed a valid license, certificate of
18 registry, or merchant mariner’s document is-
19 sued under chapter 71 or chapter 73 (as appli-
20 cable) of title 46, United States Code; and

21 “(2) if the Secretary makes affirmative deter-
22 minations under paragraph (1)(A) and (B), certify
23 that individual under this subsection.

24 “(d) For purposes of reemployment rights and bene-
25 fits provided by this section, a certification under sub-

1 section (c) shall be considered to be the equivalent of a
2 certificate referred to in paragraph (1) of section 4301(a)
3 of title 38, United States Code.”.

4 (b) APPLICATION.—The amendment made by sub-
5 section (a) shall apply to employment described in section
6 302(c)(1)(A) of the Merchant Marine Act, 1936, as
7 amended by subsection (a), occurring after the date of en-
8 actment of this Act.

9 (c) REGULATION.—Not later than 120 days after the
10 date of the enactment of this Act, the Secretary of Trans-
11 portation shall issue regulations implementing this section.

12 **SEC. 11. TITLE XI LOAN GUARANTEES.**

13 Title XI of the Merchant Marine Act, 1936 (46 App.
14 U.S.C. 1271 et seq.) is amended—

15 (1) in section 1101(b), by striking “owned by
16 citizens of the United States”;

17 (2) in section 1104B(a), in the material preced-
18 ing paragraph (1), by striking “owned by citizens of
19 the United States”; and

20 (3) in section 1110(a), by striking “owned by
21 citizens of the United States”.

22 **SEC. 12. EXTENSION OF WAR RISK INSURANCE AUTHORITY.**

23 Section 1214 of the Merchant Marine Act, 1936 (46
24 App. U.S.C. 1294) is amended by striking “June 30,
25 1995” and inserting “June 30, 2000”.

1 **SEC. 13. VESSEL LOAN GUARANTEE PROGRAM.**

2 (a) RISK FACTOR DETERMINATIONS.—Section 1103
3 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273)
4 is amended by adding at the end the following new sub-
5 section:

6 “(h)(1) The Secretary shall—

7 “(A) establish in accordance with this sub-
8 section a system of risk categories for obligations
9 guaranteed under this title, that categorizes the rel-
10 ative risk of guarantees made under this title with
11 respect to the risk factors set forth in paragraph
12 (3); and

13 “(B) determine for each of the risk categories
14 a subsidy rate equivalent to the cost of obligations
15 in the category, expressed as a percentage of the
16 amount guaranteed under this title for obligations in
17 the category.

18 “(2)(A) Before making a guarantee under this sec-
19 tion for an obligation, the Secretary shall apply the risk
20 factors set forth in paragraph (3) to place the obligation
21 in a risk category established under paragraph (1)(A).

22 “(B) The Secretary shall consider the aggregate
23 amount available to the Secretary for making guarantees
24 under this title to be reduced by the amount determined
25 by multiplying—

1 “(i) the amount guaranteed under this title for
2 an obligation, by

3 “(ii) the subsidy rate for the category in which
4 the obligation is placed under subparagraph (A) of
5 this paragraph.

6 “(C) The estimated cost to the Government of a
7 guarantee made by the Secretary under this title for an
8 obligation is deemed to be the amount determined under
9 subparagraph (B) for the obligation.

10 “(D) The Secretary may not guarantee obligations
11 under this title after the aggregate amount available to
12 the Secretary under appropriations Acts for the cost of
13 loan guarantees is required by subparagraph (B) to be
14 considered reduced to zero.

15 “(3) The risk factors referred to in paragraphs (1)
16 and (2) are the following:

17 “(A) If applicable, the country risk for each eli-
18 gible export vessel financed or to be financed by an
19 obligation.

20 “(B) The period for which an obligation is
21 guaranteed or to be guaranteed.

22 “(C) The amount of an obligation, which is
23 guaranteed or to be guaranteed, in relation to the
24 total cost of the project financed or to be financed
25 by the obligation.

1 “(D) The financial condition of an obligor or
2 applicant for a guarantee.

3 “(E) If applicable, any guarantee related to the
4 project, other than the guarantee under this title for
5 which the risk factor is applied.

6 “(F) If applicable, the projected employment of
7 each vessel or equipment to be financed with an obli-
8 gation.

9 “(G) If applicable, the projected market that
10 will be served by each vessel or equipment to be fi-
11 nanced with an obligation.

12 “(H) The collateral provided for a guarantee
13 for an obligation.

14 “(I) The management and operating experience
15 of an obligor or applicant for a guarantee.

16 “(J) Whether a guarantee under this title is or
17 will be in effect during the construction period of the
18 project.

19 “(4) In this subsection, the term ‘cost’ has the mean-
20 ing given that term in section 502 of the Federal Credit
21 Reform Act of 1990 (2 U.S.C. 661a).”.

22 (b) APPLICATION.—Subsection (h)(2) of section 1103
23 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273),
24 as amended by subsection (a) of this section, shall apply
25 to guarantees that the Secretary of Transportation makes

1 or commits to make with any amounts that are unobli-
2 gated on or after the date of enactment of this Act.

3 (c) GUARANTEE FEES.—Section 1104A(e) of title XI
4 of the Merchant Marine Act, 1936 (46 App. U.S.C.
5 1274(e)) is amended to read as follows:

6 “(e)(1) Except as otherwise provided in this sub-
7 section, the Secretary shall prescribe regulations to assess
8 in accordance with this subsection a fee for the guarantee
9 of an obligation under this title.

10 “(2)(A) The amount of a fee under this subsection
11 for a guarantee is equal to the sum determined by adding
12 the amounts determined under subparagraph (B) for the
13 years in which the guarantee is in effect.

14 “(B) The amount referred to in subparagraph (A) for
15 a year is the present value (determined by applying the
16 discount rate determined under subparagraph (F)) of the
17 amount determined by multiplying—

18 “(i) the estimated average unpaid principal
19 amount of the obligation that will be outstanding
20 during the year (determined in accordance with sub-
21 paragraph (E)), by

22 “(ii) the fee rate established under subpara-
23 graph (C) for the obligation for each year.

24 “(C) The fee rate referred to in subparagraph (B)(ii)
25 for an obligation shall be—

1 “(i) in the case of an obligation for a delivered
2 vessel or equipment, not less than one-half of 1 per-
3 cent and not more than 1 percent, determined by
4 the Secretary for the obligation under the formula
5 established under subparagraph (D); or

6 “(ii) in the case of an obligation for a vessel to
7 be constructed, reconstructed, or reconditioned, or of
8 equipment to be delivered, not less than one-quarter
9 of 1 percent and not more than one-half of 1 per-
10 cent, determined by the Secretary for the obligation
11 under the formula established under subparagraph
12 (D).

13 “(D) The Secretary shall establish a formula for de-
14 termining the fee rate for an obligation for purposes of
15 subparagraph (C), that—

16 “(i) is a sliding scale based on the creditworthi-
17 ness of the obligor;

18 “(ii) takes into account the security provided
19 for a guarantee under this title for the obligation;
20 and

21 “(iii) uses—

22 “(I) in the case of the most creditworthy
23 obligors, the lowest rate authorized under sub-
24 paragraph (C)(i) or (ii), as applicable; and

1 “(II) in the case of the least creditworthy
2 obligors, the highest rate authorized under sub-
3 paragraph (C)(i) or (ii), as applicable.

4 “(E) For purposes of subparagraph (B)(i), the esti-
5 mated average unpaid principal amount does not include
6 the average amount (except interest) on deposit in a year
7 in the escrow fund under section 1108.

8 “(F) For purposes of determining present value
9 under subparagraph (B) for an obligation, the Secretary
10 shall apply a discount rate determined by the Secretary
11 of the Treasury taking into consideration current market
12 yields on outstanding obligations of the United States hav-
13 ing periods to maturity comparable to the period to matu-
14 rity for the obligation with respect to which the determina-
15 tion of present value is made.

16 “(3) A fee under this subsection shall be assessed and
17 collected not later than the date on which amounts are
18 first paid under an obligation with respect to which the
19 fee is assessed.

20 “(4) A fee paid under this subsection is not refund-
21 able. However, an obligor shall receive credit for the
22 amount paid for the remaining term of the guaranteed ob-
23 ligation if the obligation is refinanced and guaranteed
24 under this title after such refinancing.

1 “(5) A fee paid under subsection (e) shall be included
2 in the amount of the actual cost of the obligation guaran-
3 teed under this title and is eligible to be financed under
4 this title.”.

5 **SEC. 14. MARITIME POLICY REPORT.**

6 (a) REPORT.—The Secretary of Transportation shall
7 transmit to the Congress a report setting forth the De-
8 partment of Transportation’s policies for the 5-year period
9 beginning October 1, 1995, with respect to—

10 (1) fostering and maintaining a United States
11 merchant marine capable of meeting economic and
12 national security requirements;

13 (2) improving the vitality and competitiveness
14 of the United States merchant marine and the mari-
15 time industrial base, including ship repairers, ship-
16 builders, ship manning, ship operators, and ship
17 suppliers;

18 (3) reversing the precipitous decrease in the
19 number of ships in the United States-flag fleet and
20 the Nation’s shipyard and repair capability;

21 (4) stabilizing and eventually increasing the
22 number of mariners available to crew United States
23 merchant vessels;

1 (5) achieving adequate manning of merchant
2 vessels for national security needs during a mobiliza-
3 tion;

4 (6) ensuring that sufficient civil maritime re-
5 sources will be available to meet defense deployment
6 and essential economic requirements in support of
7 our national security strategy;

8 (7) ensuring that the United States maintains
9 the capability to respond unilaterally to security
10 threats in geographic areas not covered by alliance
11 commitments and otherwise meets sealift require-
12 ments in the event of crisis or war;

13 (8) ensuring that international agreements and
14 practices do not place United States maritime indus-
15 tries at an unfair competitive disadvantage in world
16 markets;

17 (9) ensuring that Federal agencies promote,
18 through efficient application of laws and regulations,
19 the readiness of the United States merchant marine
20 and supporting industries; and

21 (10) any other relevant maritime policies.

22 (b) DATE OF TRANSMITTAL.—The report required
23 under subsection (a) shall be transmitted along with the
24 President’s budget submission, under section 1105 of title
25 31, United States Code, for fiscal year 1997.

1 **SEC. 15. RELIEF FROM U.S. DOCUMENTATION REQUIRE-**
2 **MENT FOR 3 VESSELS.**

3 (a) IN GENERAL.—Notwithstanding any other law or
4 any agreement with the United States Government, a ves-
5 sel described in subsection (b) may be sold to a person
6 that is not a citizen of the United States and transferred
7 to or placed under a foreign registry.

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

10 (1) RAINBOW HOPE (United States official
11 number 622178).

12 (2) IOWA TRADER (United States official
13 number 642934).

14 (3) KANSAS TRADER (United States official
15 number 634621).

16 **SEC. 16. VESSEL REPAIR AND MAINTENANCE PILOT PRO-**
17 **GRAM.**

18 (a) IN GENERAL.—The Secretary of Transportation
19 shall conduct a pilot program to evaluate the feasibility
20 of using renewable contracts for the maintenance and re-
21 pair of outported vessels in the Ready Reserve Force to
22 enhance the readiness of those vessels. Under the pilot
23 program, the Secretary, subject to the availability of ap-
24 propriations and with 6 months after the date of the en-
25 actment of this Act, shall award 9 contracts for this pur-
26 pose.

1 (b) USE OF VARIOUS CONTRACTING ARRANGE-
2 MENTS.—In conducting a pilot program under this sec-
3 tion, the Secretary of Transportation shall use contracting
4 arrangements similar to those used by the Department of
5 Defense for procuring maintenance and repair of its ves-
6 sels.

7 (c) CONTRACT REQUIREMENTS.—Each contract with
8 a shipyard under this section shall—

9 (1) subject to subsection (d), provide for the
10 procurement from the shipyard of all repair and
11 maintenance (including activation, deactivation, and
12 drydocking) for 1 vessel in the Ready Reserve Force
13 that is outported in the geographical vicinity of the
14 shipyard;

15 (2) be effective for 1 fiscal year; and

16 (3) be renewable, subject to the availability of
17 appropriations, for each subsequent fiscal year
18 through fiscal year 1998.

19 (d) LIMITATION OF WORK UNDER CONTRACTS.—A
20 contract under this section may not provide for the pro-
21 curement of operation or manning for a vessel that may
22 be procured under another contract for the vessel to which
23 section 11(d)(2) of the Merchant Ship Sales Act of 1946
24 (50 U.S.C. App. 1774(d)(2)) applies.

1 (e) GEOGRAPHIC DISTRIBUTION.—The Secretary
2 shall seek to distribute contract awards under this section
3 to shipyards located throughout the United States.

4 (f) REPORTS.—The Secretary shall submit to the
5 Congress—

6 (1) an interim report on the effectiveness of
7 each contract under this section in providing for eco-
8 nomic and efficient repair and maintenance of the
9 vessel included in the contract, no later than 20
10 months after the date of the enactment of this Act;
11 and

12 (2) a final report on that effectiveness no later
13 than 6 months after the termination of all contracts
14 awarded pursuant to this section.

15 **SEC. 17. STREAMLINING OF CARGO ALLOCATION PROCE-**
16 **DURES.**

17 (a) AMENDMENTS.—Section 901b(c)(3) of the Mer-
18 chant Marine Act, 1936 (46 App. U.S.C. 1241f(c)(3)) is
19 amended—

20 (1) in subparagraph (A)—

21 (A) by striking “and consistent with those
22 sections,” and inserting “and, subject to sub-
23 paragraph (B) of this paragraph, consistent
24 with those sections,”; and

1 (B) by striking “50 percent” and inserting
2 “25 percent”; and

3 (2) by striking subparagraph (B) and inserting
4 the following new subparagraphs:

5 “(B) In carrying out this paragraph, there shall first
6 be calculated the allocation of 100 percent of the quantity
7 to be procured on an overall lowest landed cost basis with-
8 out regard to the country of documentation of the vessel
9 and there shall be allocated to the Great Lakes port range
10 any cargoes for which it has the lowest landed cost under
11 that calculation. The requirements for United States-flag
12 transportation under section 901(b) and this section shall
13 not apply to commodities allocated under subparagraph
14 (A) to the Great Lakes port range, and commodities allo-
15 cated under subparagraph (A) to that port range may not
16 be reallocated or diverted to another port range to meet
17 those requirements to the extent that the total tonnage
18 of commodities to which subparagraph (A) applies that is
19 furnished and transported from the Great Lakes port
20 range is less than 25 percent of the total annual tonnage
21 of such commodities furnished.

22 “(C) In awarding any contract for the transportation
23 by vessel of commodities from the Great Lakes port range
24 pursuant to an export activity referred to in subsection
25 (b), each agency or instrumentality—

1 “(i) shall consider expressions of freight inter-
 2 est for any vessel from a vessel operator who meets
 3 reasonable requirements for financial and oper-
 4 ational integrity; and

5 “(ii) may not deny award of the contract to a
 6 person based on the type of vessel on which the
 7 transportation would be provided (including on the
 8 basis that the transportation would not be provided
 9 on a liner vessel (as that term is used in the Ship-
 10 ping Act of 1984, as in effect on November 14,
 11 1995)), if the person otherwise satisfies reasonable
 12 requirements for financial and operational integ-
 13 rity.”.

14 (b) CONFORMING AMENDMENTS.—(1) Paragraph (4)
 15 of section 901b(c) of that Act is repealed.

16 (2) Paragraph (5) of that section is redesignated as
 17 paragraph (4).

 Passed the House of Representatives December 6,
 1995.

Attest:

ROBIN H. CARLE,

Clerk.

HR 1350 PCS—2

HR 1350 PCS—3

HR 1350 PCS—4

HR 1350 PCS—5