

# Calendar No. 361

108TH CONGRESS  
1ST SESSION

# S. 1262

[Report No. 108-184]

To authorize appropriations for fiscal years 2004, 2005, and 2006 for certain maritime programs of the Department of Transportation, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 13, 2003

Mr. MCCAIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

NOVEMBER 3, 2003

Reported by Mr. MCCAIN, with amendments and an amendment to the title  
[Omit the part struck through and insert the part printed in *italie*]

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## A BILL

To authorize appropriations for fiscal years 2004, 2005, and 2006 for certain maritime programs of the Department of Transportation, 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 Administra-  
5 tion Authorization Act of 2003”.

**TITLE I—MARAD  
REAUTHORIZATION**

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL  
YEARS 2004, 2005, AND 2006.**

**SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR FIS-  
CAL YEARS 2004, 2005, 2006, 2007, AND 2008.**

There are authorized to be appropriated to the Secretary of Transportation for the Maritime Administration—

(1) for expenses necessary for operations and training activities, not to exceed \$104,400,000 for the fiscal year ending September 30, 2004, \$106,000,000 for the fiscal year ending September 2005, and \$109,000,000 for the fiscal year ending ~~2006~~; *September 30, 2006, \$111,000,000 for the fiscal year ending September 30, 2007, and \$113,000,000 for the fiscal year ending September 30, 2008;*

(2) for administrative expenses related to loan guarantee commitments under title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.); \$4,498,000 for each of fiscal years ~~2004, 2005, 2006, 2007, and 2008;~~ and

(2) *for expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et. seq.), \$56,000,000*

1       for each of fiscal years 2004, 2005, 2006, 2007, and  
2       2008 of which—

3               (A) \$50,000,000 shall be for the cost (as de-  
4       fined in section 502(5) of the Federal Credit Re-  
5       form Act of 1990 (2 U.S.C. 661a(5))) of loan  
6       guarantees under the program; and

7               (B) \$6,000,000 shall be for administrative  
8       expenses related to loan guarantee commitments  
9       under the program; and

10       (3) for ship disposal, \$11,422,000 for each of  
11       fiscal years 2004, 2005, and ~~2006~~, 2006, and  
12       \$12,000,000 for each of fiscal years 2007 and 2008.

13   **SEC. 3. CONVEYANCE OF OBSOLETE VESSELS UNDER TITLE**  
14       **V, MERCHANT MARINE ACT, 1936.**

15   **SEC. 102. CONVEYANCE OF OBSOLETE VESSELS UNDER**  
16       **TITLE V, MERCHANT MARINE ACT, 1936.**

17       Section 508 of the Merchant Marine Act, 1936 (46  
18   U.S.C. App. 1158) is amended—

19               (1) by inserting “(a) AUTHORITY TO SCRAP OR  
20       SELL OBSOLETE VESSELS.—” before “If”; and

21               (2) by adding at the end the following:

22   2       “(b) AUTHORITY TO CONVEY VESSELS.—

23               “(1) IN GENERAL.—Notwithstanding section  
24       510(j) of this Act, the Secretary of Transportation  
25       may convey the right, title, and interest of the

1 United States Government in any vessel of the Na-  
2 tional Defense Reserve Fleet that has been identified  
3 by the Secretary as an obsolete vessel of insufficient  
4 value to warrant its further preservation, if—

5 “(A) the recipient is a non-profit organiza-  
6 tion, a State, Commonwealth, or possession of  
7 the United States or any municipal corporation  
8 or political subdivision thereof, or the District  
9 of Columbia;

10 “(B) the recipient agrees not to use, or  
11 allow others to use, the vessel for commercial  
12 transportation purposes;

13 “(C) the recipient agrees to make the ves-  
14 sel available to the Government whenever the  
15 Secretary indicates that it is needed by the  
16 Government;

17 “(D) the recipient agrees to hold the Gov-  
18 ernment harmless for any claims arising from  
19 exposure to asbestos, polychlorinated biphenyls,  
20 lead paint, or other hazardous substances after  
21 conveyance of the vessel, except for claims aris-  
22 ing from use of the vessel by the Government;

23 “(E) the recipient has a conveyance plan  
24 and a business plan, each of which have been

1 submitted to and approved by the Secretary;  
2 and

3 “(F) the recipient has provided proof, as  
4 determined by the Secretary, of resources suffi-  
5 cient to accomplish the transfer, necessary re-  
6 pairs and modifications, and initiation of the in-  
7 tended use of the vessel.

8 “(2) OTHER EQUIPMENT.—At the Secretary’s  
9 discretion, additional equipment from other obsolete  
10 vessels of the National Defense Reserve Fleet may  
11 be conveyed to assist the recipient with maintenance,  
12 repairs, or modifications.

13 “(3) ADDITIONAL TERMS.—The Secretary may  
14 require any additional terms the Secretary considers  
15 appropriate.

16 “(4) DELIVERY OF VESSEL.—If conveyance is  
17 made under this subsection the vessel shall be deliv-  
18 ered to the recipient at a time and place to be deter-  
19 mined by the Secretary. The vessel shall be conveyed  
20 in an ‘as is’ condition.

21 “(5) LIMITATIONS.—If at any time prior to de-  
22 livery of the vessel to the recipient, the Secretary de-  
23 termines that a different disposition of a vessel  
24 would better serve the interests of the Government,  
25 the Secretary shall pursue the more favorable dis-

1 position of the obsolete vessel and shall not be liable  
2 for any damages that may result from an intended  
3 recipient's reliance upon a proposed transfer."

4 **SEC. 4. CARGO PREFERENCE UNDER TITLE IX.**

5 (a) ~~CONSTRUCTION OF U.S.-FLAG TANK SHIPS.—~~  
6 Section 901(b)(1) of the Merchant Marine Act, 1936 (46  
7 U.S.C. App. 1241(b)(1)) is amended by striking "three  
8 years;" and all that follows and inserting "3 years. Not-  
9 withstanding the preceding sentence, the term 'privately  
10 owned United States-flag commercial vessel' shall include  
11 a United States documented self-propelled tank vessel  
12 when the owner of such a vessel has notified the Maritime  
13 Administration in writing of the existence of an executed  
14 contract between the owner and a United States shipyard  
15 for the construction of 2 or more self-propelled, double  
16 hulled tank vessels to be documented under the laws of  
17 the United States, each to be capable of carrying more  
18 than 2 types of refined petroleum products. The preceding  
19 sentence shall apply to such a privately owned United  
20 States-flag commercial vessel for a 3-year period com-  
21 mencing on the date the contract is executed for construc-  
22 tion of the vessels and shall continue to apply to the vessel  
23 throughout the 3-year period so long as the vessel remains  
24 documented under the laws of the United States."

1           (b) **CONFORMING CARGO PREFERENCE YEAR TO**  
 2 **FEDERAL FISCAL YEAR.**—Section 901b(c)(2) of the Mer-  
 3 chant Marine Act, 1936 (46 U.S.C App. 1241f(c)(2)) is  
 4 amended by striking “1986.” and inserting “1986, the 18-  
 5 month period beginning April 1, 2002, and the 12-month  
 6 period beginning October 1, 2003, and each year there-  
 7 after.”.

8 **SEC. 103. CARGO PREFERENCE.**

9           *Section 901b(c)(2) of the Merchant Marine Act, 1936*  
 10 *(46 U.S.C App. 1241f(c)(2)) is amended by striking*  
 11 *“1986.” and inserting “1986, the 18-month period begin-*  
 12 *ning April 1, 2002, and the 12-month period beginning Oc-*  
 13 *tober 1, 2003, and each year thereafter.”.*

14 **SEC. 5. EQUITY PAYMENTS BY OBLIGOR FOR DISBURSE-**  
 15 **MENT PRIOR TO TERMINATION OF ESCROW**  
 16 **AGREEMENT UNDER TITLE XI.**

17 **SEC. 104. EQUITY PAYMENTS BY OBLIGOR FOR DISBURSE-**  
 18 **MENT PRIOR TO TERMINATION OF ESCROW**  
 19 **AGREEMENT UNDER TITLE XI.**

20           (a) **IN GENERAL.**—Section 1108 of the Merchant  
 21 Marine Act, 1936 (46 U.S.C. App. 1279a) is amended by  
 22 adding at the end the following:

23           “(g) **PAYMENTS REQUIRED BEFORE DISBURSE-**  
 24 **MENT.**—

1           “(1) IN GENERAL.—No disbursement shall be  
2           made under subsection (b) to any person until the  
3           total amount paid by or for the account of the obli-  
4           gor from sources other than the proceeds of the obli-  
5           gation equals at least 25 per centum or 12½ per  
6           centum, whichever is applicable *under section 1104A*,  
7           of the actual cost of the vessel. The Secretary shall  
8           establish a system of controls, including automated  
9           controls, to ensure that no loan funds are disbursed  
10          to a shipowner or shipyard owner before the ship-  
11          owner or shipyard owner meets the requirement of  
12          the preceding sentence.

13           “(2) DOCUMENTED PROOF OF PROGRESS RE-  
14          QUIREMENT.—The Secretary shall, by regulation, es-  
15          tablish a transparent, independent, and risk-based  
16          process for verifying and documenting the progress  
17          of projects under construction before disbursing  
18          guaranteed loan funds. At a minimum, the process  
19          shall require documented proof of progress in con-  
20          nection with the construction, reconstruction, or re-  
21          conditioning of a vessel or vessels before disburse-  
22          ments are made from the escrow fund. The regula-  
23          tions shall *Secretary may* require that the obligor  
24          provide a certificate from an independent party cer-

1       tifying that the requisite progress in construction,  
2       reconstruction, or reconditioning has taken place.”.

3       (b) DEFINITION OF ACTUAL COST.—Section 1101(f)  
4 of the Merchant Marine Act, 1936 (46 U.S.C. App.  
5 1271(f)) is amended to read as follows:

6       “(f) ACTUAL COST DEFINED.—The term ‘actual  
7 cost’ means the sum of—

8               “(1) all amounts paid by or for the account of  
9       the obligor as of the date on which a determination  
10      is made under section 1108(g)(1); and

11              “(2) all amounts that the Secretary reasonably  
12      estimates that the obligor will become obligated to  
13      pay from time to time thereafter, for the construc-  
14      tion, reconstruction, or reconditioning of the vessel,  
15      including guarantee fees that will become payable  
16      under section 1104A(e) in connection with all obliga-  
17      tions issued for construction, reconstruction, or re-  
18      conditioning of the vessel or equipment to be deliv-  
19      ered, and all obligations issued for the delivered ves-  
20      sel or equipment.”.

1 **SEC. 6. WAIVERS OF PROGRAM REQUIREMENTS UNDER**  
 2 **TITLE XI.**

3 **SEC. 105. WAIVERS OF PROGRAM REQUIREMENTS UNDER**  
 4 **TITLE XI.**

5 Section 1104A(d) of the Merchant Marine Act, 1936  
 6 (46 U.S.C. App. 1274(d)) is amended by redesignating  
 7 paragraph (4) as paragraph (5), and inserting after para-  
 8 graph (3) the following:

9 “(4) The Secretary shall promulgate regulations  
 10 concerning circumstances under which waivers of or  
 11 exceptions to otherwise applicable regulatory require-  
 12 ments concerning financial condition can be made.

13 The regulations shall require that—

14 ~~“(A) a waiver of otherwise applicable regu-~~  
 15 ~~latory requirements be made only with the doc-~~  
 16 ~~umented concurrence of program offices with~~  
 17 ~~expertise in economic, technical, and financial~~  
 18 ~~aspects of the review process;~~

19 ~~“(B) (A) the economic soundness require-~~  
 20 ~~ments set forth in paragraph (1)(A) of this sub-~~  
 21 ~~section are met after the waiver of the financial~~  
 22 ~~condition requirement; and~~

23 ~~“(C) (B) the wavier shall provide for the~~  
 24 ~~imposition of other requirements on the obligor~~  
 25 ~~designed to compensate for the increased risk~~  
 26 ~~associated with the obligor’s failure to meet reg-~~

1           ulatory requirements applicable to financial con-  
2           dition.”.

3 **SEC. 7. PROJECT MONITORING UNDER TITLE XI.**

4 **SEC. 106. PROJECT MONITORING UNDER TITLE XI.**

5           (a) PROJECT MONITORING.—Section 1104A of the  
6 Merchant Marine Act, 1936 (46 U.S.C. App. 1274) is  
7 amended by adding at the end the following:

8           “(k) MONITORING.— The Secretary shall monitor the  
9 financial conditions and operations of the obligor on a reg-  
10 ular basis during the term of the guarantee. The Secretary  
11 shall document the results of the monitoring on a ~~quar-~~  
12 ~~terly or monthly~~ *an annual or quarterly* basis depending  
13 upon the condition of the obligor. If the Secretary deter-  
14 mines that the financial condition of the obligor warrants  
15 additional protections to the Secretary, then the Secretary  
16 shall take appropriate action under subsection (m) of this  
17 section. If the Secretary determines that the financial con-  
18 dition of the obligor jeopardizes its continued ability to  
19 perform its responsibilities in connection with the guar-  
20 antee of obligations by the Secretary, the Secretary shall  
21 make an immediate determination whether default should  
22 take place and whether further measures *described in sub-*  
23 *section (m)* should be taken to protect the interests of the  
24 Secretary while insuring that program objectives are  
25 met.”.

1 (b) SEPARATION OF DUTIES AND OTHER REQUIRE-  
2 MENTS.—Section 1104A of the Merchant Marine Act,  
3 1936 (46 U.S.C. App. 1274), as amended by subsection  
4 (a), is further amended by adding at the end the following:

5 “(l) REVIEW OF APPLICATIONS.—No commitment to  
6 guarantee, or guarantee of, an obligation shall be made  
7 by the Secretary unless the Secretary certifies that a full  
8 and fair consideration of all the regulatory requirements,  
9 including economic soundness and financial requirements  
10 applicable to obligors and related parties, ~~has been made~~  
11 ~~through a documented independent assessment conducted~~  
12 ~~by offices with expertise in technical, economic, and finan-~~  
13 ~~cial aspects of the loan application process. and a thorough~~  
14 ~~assessment of the technical, economic, and financial aspects~~  
15 ~~of the loan application has been made.~~

16 “(m) AGREEMENT WITH OBLIGOR.—The Secretary  
17 shall include provisions in loan agreements with obligors  
18 that provide additional authority to the Secretary to take  
19 action to limit potential losses in connection with defaulted  
20 loans or loans that are in jeopardy due to the deteriorating  
21 financial condition of obligors. Provisions that the Sec-  
22 retary shall include in loan agreements include require-  
23 ments for additional collateral or greater equity contribu-  
24 tions that are effective upon the occurrence of verifiable

1 conditions relating to the obligors financial condition or  
 2 the status of the vessel or shipyard project.”.

3 **SEC. 8. DEFAULTS UNDER TITLE XI.**

4 **SEC. 107. DEFAULTS UNDER TITLE XI.**

5 ~~(a) ACTIONS TO BE TAKEN IN EVENT OF DEFAULT.—~~

6 Section 1105 of the Merchant Marine Act, 1936 (46  
 7 U.S.C. App. 1275) is amended by adding at the end the  
 8 following:

9 “(f) DEFAULT RESPONSE.—In the event of default  
 10 on a obligation, the Secretary shall conduct operations  
 11 under this title in a manner which—

12 “(1) maximizes the net present value return  
 13 from the sale or disposition of assets associated with  
 14 the obligation;

15 “(2) minimizes the amount of any loss realized  
 16 in the resolution of the guarantee;

17 “(3) ensures adequate competition and fair and  
 18 consistent treatment of offerors; and

19 “(4) requires appraisal of assets by an inde-  
 20 pendent appraiser.”.

21 ~~(b) RESTRICTIONS.—~~

22 ~~(1) Section 1104A(d)(1)(A)(i) of the Merchant~~  
 23 ~~Marine Act, 1936 (46 U.S.C. App. 1274~~  
 24 ~~(d)(1)(A)(i)) is amended by striking “equipment for~~

1 which a guarantee under this title is in effect,” and  
 2 inserting “equipment;”.

3 ~~(2) Section 1104A(d)(1)(A) of the Merchant~~  
 4 ~~Marine Act, 1936 (46 U.S.C. App. 1274 (d)(1)(A))~~  
 5 is amended—

6 (A) by striking “and” after the semicolon  
 7 in clause (v);

8 (B) by striking “safety.” in clause (vi) and  
 9 inserting “safety; and”; and

10 (C) by adding at the end the following:

11 “(vii) the past performance of the  
 12 shipyard doing the construction on com-  
 13 mercial projects, including cost-over-runs  
 14 and on-time performance.”.

15 **SEC. 9. 270-DAY DECISION PERIOD.**

16 Section 1104A of the Merchant Marine Act, 1936 (46  
 17 U.S.C. App. 1274), as amended by section 7, is amended  
 18 by adding at the end the following:

19 “(n) 270-DAY DECISION.—The Secretary of Trans-  
 20 portation shall approve or deny an application for a loan  
 21 guarantee under this title within 270 days after the date  
 22 on which the signed application is received by the Sec-  
 23 retary.”.

1 **SEC. 108. DECISION PERIOD.**

2 *Section 1104A of the Merchant Marine Act, 1936 (46*  
 3 *U.S.C. App. 1274), as amended by section 106, is amended*  
 4 *by adding at the end the following:*

5 “(n) *DECISION PERIOD.*—

6 “(1) *IN GENERAL.*—*The Secretary of Transpor-*  
 7 *tation shall approve or deny an application for a*  
 8 *loan guarantee under this title within 270 days after*  
 9 *the date on which the signed application is received*  
 10 *by the Secretary.*

11 “(2) *EXTENSION.*—*Upon request by an appli-*  
 12 *cant, the Secretary may extend the 270-day period in*  
 13 *paragraph (1) to a date not later than 2 years after*  
 14 *the date on which the signed application for the loan*  
 15 *guarantee was received by the Secretary.”.*

16 **SEC. 10. LOAN GUARANTEES UNDER TITLE XI.**

17 **SEC. 109. LOAN GUARANTEES UNDER TITLE XI.**

18 *Section 1104A of the Merchant Marine Act, 1936 (46*  
 19 *U.S.C. App. 1274) is amended—*

20 (1) *by adding at the end of subsection (d)(1)*  
 21 *the following:*

22 “(C) *The Secretary may make a deter-*  
 23 *mination that aspects of an application under*  
 24 *this title require independent analysis to be con-*  
 25 *ducted by third party experts due to risk fac-*  
 26 *tors associated with markets, technology, finan-*

1           cial structures, or other risk factors identified  
2           by the Secretary. Any independent analysis con-  
3           ducted pursuant to this provision shall be per-  
4           formed by a party chosen by the Secretary.

5           “(D) Notwithstanding any other provision  
6           of this title, the Secretary may make a deter-  
7           mination that an application under this title re-  
8           quires additional equity because of increased  
9           risk factors associated with markets, tech-  
10          nology, financial structures, or other risk fac-  
11          tors identified by the Secretary.

12          ~~“(E) In determining whether to approve an~~  
13          ~~application under this title, the Secretary may~~  
14          ~~consider a proposed shipyard’s past perform-~~  
15          ~~ance on commercial projects including cost in-~~  
16          ~~creases, quality of work, and ability to meet~~  
17          ~~work and delivery schedules. After consideration~~  
18          ~~of these factors the Secretary may impose addi-~~  
19          ~~tional requirements on a shipyard, require addi-~~  
20          ~~tional security, or disapprove an application.~~

21          “(F) (E) The Secretary may charge and  
22          collect fees to cover the costs of independent  
23          analysis under subparagraph (C). Notwith-  
24          standing section 3302 of title 31, United States

1 Code, any fee collected under this subparagraph  
2 shall—

3 “(i) be credit as an offsetting collec-  
4 tion to the account that finances the ad-  
5 ministration of the loan guarantee pro-  
6 gram;

7 “(ii) shall be available for expenditure  
8 only to pay the costs of activities and serv-  
9 ices for which the fee is imposed; and

10 “(iii) shall remain available until ex-  
11 pended.”; and

12 (2) by striking “(including for obtaining inde-  
13 pendent analysis under subsection (d)(4)),” in sub-  
14 section (f).

15 **SEC. 11. ANNUAL REPORT ON TITLE XI PROGRAM.**

16 **SEC. 110. ANNUAL REPORT ON TITLE XI PROGRAM.**

17 The Secretary of Transportation shall report to Con-  
18 gress annually on the loan guarantee program under title  
19 XI of the Merchant Marine Act, 1936 (46 U.S.C. App.  
20 1271 et seq.). The reports shall include—

21 (1) the size, in dollars, of the portfolio of loans  
22 guaranteed;

23 (2) the size, in dollars, of projects in the port-  
24 folio facing financial difficulties;

25 (3) the number and type of projects covered;

- 1           (4) a profile of pending loan applications;
- 2           (5) the amount of appropriations available for
- 3           new guarantees;
- 4           (6) a profile of each project approved since the
- 5           last report; and
- 6           (7) a profile of any defaults since the last re-
- 7           port.

8 **SEC. 12. REVIEW OF TITLE XI LOAN GUARANTEE PROGRAM.**

9 **SEC. 111. REVIEW OF TITLE XI LOAN GUARANTEE PRO-**  
 10 **GRAM.**

11       (a) IN GENERAL.—The Secretary of Transportation

12 shall conduct a comprehensive assessment of the human

13 capital and other resource needs in connection with the

14 title XI loan guarantee program under the Merchant Ma-

15 rine Act, 1936 (46 U.S.C. App. 1271 et seq.). In connec-

16 tion with this assessment, the Secretary shall develop an

17 organizational framework for the program offices that in-

18 sures that a clear separation of duties is established

19 among the loan application, project monitoring, and de-

20 fault management functions.

21       (b) PROGRAM ENHANCEMENTS.—

22           (1) Section 1103(h)(1) of the Merchant Marine

23 Act, 1936 (46 U.S.C. App. 1273(h)(1)) is amend-

24 ed—

1           (1) *Section 1103(h) of the Merchant Marine Act,*  
 2           *1936 (46 U.S.C. App. 1273(h) is amended—*

3                   (A) *by striking “(h)(1) The Secretary*  
 4                   *shall—” and inserting the following:*

5           “(h) *RISK FACTOR DETERMINATIONS.—*

6                   “(1) *The Secretary shall—*”;

7                   (B) *by moving the left margin of each para-*  
 8                   *graph, subparagraph, and clause to the right by*  
 9                   *2 ems;*

10                  ~~(A)~~ (C) *by striking “subsection” in sub-*  
 11                  *paragraph (A) and inserting “subsection, and*  
 12                  *update annually,”;*

13                  ~~(B)~~ (D) *by inserting “annually” before*  
 14                  *“determine” in subparagraph (B);*

15                  ~~(C)~~ (E) *by striking “and” after the semi-*  
 16                  *colon in subparagraph (A);*

17                  ~~(D)~~ (F) *by striking “category.” in subpara-*  
 18                  *graph (B) and inserting “category; and”;* and

19                  ~~(E)~~ (G) *by adding at the end the following:*

20                   “(C) *ensure that each risk category is com-*  
 21                   *prised of loans that are relatively homogenous*  
 22                   *in cost and share characteristics predictive of*  
 23                   *defaults and other costs, given the facts known*  
 24                   *at the time of obligation or committment, using*  
 25                   *a risk category system that is based on histor-*

1           ical analysis of program data and statistical evi-  
2           dence concerning the likely costs of defaults or  
3           other costs that expected to be associated with  
4           the loans in the category.”.

5           (2) Section 1103(h)(2)(A) of that Act (46  
6           U.S.C. App. 1273(h)(2)(A)) is amended by inserting  
7           “and annually for projects subject to a guarantee,”  
8           after “obligation,”.

9           (3) Section 1103(h)(3) of that Act (46 U.S.C.  
10          App. 1273(h)(3)) is amended by adding at the end  
11          the following:

12                   “(K) A risk factor for concentration risk  
13                   reflecting the risk presented by an unduly large  
14                   percentage of loans outstanding by any 1 bor-  
15                   rower or group of affiliated borrowers.”.

16          (c) REPORT.—The Secretary shall report to the Sen-  
17          ate Committee on Commerce, Science, and Transportation  
18          and the House of Representatives Committee on Armed  
19          Services on the results of the development of an organiza-  
20          tional framework under subsection (a) by January 2,  
21          2004.

22          (d) FUNDING.—It is the sense of the Congress that  
23          no further appropriations should be made for purposes of  
24          extending loan guarantees under the title ~~XI~~ loan guar-  
25          antee program of the Merchant Marine Act, 1936 (46

1 U.S.C. App. 1271 et seq.) until the Secretary of Transpor-  
2 tation has developed sufficient internal controls and re-  
3 source allocation to ensure that the loan guarantee pro-  
4 gram is efficiently and effectively fulfilling the purposes  
5 for which it was established and has updated default and  
6 recovery assumptions used in estimating the credit subsidy  
7 costs of the program to more accurately reflect the actual  
8 costs associated with the program.

9 **SEC. 13. WAR RISK INSURANCE.**

10 **SEC. 112. WAR RISK INSURANCE.**

11 (a) INTERNATIONAL AGREEMENTS.—Section 1205 of  
12 the Merchant Marine Act, 1936 (46 U.S.C. App. 1285)  
13 is amended by adding at the end the following:

14 “(c) INSURING INTERNATIONAL OPERATIONS.—The  
15 Secretary of Transportation is authorized, upon the re-  
16 quest of the Secretary of Defense or any other agency,  
17 with the approval of the President, to make payments on  
18 behalf of the United States with regard to an international  
19 sharing of risk agreement or any lesser obligation on the  
20 part of the United States for vessels supporting operations  
21 of the North Atlantic Treaty Organization or similar inter-  
22 national organization or alliance in which the United  
23 States is involved, regardless of registration or ownership,  
24 and without regard to whether the vessels are under con-  
25 tract with a department or agency of the United States.

1 In order to segregate moneys received and disbursed in  
2 connection with an agreement authorized under this sub-  
3 section, the Secretary of Transportation shall establish a  
4 subaccount within the insurance fund established under  
5 section 1208 of this Act.

6 “(d) RECEIPT OF CONTRIBUTIONS.—

7 “(1) IN GENERAL.—Notwithstanding the provi-  
8 sions of section 3302(b) of title 31, United States  
9 Code, if the international agreements referenced in  
10 subsection (c) of this section provide for the sharing  
11 of risks involved in mutual or joint operations, con-  
12 tributions for losses incurred by the fund subaccount  
13 or financed pursuant to section 1208 that are re-  
14 ceived from foreign entities, may be deposited in the  
15 fund subaccount.

16 “(2) INDEMNITY AGREEMENT.—Such risk shar-  
17 ing agreements shall not affect the requirement that  
18 the Secretary of Defense or a head of a department,  
19 agency, or instrumentality designated by the Presi-  
20 dent make an indemnity agreement with the Sec-  
21 retary of Transportation under subsection (b) for a  
22 waiver of premium on insurance obtained by a de-  
23 partment, agency or instrumentality of the United  
24 States Government.

1           “(3) CREDITING OF CONTRIBUTORY PAY-  
2           MENTS.—If the Secretary of Defense, or a des-  
3           ignated head of a department, agency or instrumen-  
4           tality, has made a payment to the Secretary of  
5           Transportation on account of a loss, pursuant to an  
6           indemnification agreement under subsection (b), and  
7           the Secretary of Transportation subsequently re-  
8           ceives from an entity a contributory payment on ac-  
9           count of the same loss, pursuant to a risk sharing  
10          agreement referred to in paragraph (1), the amount  
11          of the contribution shall be deemed to be a credit in  
12          favor of the indemnifying department, agency, or in-  
13          strumentality against any amount that such depart-  
14          ment, agency, or instrumentality owes or may owe to  
15          the Secretary of Transportation under a subsequent  
16          indemnification agreement.”.

17          (b) PERMANENT BUDGETARY RESOURCE.—Section  
18          1208 of the Merchant Marine Act, 1936 (46 U.S.C. App.  
19          1288) is amended by adding at the end the following:

20          “(c) AUTHORIZATION OF APPROPRIATIONS.—To the  
21          extent that the fund balance is insufficient to fund current  
22          obligations arising under this chapter, there are author-  
23          ized to be appropriated to the Secretary of Transportation  
24          such sums as may be necessary to pay such obligations.”.

1 (c) CLERICAL AMENDMENT.—The section heading  
2 for section 1205 of the Merchant Marine Act, 1936 (46  
3 U.S.C. App. 1285) is amended to read as follows:

4 **“SEC. 1205. INSURANCE ON PROPERTY OF GOVERNMENT**  
5 **DEPARTMENTS, AGENCIES AND INTER-**  
6 **NATIONAL ORGANIZATIONS.”.**

7 ~~SEC. 14. MARITIME EDUCATION AND TRAINING.~~

8 ~~SEC. 113. MARITIME EDUCATION AND TRAINING.~~

9 (a) COST OF EDUCATION DEFINED.—Section 1302  
10 of the Merchant Marine Act, 1936 (46 U.S.C. App.  
11 1295a) is amended—

12 (1) by striking “and” after the semicolon in  
13 paragraph (3);

14 (2) by striking “States.” in paragraph (4)(B)  
15 and inserting “States; and”; and

16 (3) by adding at the end the following:

17 “(5) the term ‘cost of education provided’  
18 means the financial costs incurred by the Federal  
19 Government for providing training or financial as-  
20 sistance to students at the United States Merchant  
21 Marine Academy and the State maritime academies,  
22 including direct financial assistance, room, board,  
23 classroom academics, and other training activities.”.

1 (b) COMMITMENT AGREEMENTS.—Section 1303(e) of  
2 the Merchant Marine Act, 1936 (46 U.S.C. App.  
3 1295b(e)) is amended—

4 (1) by striking “Academy, unless the individual  
5 is separated ~~from~~ *by* the” in paragraph (1)(A);

6 (2) by striking paragraph (1)(C) and inserting  
7 the following:

8 “(C) to maintain a valid license as an officer in  
9 the merchant marine of the United States for at  
10 least 6 years following the date of graduation from  
11 the Academy of such individual, accompanied by the  
12 appropriate national and international endorsements  
13 and certification as required by the United States  
14 Coast Guard for service aboard vessels on domestic  
15 and international voyages;”;

16 (3) by striking paragraph (1)(E)(iii) and insert-  
17 ing the following:

18 “(iii) as a commissioned officer on active  
19 duty in an armed force of the United States, as  
20 a commissioned officer in the National Oceanic  
21 and Atmospheric Administration, or other mari-  
22 time-related employment with the Federal Gov-  
23 ernment which serves the national security in-  
24 terests of the United States, as determined by  
25 the Secretary; or”;

1           (4) by striking paragraph (2) and inserting the  
2 following:

3           “(2)(A) If the Secretary determines that any indi-  
4 vidual who has attended the Academy for not less than  
5 2 years has failed to fulfill the part of the agreement re-  
6 quired by paragraph (1)(A), such individual may be or-  
7 dered by the Secretary of Defense to active duty in one  
8 of the armed forces of the United States to serve for a  
9 period of time not to exceed 2 years. In cases of hardship  
10 as determined by the Secretary, the Secretary may waive  
11 this provision in whole or in part.

12           “(B) If the Secretary of the Navy is unable or  
13 unwilling to order an individual to active duty under  
14 subparagraph (A), or if the Secretary of Transpor-  
15 tation determines that reimbursement of the cost of  
16 education provided would better serve the interests  
17 of the United States, the Secretary may recover  
18 from the individual the cost of education provided by  
19 the Federal Government.”;

20           (5) by striking paragraph (3) and inserting the  
21 following:

22           “(3)(A) If the Secretary determines that an indi-  
23 vidual has failed to fulfill any part of the agreement re-  
24 quired by paragraph (1), as described in subparagraphs  
25 (1)(B), (C), (D), (E), or (F), such individual may be or-

1 dered to active duty to serve a period of time not less than  
2 3 years and not more than the unexpired portion, as deter-  
3 mined by the Secretary, of the service required by para-  
4 graph (1)(E). The Secretary, in consultation with the Sec-  
5 retary of Defense, shall determine in which service the in-  
6 dividual shall be ordered to active duty to serve such pe-  
7 riod of time. In cases of hardship, as determined by the  
8 Secretary, the Secretary may waive this provision in whole  
9 or in part.

10 “(B) If the Secretary of Defense is unable or unwill-  
11 ing to order an individual to active duty under subpara-  
12 graph (A), or if the Secretary of Transportation deter-  
13 mines that reimbursement of the cost of education pro-  
14 vided would better serve the interests of the United States,  
15 the Secretary may recover from the individual the cost of  
16 education provided in an amount proportionate to the  
17 unfulfilled portion of the service obligation as determined  
18 by the Secretary. In cases of hardship the Secretary may  
19 waive this provision in whole or in part.”; and

20 (6) by redesignating paragraph (4) as para-  
21 graph (5) and inserting after paragraph (3) the fol-  
22 lowing:

23 “(4) To aid in the recovery of the cost of education  
24 provided by the Federal Government pursuant to a com-  
25 mitment agreement under this section, the Secretary may

1 request the Attorney General to begin court proceedings,  
2 or the Secretary may make use of the Federal debt collec-  
3 tion procedures in chapter 176 of title 28, United States  
4 Code, or other applicable administrative remedies.”.

5 (c) DEGREES AWARDED.—Section 1303(g) of the  
6 Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(g))  
7 is amended to read as follows:

8 “(g) DEGREES AWARDED.—

9 “(1) BACHELOR’S DEGREE.—The Super-  
10 intendent of the Academy may confer the degree of  
11 bachelor of science upon any individual who has met  
12 the conditions prescribed by the Secretary and who,  
13 if a citizen of the United States, has passed the ex-  
14 amination for a merchant marine officer’s license.  
15 No individual may be denied a degree under this  
16 subsection because the individual is not permitted to  
17 take such examination solely because of physical dis-  
18 qualification.

19 “(2) MASTER’S DEGREE.—The Superintendent  
20 of the Academy may confer a master’s degree upon  
21 any individual who has met the conditions prescribed  
22 by the Secretary. Any master’s degree program may  
23 be funded through non-appropriated funds. In order  
24 to maintain the appropriate academic standards, the  
25 program shall be accredited by the appropriate ac-

1       creditation body. The Secretary may make regula-  
2       tions necessary to administer such a program.”.

3       (d)   STUDENT   INCENTIVE   PAYMENTS.—Section  
4   1304(g) of the Merchant Marine Act, 1936 (46 U.S.C.  
5   App. 1295c(g)) is amended—

6           (1) by striking “\$3,000” in paragraph (1) and  
7       inserting “\$4,000”;

8           (2) in paragraph (3)(A) by striking “attending,  
9       unless the individual is separated by such academy;”  
10      and inserting “attending;”;

11          (3) by striking paragraph (3)(C) and inserting  
12      the following:

13           “(C) to maintain a valid license as an officer in  
14      the merchant marine of the United States for at  
15      least 6 years following the date of graduation from  
16      such State maritime academy of such individual, ac-  
17      companied by the appropriate national and inter-  
18      national endorsements and certification as required  
19      by the United States Coast Guard for service aboard  
20      vessels on domestic and international voyages;”;

21          (4) by striking paragraph (3)(E)(iii) and insert-  
22      ing the following:

23           “(iii) as a commissioned officer on active  
24      duty in an armed force of the United States, as  
25      a commissioned officer in the National Oceanic

1           and Atmospheric Administration, or in other  
2           maritime-related employment with the Federal  
3           Government which serves the national security  
4           interests of the United States, as determined by  
5           the Secretary; or”;

6           (5) by striking paragraph (4) and inserting the  
7           following:

8           “(4)(A) If the Secretary determines that an indi-  
9           vidual who has accepted the payment described in para-  
10          graph (1) for a minimum of 2 academic years has failed  
11          to fulfill the part of the agreement required by paragraph  
12          (1) and described in paragraph (3)(A), such individual  
13          may be ordered by the Secretary of the Navy to active  
14          duty in the United States Navy to serve for a period of  
15          time not to exceed 2 years. In cases of hardship, as deter-  
16          mined by the Secretary, the Secretary may waive this pro-  
17          vision in whole or in part.

18          “(B) If the Secretary of the Navy is unable or unwill-  
19          ing to order an individual to active duty under subpara-  
20          graph (A), or if the Secretary of Transportation deter-  
21          mines that reimbursement of the cost of education pro-  
22          vided would better serve the interests of the United States,  
23          the Secretary may recover from the individual the cost of  
24          education provided by the Federal Government.”;

1           (6) by striking paragraph (5) and inserting the  
2           following:

3           “(5)(A) If the Secretary determines that an indi-  
4           vidual has failed to fulfill any part of the agreement re-  
5           quired by paragraph (1), as described in paragraphs  
6           (3)(B), (C), (D), (E), or (F), such individual may be or-  
7           dered to active duty to serve a period of time not less than  
8           2 years and not more than the unexpired portion, as deter-  
9           mined by the Secretary, of the service required by para-  
10          graph (3)(E). The Secretary, in consultation with the Sec-  
11          retary of Defense, shall determine in which service the in-  
12          dividual shall be ordered to active duty to serve such pe-  
13          riod of time. In cases of hardship, as determined by the  
14          Secretary, the Secretary may waive this provision in whole  
15          or in part.

16          “(B) If the Secretary of Defense is unable or unwill-  
17          ing to order an individual to active duty under subpara-  
18          graph (A), or if the Secretary of Transportation deter-  
19          mines that reimbursement of the cost of education pro-  
20          vided would better serve the interests of the United States,  
21          the Secretary may recover from the individual the cost of  
22          education provided in an amount proportionate to the  
23          unfulfilled portion of the service obligation as determined  
24          by the Secretary. In cases of hardship the Secretary may  
25          waive this provision in whole or in part.”; and

1           (7) by redesignating paragraphs (6) and (7) as  
2           paragraphs (7) and (8), respectively, and inserting  
3           after paragraph (5) the following:

4           “(6) To aid in the recovery of the cost of education  
5           provided by the Federal Government pursuant to a com-  
6           mitment agreement under this section, the Secretary may  
7           request the Attorney General to begin court proceedings,  
8           or the Secretary may make use of the Federal debt collec-  
9           tion procedures in chapter 176 of title 28, United States  
10          Code, or other applicable administrative remedies.”.

11          (e) AWARDS AND MEDALS.—Section 1306 of the  
12          Merchant Marine Act, 1936 (46 U.S.C. App. 1295e) is  
13          amended by adding at the end the following:

14          “(d) AWARDS AND MEDALS.—The Secretary may es-  
15          tablish and maintain a medals and awards program to rec-  
16          ognize distinguished service, superior achievement, profes-  
17          sional performance, and other commendable achievement  
18          by personnel of the United States Maritime Service.”.

1 **SEC. 15. PROHIBITION AGAINST CARRYING GOVERNMENT**  
 2 **IMPELLED CARGOES FOR VESSELS WITH**  
 3 **SUBSTANDARD SECURITY MEASURES.**

4 **SEC. 114. PROHIBITION AGAINST CARRYING GOVERNMENT**  
 5 **IMPELLED CARGOES FOR VESSELS WITH SUB-**  
 6 **STANDARD SECURITY MEASURES.**

7 Section 2302(e)(1) of title 46, United States Code,  
 8 is amended—

9 (1) by inserting “including violations for sub-  
 10 standard security measures,” in subparagraph (A)  
 11 after “party,”; and

12 (2) by inserting “including violations for sub-  
 13 standard security measures,” in subparagraph (B)  
 14 after “party,”.

15 **SEC. 16. AUTHORITY TO CONVEY OBSOLETE VESSELS TO**  
 16 **U.S. TERRITORIES AND FOREIGN COUNTRIES**  
 17 **FOR REEFING.**

18 **SEC. 115. AUTHORITY TO CONVEY OBSOLETE VESSELS TO**  
 19 **U.S. TERRITORIES AND FOREIGN COUNTRIES**  
 20 **FOR REEFING.**

21 (a) Section 3 of the Act entitled “An Act to authorize  
 22 appropriations for the fiscal year 1973 for certain mari-  
 23 time programs of the Department of Commerce, and for  
 24 related purposes.” (16 U.S.C. 1220), Title 16, United  
 25 States Code, is amended to read as follows:

1 **“SEC. 3. PREPARATION OF VESSELS FOR USE AS ARTIFI-**  
2 **CIAL REEFS.**

3 “(a) GUIDANCE.—

4 “(1) IN GENERAL.—Not later than September  
5 30, 2003, the Administrator of the Environmental  
6 Protection Agency and the Secretary of Transpor-  
7 tation, acting through the Maritime Administration,  
8 shall jointly develop guidance recommending envi-  
9 ronmental best management practices to be used in  
10 the preparation of vessels for use as artificial reefs.  
11 Before issuing the guidance, the Administrator and  
12 the Secretary shall consult with interested Federal  
13 and State agencies.

14 “(2) REQUIREMENTS.—The guidance shall—

15 “(A) recommend environmental best man-  
16 agement practices for the preparation of vessels  
17 that would ensure that the use of vessels so  
18 prepared as artificial reefs would be environ-  
19 mentally beneficial;

20 “(B) promote the nationally consistent use  
21 of such practices; and

22 “(C) provide a basis for estimating the  
23 costs associated with the preparation of vessels  
24 for use as artificial reefs.

1           “(3) USE BY FEDERAL AGENCIES.—The guid-  
2           ance shall serve as national guidance for Federal  
3           agencies preparing vessels for use as artificial reefs.

4           “(4) REPORT.—The Secretary of Transpor-  
5           tation shall submit to Congress a report on the envi-  
6           ronmental best management practices developed  
7           under paragraph (1) through the existing ship dis-  
8           posal reporting requirements in section 3502 of the  
9           Floyd D. Spence National Defense Authorization  
10          Act for Fiscal Year 2001 (16 U.S.C. 5405 note).  
11          The report shall describe such practices, and may in-  
12          clude such other matters as the Secretary considers  
13          appropriate.

14          “(b) APPLICATION REQUIRED.—

15                 “(1) IN GENERAL.—A State, commonwealth,  
16                 possession of the United States or foreign govern-  
17                 ment may apply for any vessel of the National De-  
18                 fense Reserve Fleet that has been identified by the  
19                 Secretary as an obsolete vessel of insufficient value  
20                 to warrant its further preservation in such a manner  
21                 and form as the Secretary shall prescribe. At a min-  
22                 imum, the application shall state—

23                         “(A) the location at which the applicant  
24                         proposes to sink the vessel or vessels;

1           “(B) the environmental goals to be  
2 achieved by the use of the vessel or vessels; and

3           “(C) that the applicant agrees to hold the  
4 Government harmless for any claims arising  
5 from exposure to asbestos, polychlorinated  
6 biphenyls, lead paint, or other hazardous sub-  
7 stances after conveyance of the vessel, except  
8 for claims arising from use of the vessel by the  
9 Government.

10       “(2) STATES.—

11           “(A) ADDITIONAL DOCUMENTATION RE-  
12 QUIRED.—A State, commonwealth, or posses-  
13 sion of the United States shall also provide to  
14 the Secretary and the Administrator in its ap-  
15 plication documentation that the proposed use  
16 of the particular vessel or vessels requested will  
17 comply with all applicable water quality stand-  
18 ards and will benefit the environment in the vi-  
19 cinity of the proposed reef, taking into account  
20 the guidance issued under subsection (a) and  
21 other appropriate environmental considerations.

22           “(B) EPA CERTIFICATION.—Before any  
23 vessel may be used as an artificial reef, the  
24 State, commonwealth, or possession of the  
25 United States shall demonstrate to the Environ-

1           mental Protection Agency, and that Agency  
2           shall determine in writing, that the use of the  
3           vessel as an artificial reef at the proposed loca-  
4           tion will be environmentally beneficial.

5           “(3) FOREIGN GOVERNMENTS.—A foreign gov-  
6           ernment shall also provide to the Secretary and the  
7           Administrator in its application—

8                   “(A) documentation of—

9                           “(i) how the proposed use of the ves-  
10                           sel or vessels will benefit the environment;  
11                           and

12                           “(ii) remediation that the vessel will  
13                           undergo prior to use as an artificial reef;  
14                           and

15                           “(B) certification that such remediation  
16                           shall take into account the guidance issued  
17                           under subsection (a).

18           “(4) DETERMINATION OF ENVIRONMENTAL  
19           BENEFIT.—No obsolete vessel shall be conveyed un-  
20           less the Maritime Administration and the Environ-  
21           mental Protection Agency jointly determine, in writ-  
22           ing, that the proposed remediation measures will en-  
23           sure that use of the vessel as an artificial reef will  
24           be environmentally beneficial. The contract con-  
25           veying the vessel or vessels from Maritime Adminis-

1       tration to the foreign government shall require the  
 2       use of the remediation measures determined by Mar-  
 3       itime Administration and the Environmental Protec-  
 4       tion Agency to ensure that use of the vessel or ves-  
 5       sels as an artificial reef will be environmentally ben-  
 6       eficial.

7       “(c) APPLICATION WITH OTHER LAW.—Nothing in  
 8       this section shall be construed as affecting in any manner  
 9       the application of any other provision of law, including  
 10      laws relating to the conveyance of obsolete vessels, their  
 11      distribution in commerce, or their use as artificial reefs.”.

12      **SEC. 17. MAINTENANCE OF CURRENT SAINT LAWRENCE**  
 13                              **SEAWAY DEVELOPMENT CORPORATION**  
 14                              **SAFETY RESPONSIBILITIES.**

15      **SEC. 116. MAINTENANCE OF CURRENT SAINT LAWRENCE**  
 16                              **SEAWAY DEVELOPMENT CORPORATION SAFE-**  
 17                              **TY RESPONSIBILITIES.**

18      Section 3(2) of the Ports and Waterways Safety Act  
 19      (33 U.S.C. 1222(2)) is amended by striking “operating.”  
 20      and inserting “operating, except that ‘Secretary’ means  
 21      the Secretary of Transportation with respect to the appli-  
 22      cability of this Act to the Saint Lawrence Seaway.”.

1 **SEC. 18. USE OF INSURANCE PROCEEDS FOR REPAIRS AT**  
 2 **UNITED STATES MERCHANT MARINE ACAD-**  
 3 **EMY.**

4 **SEC. 117. USE OF INSURANCE PROCEEDS FOR REPAIRS AT**  
 5 **UNITED STATES MERCHANT MARINE ACAD-**  
 6 **EMY.**

7 Notwithstanding section 3302 of title 31, United  
 8 States Code, the Maritime Administration may deposit  
 9 into its operations and training account (account number  
 10 69X1750) and use, for purposes otherwise authorized by  
 11 law and in addition to amounts otherwise appropriated,  
 12 the amount received by the Maritime Administration as  
 13 insurance proceeds as a result of the fire that occurred  
 14 on December 16, 1996, at the United States Merchant  
 15 Marine Academy, Fitch Building.

16 **SEC. 19. AVAILABILITY TO THE VESSEL OPERATIONS RE-**  
 17 **VOLVING FUND OF FUNDS FROM LAWSUITS**  
 18 **AND SETTLEMENTS.**

19 **SEC. 118. AVAILABILITY TO THE VESSEL OPERATIONS RE-**  
 20 **VOLVING FUND OF FUNDS FROM LAWSUITS**  
 21 **AND SETTLEMENTS.**

22 The Vessel Operations Revolving Fund, created by  
 23 the Third Supplemental Appropriations Act, 1951 (65  
 24 Stat. 59), shall, after the date of enactment of this Act,  
 25 be credited with amounts received by the United States  
 26 from final judgments and dispute settlements that arise

1 from the operation of vessels in the National Defense Re-  
2 serve Fleet, including the Ready Reserve Force. Funds  
3 credited to the Fund under this section shall be available  
4 until expended.

5 **SEC. 119. ELIGIBILITY OF TANK VESSELS FOR THE MARI-**  
6 **TIME SECURITY PROGRAM.**

7 *Section 652(o) of the Merchant Marine Act, 1936 (46*  
8 *U.S.C. App 1187a(o)) is amended by adding at the end the*  
9 *following:*

10 *“(5) LIMITATIONS.—With respect to the eligi-*  
11 *bility of a tank vessel that was not built in the*  
12 *United States—*

13 *“(A) the Secretary may award an operating*  
14 *agreement for such vessel if—*

15 *“(i) a binding contract for construc-*  
16 *tion in the United States of a replacement*  
17 *vessel to be operated under the operating*  
18 *agreement is executed prior to the award of*  
19 *such operating agreement; and*

20 *“(ii) the replacement vessel is eligible*  
21 *to be included in the fleet under this section;*  
22 *and*

23 *“(B) no payment under this subtitle may be*  
24 *made for an existing tank vessel for which an*

1           operating agreement is awarded under this para-  
2           graph after the earlier of—

3                   “(i) the date that is 4 years after the  
4                   award of the operating agreement for such  
5                   tank vessel; or

6                   “(ii) the date of delivery of the replace-  
7                   ment tank vessel.”.

8   **SEC. 120. CORRECTION OF 2002 COASTWISE TRADE AU-**  
9                   **THORIZATION PROVISION.**

10          Section 213(b) of the Maritime Policy Improvement  
11   Act of 2002 is amended by striking “transport and launch”  
12   and inserting “transport or launch”.

13           **TITLE II—MARITIME SECURITY**  
14                   **FLEET PROGRAM**

15   **SEC. 201. SHORT TITLE.**

16          This title may be cited as the “Maritime Security Fleet  
17   Program Reauthorization Act of 2003”.

18   **SEC. 202. AMENDMENT OF MERCHANT MARINE ACT, 1936.**

19          Except as otherwise expressly provided, whenever in  
20   this title an amendment or repeal is expressed in terms of  
21   an amendment to, or a repeal of, a section or other provi-  
22   sion, the reference shall be considered to be made to a section  
23   or other provision of the Merchant Marine Act, 1936 (46  
24   U.S.C. App. 1101 et seq.).

1 **SEC. 203. CHANGES TO MARITIME SECURITY FLEET ESTAB-**  
2 **LISHMENT PROVISIONS.**

3 *Section 651 (46 U.S.C. App. 1187) is amended—*

4 *(1) by striking “Transportation” in subsection*  
5 *(a) and inserting “Transportation, in consultation*  
6 *with the Secretary of Defense,”;*

7 *(2) by inserting “commercially viable,” after*  
8 *“active,” in subsection (a);*

9 *(3) by inserting “(including a tank vessel)” after*  
10 *“vessel” the first place it appears in the text of sub-*  
11 *section (b);*

12 *(4) by striking “as an ocean common carrier;”*  
13 *in subsection (b)(1)(A) and inserting “in oceangoing*  
14 *transportation;”;*

15 *(5) by striking subparagraph (B) of subsection*  
16 *(b)(1) and inserting the following:*

17 *“(B) is in commercial service, on charter to*  
18 *the Department of Defense, or in other employ-*  
19 *ment;”;*

20 *(6) by striking “is determined by the Secretary*  
21 *to be” in subsection (b)(1)(C) and inserting “the Sec-*  
22 *retary, in conjunction with the Secretary of Defense,*  
23 *has determined to be commercially viable and”;*

24 *(7) by striking so much of subsection (b)(2) as*  
25 *precedes subparagraph (B) and inserting the fol-*  
26 *lowing:*

1           “(2)(A)(i) is a United States-documented vessel;  
2           and

3           “(ii) on the date an operating agreement cov-  
4           ering the vessel is entered into under this subtitle is  
5           15 years of age or less;  
6           except that the Secretary of Transportation may  
7           waive the application of clause (ii) if the Secretary,  
8           in conjunction with the Secretary of Defense, deter-  
9           mines that the waiver—

10                   “(I) is in the national interest;

11                   “(II) is appropriate to allow the mainte-  
12                   nance of the economic viability of the vessel and  
13                   any associated operating network;

14                   “(III) is necessary due to the availability of  
15                   appropriate vessels that meet the operations and  
16                   commercial requirements; and

17                   “(IV) is consistent with such other factors  
18                   as the Secretaries consider appropriate; or”;

19           (8) by striking “or, after consultation” in sub-  
20           section (b)(3) and inserting “and, in conjunction”;

21           (9) by striking “and” after the semicolon in sub-  
22           section (b)(3);

23           (10) by striking “Code.” in subsection (b)(4) and  
24           inserting “Code; and”;

1           (11) by adding at the end of subsection (b) the  
2 following:

3           “(5) meets the requirements of paragraph (1),  
4 (2), (3), or (4) of subsection (c).”; and

5           (12) by adding at the end the following:

6           “(c) *REQUIREMENTS REGARDING CITIZENSHIP OF*  
7 *OWNERS AND CHARTERERS.—*

8           “(1) *VESSEL OWNED AND OPERATED BY SECTION*  
9 *2 CITIZENS.—A vessel meets the requirements of this*  
10 *paragraph if, during the period of an operating*  
11 *agreement under this subtitle that applies to the ves-*  
12 *sel, the vessel will be owned and operated by a person*  
13 *that is a citizen of the United States under section 2*  
14 *of the Shipping Act, 1916 (46 U.S.C. App. 802).*

15           “(2) *VESSEL OWNED BY DOCUMENTATION CIT-*  
16 *IZEN AND CHARTERED TO SECTION 2 CITIZEN.—A*  
17 *vessel meets the requirements of this paragraph if,*  
18 *during the period of an operating agreement under*  
19 *this subtitle that applies to the vessel, the vessel will*  
20 *be—*

21           “(A) *owned by a person that is eligible to*  
22 *document a vessel under chapter 121 of title 46,*  
23 *United States Code; and*

1           “(B) demise chartered to a person that is a  
2           citizen of the United States under section 2 of  
3           the Shipping Act, 1916 (46 U.S.C. App. 802).

4           “(3) VESSEL OWNED AND OPERATED BY DE-  
5           FENSE CONTRACTOR.—A vessel meets the requirements  
6           of this paragraph if—

7           “(A) during the period of an operating  
8           agreement under this subtitle that applies to the  
9           vessel, the vessel will be owned and operated by  
10          a person that—

11           “(i) is eligible to document a vessel  
12           under chapter 121 of title 46, United States  
13           Code;

14           “(ii) operates or manages other United  
15           States-documented vessels for the Secretary  
16           of Defense, or charters other vessels to the  
17           Secretary of Defense;

18           “(iii) has entered into a special secu-  
19           rity agreement for purposes of this para-  
20           graph with the Secretary of Defense;

21           “(iv) makes the certification described  
22           in paragraph (4)(A)(ii)(III); and

23           “(v) in the case of a vessel described in  
24           paragraph (2)(B), enters into an agreement  
25           referred to in that paragraph; and

1           “(B) the Secretary and the Secretary of De-  
2           fense certify to the House Armed Services Com-  
3           mittee and the Senate Commerce, Science and  
4           Transportation Committee that they concur with  
5           the certification, and have reviewed and agree  
6           that there are no other legal, operational, or  
7           other impediments that would prohibit the con-  
8           tractor for the vessel from performing its obliga-  
9           tions under an operating agreement under this  
10          subtitle.

11          “(4) VESSEL OWNED BY SECTION 2 CITIZEN AND  
12          CHARTERED TO DOCUMENTATION CITIZEN.—A vessel  
13          meets the requirements of this paragraph if—

14                 “(A) during the period of an operating  
15                 agreement under this subtitle that applies to the  
16                 vessel, the vessel will be—

17                         “(i) owned by a person that is a cit-  
18                         izen of the United States under section 2 of  
19                         the Shipping Act, 1916 (46 U.S.C. App.  
20                         802); and

21                         “(ii) demise chartered to a person—

22                                 “(I) that is eligible to document  
23                                 the vessel under chapter 121 of title 46,  
24                                 United States Code;

1           “(II) the chairman of the board of  
2           directors, chief executive officer, and a  
3           majority of the members of the board of  
4           directors of which are United States  
5           citizens, are appointed and subjected to  
6           removal only upon approval by the  
7           Secretary;

8           “(III) that certifies that there are  
9           no treaties, statutes, regulations, or  
10          other laws that would prohibit the con-  
11          tractor for the vessel from performing  
12          its obligations under an operating  
13          agreement under this subtitle; and

14          “(IV) the Secretary and the Sec-  
15          retary of Defense certify to the House  
16          Armed Services Committee and the  
17          Senate Commerce, Science, and Trans-  
18          portation Committee that they concur  
19          with the certification, and have re-  
20          viewed and agree that there are no  
21          other legal, operational, or other im-  
22          pediments that would prohibit the con-  
23          tractor for the vessel from performing  
24          its obligations under an operating  
25          agreement under this subtitle; and

1           “(B) *in the case of a vessel that will be*  
2           *chartered to a person that is owned or controlled*  
3           *by another person that is not a citizen of the*  
4           *United States under section 2 of the Shipping*  
5           *Act, 1916 (46 U.S.C. App. 802), the other person*  
6           *enters into an agreement with the Secretary not*  
7           *to influence the operation of the vessel in a man-*  
8           *ner that will adversely affect the interests of the*  
9           *United States.*

10          “(d) *DEEMED OWNERSHIP.—Notwithstanding section*  
11          *12102(d)(4) of title 46, United States Code, in the case of*  
12          *a vessel that is owned by a trust and that is demise char-*  
13          *tered to a person meeting the requirements of subsection*  
14          *(c)(4), the vessel is deemed, for purposes of the eligibility*  
15          *requirements of this section, to be owned and operated by*  
16          *a person that is a citizen of the United States under section*  
17          *2 of the Shipping Act, 1916 (46 U.S.C. App. 802) if the*  
18          *trust meets the requirements of paragraph (2) of section*  
19          *12102(d) of title 46, United States Code, as qualified by*  
20          *paragraph (4) of that section.*

21          “(e) *VESSEL STANDARDS.—*

22                 “(1) *CERTIFICATE OF INSPECTION.—A vessel*  
23                 *used to provide oceangoing transportation which the*  
24                 *Secretary of the department in which the Coast*  
25                 *Guard is operating determines meets the criteria of*

1 subsection (b) of this section but which, on the date  
2 of enactment of the Maritime Security Fleet Program  
3 Reauthorization Act of 2003, is not a documented ves-  
4 sel (as that term is defined in section 12101 of title  
5 46, United States Code) shall be eligible for a certifi-  
6 cate of inspection if the Secretary determines that—

7 “(A) the vessel is classed by and designed in  
8 accordance with the rules of the American Bu-  
9 reau of Shipping, or another classification soci-  
10 ety accepted by the Secretary;

11 “(B) the vessel complies with applicable  
12 international agreements and associated guide-  
13 lines, as determined by the country in which the  
14 vessel was documented immediately before becom-  
15 ing a documented vessel (as defined in that sec-  
16 tion); and

17 “(C) that country has not been identified by  
18 the Secretary as inadequately enforcing inter-  
19 national vessel regulations as to that vessel.

20 “(2) CONTINUED ELIGIBILITY FOR CERTIFI-  
21 CATE.—Paragraph (1) does not apply to a vessel after  
22 any date on which the vessel fails to comply with the  
23 applicable international agreements and associated  
24 guidelines referred to in paragraph (1)(B).

25 “(3) RELIANCE ON CLASSIFICATION SOCIETY.—

1           “(A) *IN GENERAL.*—*The Secretary may rely*  
 2           *on a certification from the American Bureau of*  
 3           *Shipping or, subject to subparagraph (B), an-*  
 4           *other classification society accepted by the Sec-*  
 5           *retary to establish that a vessel is in compliance*  
 6           *with the requirements of paragraphs (1) and (2).*

7           “(B) *FOREIGN CLASSIFICATION SOCIETY.*—  
 8           *The Secretary may accept certification from a*  
 9           *foreign classification society under subparagraph*  
 10          *(A) only—*

11                   “(i) *to the extent that the government*  
 12                   *of the foreign country in which the society*  
 13                   *is headquartered provides access on a recip-*  
 14                   *rocal basis to the American Bureau of Ship-*  
 15                   *ping; and*

16                   “(ii) *if the foreign classification society*  
 17                   *has offices and maintains records in the*  
 18                   *United States.”.*

19 **SEC. 204. CHANGES TO OPERATING AGREEMENTS REQUIRE-**  
 20 **MENTS.**

21           (a) *IN GENERAL.*—*Section 652 (46 U.S.C. App.*  
 22 *1187a) is amended—*

23                   (1) *by striking “which continues to operate*  
 24                   *under an operating differential subsidy contract*  
 25                   *under subtitle A or” in subsection (a);*

1           (2) by striking “trade” the first place it appears  
2           in subsection (b)(1)(A) and inserting “trade, as that  
3           term is defined in section 905(a) of this Act (without  
4           regard to ‘in the context of section 607 of this Act  
5           concerning capital construction funds and except that  
6           in the context of title V of this Act concerning con-  
7           struction-differential subsidy,’);”;

8           (3) by resetting the text of subsection (c) fol-  
9           lowing “RELIEF.—” as a new paragraph indented 2  
10          ems from the left margin and inserting “(1) IN GEN-  
11          ERAL.—” before “A contractor”;

12          (4) by adding at the end of subsection (c) the fol-  
13          lowing:

14          “(2) TELECOMMUNICATIONS EQUIPMENT.—The  
15          telecommunications and other electronic equipment on  
16          an existing vessel that is redocumented under the laws  
17          of the United States for operation under an operating  
18          agreement under this subtitle shall be deemed to sat-  
19          isfy all Federal Communications Commission equip-  
20          ment certification requirements, if—

21          “(A) such equipment complies with all applica-  
22          ble international agreements and associated guide-  
23          lines as determined by the country in which the vessel  
24          was documented immediately before becoming docu-  
25          mented under the laws of the United States;

1           “(B) that country has not been identified by the  
2           Secretary as inadequately enforcing international reg-  
3           ulations as to that vessel; and

4           “(C) at the end of its useful life, such equipment  
5           will be replaced with equipment that meets Federal  
6           Communications Commission equipment certification  
7           standards.”;

8           (5) by striking “2005.” in subsection (d)(1) and  
9           inserting “2015.”;

10          (6) by striking “1996 and” in subsection (d)(2)  
11          and inserting “1996.”;

12          (7) by inserting “for each of fiscal years 1997  
13          through 2005, and \$3,100,000” in subsection (d)(2)  
14          after “\$2,100,000”;

15          (8) by striking “subject to an operating differen-  
16          tial subsidy contract under subtitle A or” in sub-  
17          section (g)(1);

18          (9) by striking paragraph (3) of subsection (g)  
19          and inserting the following:

20                 “(3) beyond its economic life, as determined by  
21                 the Secretary.”;

22          (10) by striking “7,500” in subsection (h)(2) and  
23          inserting “2,500”;

24          (11) by inserting “or bagged” after “bulk” each  
25          place it appears in subsection (h)(2);

1           (12) by striking “cargo; and” in subsection  
2           (h)(2) and inserting “cargo unless the vessel is owned  
3           and operated by persons that are citizens of the  
4           United States under section 2 of the Shipping Act,  
5           1916 (46 U.S.C. App. 802); and”;

6           (13) by redesignating subsections (j) through (p)  
7           as subsections (l) through (r), respectively, and insert-  
8           ing after subsection (i) the following:

9           “(j) *AWARDING NEW AGREEMENTS.*—Subject to the  
10          availability of appropriations and without regard to sub-  
11          section (i), the Secretary of Transportation shall enter into  
12          operating agreements according to a priority determined by  
13          the applicant’s record of owning and operating vessels in  
14          accordance with section 2 of the Shipping Act, 1916 (46  
15          U.S.C. App. 802) under the United States flag and its capa-  
16          bility to provide a sufficient level of military utility to the  
17          United States, as determined jointly by the Secretary of  
18          Transportation and the Secretary of Defense, based on the  
19          type and number of vessels, and non-vessel assets the appli-  
20          cant offers to the program.

21          “(k) *REISSUANCE OF OPERATING AGREEMENTS.*—  
22          Subject to the availability of appropriations the Secretary  
23          of Transportation, in conjunction with the Secretary of De-  
24          fense, may reissue operating agreements for participating  
25          fleet vessels. If the Secretary fails to reissue an operating

1 *agreement, or if the Secretary does not receive an applica-*  
2 *tion for reissuance of an operating agreement for a partici-*  
3 *pating fleet vessel, the operating agreement will be awarded*  
4 *subject to subsection (j).”;*

5 *(14) by striking “Secretary within” in sub-*  
6 *section (l), as redesignated, and inserting “Secretary*  
7 *and the Secretary of Defense within”;*

8 *(15) by inserting “(1)” in subsection (m), as re-*  
9 *designated, after “AUTHORITY.—” and redesignating*  
10 *paragraphs (1) and (2) as subparagraphs (A) and*  
11 *(B), respectively;*

12 *(16) by adding at the end of subsection (m), as*  
13 *redesignated, the following:*

14 *“(2) If the Secretary of Transportation makes a deter-*  
15 *mination that the requirements set forth in this section are*  
16 *not fulfilled while an operating agreement is in effect, the*  
17 *Secretary may terminate the agreement and the Secretary*  
18 *shall be free to enter into an operating agreement with an-*  
19 *other party capable of fulfilling the requirements for an op-*  
20 *erating agreement under this subtitle.”;*

21 *(17) by redesignating subsections (n) through (r),*  
22 *as redesignated, as subsections (o) through (s), respec-*  
23 *tively, and inserting after subsection (m), as redesign-*  
24 *ated, the following:*

1           “(n) *REPLACEMENT VESSEL.*—*The Secretary shall re-*  
2 *quire the replacement of any participating fleet vessel that*  
3 *does not meet the requirements of section 651(b), and the*  
4 *Secretary, in conjunction with the Secretary of Defense,*  
5 *may approve the replacement of any participating vessel*  
6 *if the replacement vessel is eligible under section 651(b).”;*  
7 *and*

8                   (18) *by adding at the end of subsection (o), as*  
9 *redesignated, the following:*

10           “(3) *PROCEDURES FOR NEW AWARDS.*—*No later than*  
11 *60 days after the date of issuance of interim final rules*  
12 *(or, if earlier, 60 days after the date of issuance of the a*  
13 *final rule under section 657), the Secretary shall accept ap-*  
14 *plications for enrollment of 13 additional vessels in the*  
15 *Fleet, and within 90 days after receipt of an application*  
16 *for enrollment of a vessel in the Fleet, the Secretary shall*  
17 *enter into an operating agreement with the applicant or*  
18 *provide in writing the reason for denial of that application.*

19           “(4) *PROCEDURES FOR REISSUANCE OF OPERATING*  
20 *AGREEMENTS.*—*Not later than 60 days after the date of*  
21 *issuance of interim final rules (or, if earlier, 60 days after*  
22 *the date of issuance of the a final rule under section 657),*  
23 *the Secretary shall accept applications, from any person*  
24 *that is eligible to enter into an operating agreement for a*  
25 *participating fleet vessel as of October 1, 2005, for the*

1 *reissuance of an operating agreement for a participating*  
2 *fleet vessel. Within 90 days after receipt of an application*  
3 *for such a reissuance, the Secretary shall enter into an*  
4 *agreement with the applicant, or provide in writing a rea-*  
5 *son for the denial.*

6       “(5) *LIMITATION.*—*The Secretary may not award op-*  
7 *erating agreements under this subtitle that require pay-*  
8 *ments under this section for more than 60 vessels in any*  
9 *fiscal year.*”.

10       “(6) *EFFECTIVE DATE.*—*The effective date for an oper-*  
11 *ating agreement under paragraph (3) or (4) shall be Octo-*  
12 *ber 1, 2005, except for a vessel which is, on the date of entry*  
13 *into an operating agreement, on charter to the United*  
14 *States Government, other than a charter under section 653,*  
15 *the effective date shall be the expiration or termination date*  
16 *of the Government charter covering the vessel, or any earlier*  
17 *date the vessel is withdrawn from that contract or charter.*

18       (b) *CONFORMING AMENDMENTS.*—*Section 653 (46*  
19 *U.S.C. App. 1187b) is amended—*

20               (1) *by striking “Secretary” in subsection (b) and*  
21 *inserting “Secretary, in conjunction with the Sec-*  
22 *retary of Defense,”; and*

23               (2) *by striking “Transportation” in subsection*  
24 *(c)(1) and inserting “Transportation, in conjunction*  
25 *with the Secretary of Defense,”.*

1 **SEC. 205. PARTICIPATING FLEET VESSEL DEFINED.**

2 *Section 654 (46 U.S.C. App. 1187c) is amended by*  
3 *adding at the end the following:*

4 *“(7) PARTICIPATING FLEET VESSEL.—The term*  
5 *‘participating fleet vessel’ means—*

6 *“(A) any vessel that is owned or demise*  
7 *chartered and that—*

8 *“(i) on October 1, 2005—*

9 *“(I) will meet the requirements of*  
10 *paragraph (1), (2), (3), or (4) of sec-*  
11 *tion 651(c); and*

12 *“(II) will be less than 25 years of*  
13 *age, or less than 30 years of age in the*  
14 *case of a LASH vessel; and*

15 *“(ii) on April 30, 2005, is covered by*  
16 *an operating agreement under subtitle B of*  
17 *title VI of the Merchant Marine Act, 1936*  
18 *(46 U.S.C. App. 1187 et seq.); or*

19 *“(B) any vessel that—*

20 *“(i) is a replacement for a vessel de-*  
21 *scribed in subparagraph (A);*

22 *“(ii) is controlled by the person that*  
23 *controls such replaced vessel;*

24 *“(iii) is eligible to be included in the*  
25 *Fleet under section 651(b); and*

1                   “(iv) is approved by the Secretary and  
2                   the Secretary of Defense.”.

3 **SEC. 206. AUTHORIZATION OF APPROPRIATIONS.**

4       Section 655 (46 U.S.C. App. 1187d) is amended—

5           (1) by striking “1996 and” and inserting  
6       “1996,”;

7           (2) by striking “\$100,000,000, for each fiscal  
8       year thereafter through fiscal year 2005.” and insert-  
9       ing “\$100,000,000 for each of fiscal years 1997  
10       through 2005, and such sums as may be necessary,  
11       not to exceed \$186,000,000, for each fiscal year there-  
12       after through fiscal year 2015.”.

13 **SEC. 207. NONCONTIGUOUS DOMESTIC TRADE.**

14       Section 656 (46 U.S.C. App. 1187e) is amended to  
15       read as follows:

16 **“SEC. 656. NONCONTIGUOUS DOMESTIC TRADES.**

17       “(a) *IN GENERAL.*—Except as otherwise provided in  
18       this section, no contractor or related party shall receive  
19       payments pursuant to this part during a period when it  
20       participates in a noncontiguous domestic trade, except  
21       upon written permission of the Secretary of Transportation  
22       that is granted after a hearing on the record under section  
23       554 of title 5, United States Code, and that states the capac-  
24       ity that may be offered in that trade. The Secretary may  
25       grant such written permission pursuant to written applica-

1 *tion of such contractor or related party unless the Secretary*  
2 *finds that—*

3           “(1) *existing service in that trade is adequate; or*

4           “(2) *the service sought to be provided by the con-*  
5 *tractor or related party—*

6                   “(A) *would result in unfair competition to*  
7 *any other person operating vessels in such non-*  
8 *contiguous domestic trade, or*

9                   “(B) *would be contrary to the objects and*  
10 *policy of this Act.*

11           “(b) *GRANDFATHER.—*

12                   “(1) *Subsection (a) shall not apply to provision*  
13 *by a contractor of service within the level of service*  
14 *provided by that contractor as of the date of enact-*  
15 *ment of the Maritime Security Fleet Program Reau-*  
16 *thorization Act of 2003, adjusted for increases in the*  
17 *real gross product of the State or Commonwealth*  
18 *served since that date.*

19                   “(2) *Subsection (a) shall not apply to operation*  
20 *by a contractor of a self-propelled tank vessel in a*  
21 *noncontiguous domestic trade, or to ownership by a*  
22 *contractor of an interest in a self-propelled tank vessel*  
23 *that operates in a noncontiguous domestic trade.*

24           “(c) *DEFINITIONS.—In this section:*

1           “(1) *PARTICIPATES IN A NONCONTIGUOUS DO-*  
 2           *MESTIC TRADE.*—*The term ‘participates in a non-*  
 3           *contiguous domestic trade’ means directly or indi-*  
 4           *rectly owns, charters, or operates a vessel engaged in*  
 5           *transportation of cargo between a point in the contig-*  
 6           *uous 48 states and a point in Alaska, Hawaii, or*  
 7           *Puerto Rico.*

8           “(2) *RELATED PARTY.*—*The term ‘related party’*  
 9           *means—*

10                   “(A) *a holding company, subsidiary, affil-*  
 11                   *iate, or associate of a contractor who is a party*  
 12                   *to an operating agreement under this part; and*

13                   “(B) *an officer, director, agent, or other ex-*  
 14                   *ecutive of a contractor or of a person referred to*  
 15                   *in subparagraph (A).”.*

16 **SEC. 208. REGULATIONS.**

17           *Subtitle B of title VI of the Merchant Marine Act, 1936*  
 18           *(46 U.S.C. App. 1187 et seq.) is amended by adding at the*  
 19           *end the following:*

20 **“SEC. 657. REGULATIONS.**

21           “(a) *IN GENERAL.*—*The Secretary of Transportation,*  
 22           *in consultation with the Secretary of Defense, may prescribe*  
 23           *rules as necessary to carry out this subtitle and the amend-*  
 24           *ments made by this subtitle.*

1       “(b) *INTERIM RULES.*—*The Secretary of Transpor-*  
 2 *tation, in consultation with the Secretary of Defense, may*  
 3 *prescribe interim rules necessary to carry out this subtitle.*  
 4 *For this purpose the Secretary is excepted from compliance*  
 5 *with the notice and comment requirements of section 553*  
 6 *of title 5, United States Code. All interim rules prescribed*  
 7 *under the authority of this subsection that are not super-*  
 8 *seded by final rules shall expire no later than 270 days after*  
 9 *the date of enactment of the Maritime Security Fleet Pro-*  
 10 *gram Reauthorization Act of 2003.”.*

11 **TITLE III—NATIONAL DEFENSE**  
 12 **TANK VESSEL CONSTRU-**  
 13 **CTION ASSISTANCE**

14 **SEC. 301. NATIONAL DEFENSE.**

15       (a) *IN GENERAL.*—*Title V of the Merchant Marine Act,*  
 16 *1936 (46 U.S.C. App. 1151 et seq.) is amended by inserting*  
 17 *at the end the following new subtitle:*

18 **“Subtitle B—National Defense Tank**  
 19 **Vessel Construction Assistance**

20 **“SEC. 521. NATIONAL DEFENSE TANK VESSEL CONSTRU-**  
 21 **CTION PROGRAM.**

22       *“The Secretary of Transportation shall establish a pro-*  
 23 *gram for the provision of financial assistance for the con-*  
 24 *struction in the United States of a fleet of up to 5 privately*  
 25 *owned product tank vessels—*

1           “(1) to be operated in commercial service in for-  
2           eign commerce; and

3           “(2) to be available for national defense purposes  
4           in time of war or national emergency pursuant to an  
5           Emergency Preparedness Plan approved by the Sec-  
6           retary of Defense pursuant to section 523(e) of this  
7           subtitle.

8   **“SEC. 522. APPLICATION PROCEDURE.**

9           “(a) *REQUEST FOR PROPOSALS.*—Within 90 days  
10          after the date of the enactment of this subtitle, and on an  
11          as-needed basis thereafter, the Secretary of Transportation,  
12          in consultation with the Secretary of Defense, shall publish  
13          in the *Federal Register* a request for competitive proposals  
14          for the construction of new product tank vessels necessary  
15          to meet the commercial and national security needs of the  
16          United States and to be built with assistance under this  
17          subtitle.

18          “(b) *QUALIFICATION.*—Any citizen of the United  
19          States or any shipyard in the United States may submit  
20          a proposal to the Secretary of Transportation for purposes  
21          of constructing a product tank vessel with assistance under  
22          this subtitle.

23          “(c) *REQUIREMENT.*—The Secretary of Transpor-  
24          tation, with the concurrence of the Secretary of Defense,  
25          may enter into an agreement with the submitter of a pro-

1 *posal for assistance under this subtitle if the Secretary of*  
2 *Transportation determines that—*

3           “(1) *the plans and specifications call for con-*  
4 *struction of a new product tank vessel of not less than*  
5 *35,000 deadweight tons and not greater than 60,000*  
6 *deadweight tons, that—*

7           “(A) *will meet the requirements of foreign*  
8 *commerce;*

9           “(B) *is capable of carrying militarily useful*  
10 *petroleum products, and will be suitable for na-*  
11 *tional defense or military purposes in time of*  
12 *war, national emergency, or other military con-*  
13 *tingency; and*

14           “(C) *will meet the construction standards*  
15 *necessary to be documented under the laws of the*  
16 *United States;*

17           “(2) *the shipyard in which the vessel will be con-*  
18 *structed has the necessary capacity and expertise to*  
19 *successfully construct the proposed number and type*  
20 *of product tank vessels in a reasonable period of time*  
21 *as determined by the Secretary of Transportation,*  
22 *taking into consideration the recent prior commercial*  
23 *shipbuilding history of the proposed shipyard in de-*  
24 *livering a vessel or series of vessels on time and in ac-*

1 *cordance with the contract price and specifications;*  
2 *and*

3 *“(3) the person proposed to be the operator of the*  
4 *proposed vessel possesses the ability, experience, finan-*  
5 *cial resources, and any other qualifications deter-*  
6 *mined to be necessary by the Secretary for the oper-*  
7 *ation and maintenance of the vessel.*

8 *“(d) PRIORITY.—The Secretary of Transportation—*

9 *“(1) subject to paragraph (2), shall give priority*  
10 *consideration to a proposal submitted by a person*  
11 *that is a citizen of the United States under section 2*  
12 *of the Shipping Act, 1916 (46 U.S.C. App. 802); and*

13 *“(2) may give priority to consideration of pro-*  
14 *posals that provide the best value to the Government,*  
15 *taking into consideration—*

16 *“(A) the costs of vessel construction; and*

17 *“(B) the commercial and national security*  
18 *needs of the United States.*

19 **“SEC. 523. AWARD OF ASSISTANCE.**

20 *“(a) IN GENERAL.—If after review of a proposal, the*  
21 *Secretary of Transportation determines that the proposal*  
22 *fulfills the requirements under this subtitle, the Secretary*  
23 *may enter into a contract with the proposed purchaser and*  
24 *the proposed shipyard for the construction of a product tank*  
25 *vessel with assistance under this subtitle.*

1       “(b) *AMOUNT OF ASSISTANCE.*—*The contract shall*  
2 *provide that the Secretary of Transportation shall pay, sub-*  
3 *ject to the availability of appropriations, up to 75 percent*  
4 *of the actual construction cost of the vessel, but in no case*  
5 *more than \$50,000,000 per vessel.*

6       “(c) *CONSTRUCTION IN UNITED STATES.*—*A contract*  
7 *under this section shall require that construction of a vessel*  
8 *with assistance under this subtitle shall be performed in a*  
9 *shipyard in the United States.*

10       “(d) *DOCUMENTATION OF VESSEL.*—

11               “(1) *CONTRACT REQUIREMENT.*—*A contract*  
12 *under this section shall require that, upon delivery of*  
13 *a vessel constructed with assistance under the con-*  
14 *tract, the vessel shall be documented under chapter*  
15 *121 of title 46, United States Code, with a registry*  
16 *endorsement only.*

17               “(2) *RESTRICTION ON COASTWISE ENDORSE-*  
18 *MENT.*—*A vessel constructed with assistance under*  
19 *this subtitle shall not be eligible for a certificate of*  
20 *documentation with a coastwise endorsement.*

21               “(3) *AUTHORITY TO REFLAG NOT APPLICABLE.*—  
22 *Section 9(g) of the Shipping Act, 1916, (46 U.S.C.*  
23 *App. 808(g)) shall not apply to a vessel constructed*  
24 *with assistance under this subtitle.*

25       “(e) *EMERGENCY PREPAREDNESS AGREEMENT.*—

1           “(1) *IN GENERAL.*—A contract under this section  
2           shall require that the person who will be the operator  
3           of a vessel constructed with assistance under the con-  
4           tract shall enter into an *Emergency Preparedness*  
5           *Agreement for the vessel under section 653.*”

6           “(2) *TREATMENT AS CONTRACTOR.*—For pur-  
7           poses of the application, under paragraph (1), of sec-  
8           tion 653 to a vessel constructed with assistance under  
9           this subtitle, the term ‘contractor’ as used in section  
10          653 means the person who will be the operator of a  
11          vessel constructed with assistance under this subtitle.

12          “(f) *ADDITIONAL TERMS.*—The Secretary of Transpor-  
13          tation shall incorporate in the contract the requirements set  
14          forth in this subtitle, and may incorporate in the contract  
15          any additional terms the Secretary considers necessary.”.

16          (b) *PRIORITY FOR TITLE XI ASSISTANCE.*—Section  
17          1103 of the *Merchant Marine Act, 1936* (46 U.S.C. App.  
18          1273) is amended by adding at the end the following:

19                 “(i) *PRIORITY.*—In guaranteeing and entering com-  
20                 mitments to guarantee under this section, the Secretary  
21                 shall give priority to guarantees and commitments for ves-  
22                 sels that are otherwise eligible for a guarantee under this  
23                 section and that are constructed with assistance under sub-  
24                 title B of title V of this Act.”.

1           (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
2 *authorized to be appropriated to the Secretary to carry out*  
3 *subtitle B of title V of the Merchant Marine Act, 1936, as*  
4 *added by subsection (a), a total of \$250,000,000 for fiscal*  
5 *years beginning after fiscal year 2004.*

6           (d) *CONFORMING AMENDMENT.*—*Title V of the Mer-*  
7 *chant Marine Act, 1936 is amended by inserting before sec-*  
8 *tion 501, the following:*

9           **“Subtitle A—General Subsidy for**  
10           **New Vessel Construction”.**

Amend the title so as to read “A bill to authorize appropriations for fiscal years 2004 through 2008 for certain maritime programs of the Department of Transportation, and for other purposes.”.

Calendar No. 361

108TH CONGRESS  
1ST SESSION

**S. 1262**

[Report No. 108-184]

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**A BILL**

To authorize appropriations for fiscal years 2004, 2005, and 2006 for certain maritime programs of the Department of Transportation, and for other purposes.

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NOVEMBER 3, 2003

Reported with amendments and an amendment to the  
title