

**Union Calendar No. 141**

103D CONGRESS  
1ST SESSION

**H. R. 2151**

[Report No. 103-251]

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**A BILL**

To amend the Merchant Marine Act, 1936, to establish the Maritime Security Fleet program, and for other purposes.

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SEPTEMBER 22, 1993

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1993

Mr. STUDDS (for himself, Mr. LIPINSKI, Mr. FIELDS of Texas, Mr. BATEMAN, Mr. YOUNG of Alaska, Mr. HUGHES, Mr. HUTTO, Mr. TAUZIN, Mr. ORTIZ, Mr. MANTON, Mr. PICKETT, Mrs. UNSOELD, Mr. REED, Mr. LANCASTER, Mr. ANDREWS of Maine, Ms. FURSE, Ms. SCHENK, Mr. GENE GREEN of Texas, Mr. HASTINGS, Mr. BARLOW, Mr. THOMPSON of Mississippi, Mr. ACKERMAN, Mr. KING, and Mrs. BENTLEY) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

SEPTEMBER 22, 1993

Additional sponsors: Mr. DIAZ-BALART, Mrs. FOWLER, Mr. INHOFE, Mr. FOGLIETTA, Mr. HOCHBRUECKNER, Mr. PALLONE, Mr. STUPAK, Mr. WELDON, Mr. RAVENEL, Mr. FRANK of Massachusetts, Mr. SMITH of New Jersey, Mr. BACCHUS of Florida, Mr. PETERSON of Minnesota, Mr. TORKILDSEN, Mr. JOHNSTON of Florida, Mr. MACHTLEY, Mrs. MALONEY, Mr. WILSON, Mr. ABERCROMBIE, Mr. OWENS, Mr. PRICE of North Carolina, Mr. ENGEL, Mr. WHEAT, Mr. PASTOR, Ms. MOLINARI, Mr. GUTIERREZ, Mr. DELLUMS, Mr. HINCHEY, Mr. EVANS, Mr. HAMBURG, Mr. BORSKI, Mr. SOLOMON, Mr. ANDREWS of New Jersey, Mr. MCCLOSKEY, Mr. HOYER, Mr. CALLAHAN, Mr. GILCHREST, Ms. PELOSI, Mr. NEAL of Massachusetts, Mr. VISCLOSKY, Mr. GOSS, and Mr. GEJDENSON

SEPTEMBER 22, 1993

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

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

[For text of introduced bill, see copy of bill as introduced on May 19, 1993]

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## A BILL

To amend the Merchant Marine Act, 1936, to establish the Maritime Security Fleet program, 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 and*  
5 *Competitiveness Act of 1993”.*

6 **SEC. 2. PURPOSE OF THE MERCHANT MARINE ACT, 1936.**

7 *Section 101 of the Merchant Marine Act, 1936 (46*  
8 *App. U.S.C. 1101) is amended to read as follows:*

9 **“SEC. 101. FOSTERING DEVELOPMENT AND MAINTENANCE**  
10 **OF MERCHANT MARINE.**

11 *“The Secretary of Transportation shall carry out this*  
12 *Act in a manner that ensures the existence of an operating*  
13 *fleet of United States documented vessels that is—*

14 *“(1) sufficient to carry the domestic water-borne*  
15 *commerce of the United States and a substantial por-*  
16 *tion of the water-borne export and import foreign*  
17 *commerce of the United States and to provide ship-*  
18 *ping service essential for maintaining the flow of such*

1       *domestic and foreign water-borne commerce at all*  
2       *times;*

3             “(2) *adequate to serve as a naval auxiliary in*  
4       *time of war or national emergency;*

5             “(3) *owned and operated by citizens of the*  
6       *United States, to the extent practicable;*

7             “(4) *composed of the best-equipped, safest, and*  
8       *most modern vessels;*

9             “(5) *manned with the best trained and efficient*  
10       *personnel who are citizens of the United States; and*

11             “(6) *supplemented by modern and efficient*  
12       *United States facilities for shipbuilding and ship re-*  
13       *pair.’’.*

14       **SEC. 3. MARITIME SECURITY FLEET PROGRAM.**

15             *(a) The Merchant Marine Act, 1936 (46 App. U.S.C.*  
16       *1101 et seq.) is amended by inserting after title III the fol-*  
17       *lowing new title:*

18       **“TITLE IV—MARITIME SECURITY**  
19       **FLEET PROGRAM**

20       **“SEC. 401. ESTABLISHMENT OF MARITIME SECURITY FLEET.**

21             *“The Secretary of Transportation shall establish a fleet*  
22       *of active commercial vessels to enhance sealift capabilities*  
23       *and maintain a presence in international commercial ship-*  
24       *ping of United States documented vessels. The fleet shall*  
25       *be known as the ‘Maritime Security Fleet’.*

1 **“SEC. 402. COMPOSITION OF FLEET.**

2       *“The Fleet shall consist of privately owned United*  
3 *States documented vessels for which there are in effect oper-*  
4 *ating agreements.*

5 **“SEC. 403. VESSELS ELIGIBLE FOR ENROLLMENT IN FLEET.**

6       *“(a) IN GENERAL.—A vessel is eligible to be enrolled*  
7 *in the Fleet if the Secretary decides, in accordance with*  
8 *this section, that it is eligible. The Secretary may decide*  
9 *whether a vessel is eligible to be enrolled in the Fleet only*  
10 *pursuant to an eligibility decision application submitted*  
11 *to the Secretary by the owner or operator of the vessel. The*  
12 *Secretary shall make such a decision by not later than 90*  
13 *days after the date of submittal of an eligibility decision*  
14 *application for the vessel by the owner or operator of the*  
15 *vessel.*

16       *“(b) VESSEL ELIGIBILITY, GENERALLY.—Except as*  
17 *provided in subsection (c), the Secretary shall decide that*  
18 *a vessel is eligible to be enrolled in the Fleet if—*

19               *“(1) the person that will be the contractor with*  
20               *respect to an operating agreement for the vessel agrees*  
21               *to enter into an operating agreement with the Sec-*  
22               *retary for the vessel under section 404;*

23               *“(2) the person that will be a contractor with re-*  
24               *spect to an operating agreement for the vessel is a cit-*  
25               *izen of the United States;*

1           “(3)(A) the vessel is a United States documented  
2 vessel on May 19, 1993;

3           “(B) the vessel is—

4                 “(i) in existence on May 19, 1993;

5                 “(ii) a United States documented vessel  
6 after May 19, 1993; and

7                 “(iii) not more than 10 years of age on the  
8 date of that documentation;

9           “(C) the vessel is built and, if rebuilt, rebuilt in  
10 a United States shipyard;

11           “(D) the vessel is built in a shipyard that is not  
12 a foreign subsidized shipyard under a contract en-  
13 tered into before May 19, 1993;

14           “(E)(i) the vessel is built in a foreign shipyard  
15 under a contract entered into on or before May 19,  
16 1993; and

17                 “(ii) the owner has contracted to build another  
18 vessel for enrollment in the Fleet in a United States  
19 shipyard that will be delivered within 30 months  
20 after the effective date of an operating agreement for  
21 the vessel referred to in clause (i), or the Secretary  
22 finds and certifies in writing that a United States  
23 shipyard cannot sell a vessel to the owner at the world  
24 price due to the unavailability of series transition  
25 payments under title XIV to build that vessel; or

1           “(F)(i) the vessel is built under a contract en-  
2           tered into after May 19, 1993;

3           “(ii) the proposed owner of the vessel solicited  
4           nationwide bids for at least 6 months to build the ves-  
5           sel in a United States shipyard;

6           “(iii) the Secretary finds and certifies in writing  
7           that a United States shipyard cannot sell a vessel to  
8           the proposed owner at the world price due to the un-  
9           availability of series transition payments under title  
10          XIV to build that vessel;

11          “(iv) the vessel is delivered from the foreign ship-  
12          yard within 30 months after the Secretary’s certifi-  
13          cation under clause (iii); and

14          “(v) the vessel is substantially the same type and  
15          design as the vessel described in the solicitation made  
16          under clause (ii); and

17          “(4) the vessel is self-propelled and is—

18                  “(A) a container vessel with a capacity of  
19                  at least 750 Twenty-foot Equivalent Units;

20                  “(B) a roll-on/roll-off vessel with a carrying  
21                  capacity of at least 80,000 square feet or 500  
22                  Twenty-foot Equivalent Units;

23                  “(C) a LASH vessel with a barge capacity  
24                  of at least 75 barges;

1           “(D) a vessel subject to a contract under  
2 title VI on May 19, 1993; or

3           “(E) any other type of vessel that is deter-  
4 mined by the Secretary to be suitable for use by  
5 the United States for national defense or mili-  
6 tary purposes in time of war or national emer-  
7 gency.

8           “(c) DETERMINATIONS OF ELIGIBILITY.—

9           “(1) DETERMINATIONS REQUIRED.—The Sec-  
10 retary shall make determinations under subsection (b)  
11 for each vessel for which an eligibility decision appli-  
12 cation is submitted under this section.

13           “(2) DETERMINATION REGARDING CERTIFI-  
14 CATION.—The Secretary shall—

15           “(A) make the finding and certification  
16 under paragraph (3)(E)(ii) for a vessel, or deter-  
17 mine not to, by not later than 60 days after the  
18 date of receipt of an eligibility decision applica-  
19 tion for the vessel; and

20           “(B) make the finding and certification  
21 under paragraph (3)(F)(iii) for a vessel, or de-  
22 termine not to, by not later than 60 days after  
23 the closing date of the solicitation pursuant to  
24 paragraph (3)(F)(ii) for the vessel.



1           “(3) *WRITTEN EXPLANATION.*—*The Secretary*  
2           *shall provide to the person that submits an eligibility*  
3           *application for a vessel a written explanation of any*  
4           *decision that the vessel is not eligible for enrollment*  
5           *in the Fleet.*

6           “(d) *LIST OF ELIGIBLE VESSELS.*—

7           “(1) *IN GENERAL.*—*The Secretary shall main-*  
8           *tain a list of vessels that the Secretary decides in ac-*  
9           *cordance with this section are eligible to be enrolled*  
10           *in the Fleet.*

11           “(2) *REMOVAL OF VESSELS FROM LIST.*—*The*  
12           *Secretary shall remove a vessel from the list main-*  
13           *tained under this subsection, and the vessel shall not*  
14           *be an eligible vessel for purposes of this title—*

15           “(A) *at any time that the conditions for eli-*  
16           *gibility under subsection (b) are not fulfilled for*  
17           *the vessel; or*

18           “(B) *if the status of the person who submit-*  
19           *ted an eligibility decision application for the ves-*  
20           *sel, as owner or operator of the vessel, changes*  
21           *and after that change—*

22           “(i) *the owner or operator of the vessel*  
23           *fails to submit a new eligibility decision ap-*  
24           *plication for the vessel; or*

1                   “(ii) such an application is not ap-  
2                   proved by the Secretary.

3   **“SEC. 404. OPERATING AGREEMENTS, GENERALLY.**

4           “(a) *REQUIREMENT FOR ENROLLMENT OF VESSELS.*—  
5   A vessel may be enrolled in the Fleet only if it is an eligible  
6   vessel for which the owner or operator of the vessel applies  
7   for and enters into an operating agreement with the Sec-  
8   retary under this section.

9           “(b) *PRIORITY FOR AWARDED AGREEMENTS.*—Sub-  
10   ject to the availability of appropriations, the Secretary shall  
11   enter into operating agreements according to the following  
12   priority:

13           “(1) *VESSELS OWNED BY CITIZENS.*—

14           “(A) *PRIORITY.*—First, for any vessel that  
15           is—

16                   “(i) owned and operated by persons  
17                   who are citizens of the United States under  
18                   section 2 of the Shipping Act, 1916; or

19                   “(ii) less than 5 years of age and  
20                   owned and operated by a corporation that  
21                   is—

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

1           “(II) affiliated with a corporation  
2           operating or managing other United  
3           States documented vessels for the Sec-  
4           retary of Defense or chartering other  
5           vessels to the Secretary of Defense.

6           “(B) LIMITATION ON NUMBER OF OPERAT-  
7           ING AGREEMENTS.—The total number of operat-  
8           ing agreements that may be entered into by a  
9           person under the priority in subparagraph  
10          (A)—

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

13           “(I) the number of United States  
14          documented vessels the person operated  
15          in the foreign commerce of the United  
16          States (except mixed coastwise and for-  
17          eign commerce) on January 1, 1993;  
18          and

19           “(II) the number of United States  
20          documented vessels the person chartered  
21          to the Secretary of Defense on that  
22          date; and

23           “(ii) for vessels described in subpara-  
24          graph (A)(ii), may not exceed 4 vessels.

1           “(C) *TREATMENT OF RELATED PARTIES.*—  
2           *For purposes of subparagraph (B), a related*  
3           *party with respect to a person shall be treated as*  
4           *the person.*

5           “(2) *OTHER VESSELS OWNED BY CITIZENS AND*  
6           *GOVERNMENT CONTRACTORS.*—*To the extent that*  
7           *amounts are available after applying paragraph (1),*  
8           *any vessel that is—*

9           “(A) *owned and operated by—*

10           “(i) *citizens of the United States under*  
11           *section 2 of the Shipping Act, 1916, that*  
12           *have not been awarded an operating agree-*  
13           *ment under the priority established under*  
14           *paragraph (1); or*

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

18           “(II) *affiliated with a corporation op-*  
19           *erating or managing other United States*  
20           *documented vessels for the Secretary of De-*  
21           *fense or chartering other vessels to the Sec-*  
22           *retary of Defense; and*

23           “(B) *on the list maintained under section*  
24           *403(d).*

1           “(3) *OTHER VESSELS.*—*To the extent that*  
2           *amounts are available after applying paragraphs (1)*  
3           *and (2), any vessel that is—*

4                   “(A) *owned and operated by a person that*  
5                   *is eligible to document a vessel under chapter*  
6                   *121 of title 46, United States Code; and*

7                   “(B) *on the list maintained under section*  
8                   *403(d).*

9           “(c) *AWARD OF AGREEMENTS.*—

10                   “(1) *IN GENERAL.*—*The Secretary shall award*  
11                   *operating agreements within each priority under sub-*  
12                   *section (b) (1), (2), and (3) under regulations pre-*  
13                   *scribed by the Secretary.*

14                   “(2) *NUMBER OF AGREEMENTS AWARDED.*—*Reg-*  
15                   *ulations under paragraph (1) shall provide that if*  
16                   *appropriated amounts are not sufficient for operating*  
17                   *agreements for all vessels within a priority under sub-*  
18                   *section (b) (1), (2), or (3), the Secretary shall award*  
19                   *to each person submitting a request a number of oper-*  
20                   *ating agreements that bears approximately the same*  
21                   *ratio to the total number of vessels in the priority, as*  
22                   *the amount of appropriations available for operating*  
23                   *agreements for vessels in the priority bears to the*  
24                   *amount of appropriations necessary for operating*  
25                   *agreements for all vessels in the 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           “(d) *TIME LIMIT FOR DECISION ON ENTERING OPER-*  
5           *ATING AGREEMENT.*—The Secretary shall enter an operat-  
6           ing agreement for a vessel within 90 days after making the  
7           decision that the vessel is eligible to be enrolled in the Fleet  
8           under section 403(a).

9           “(e) *EFFECTIVE DATE OF OPERATING AGREEMENT.*—  
10          The effective date of an operating agreement may not be  
11          later than the later of—

12                 “(1) the date the vessel covered by the agreement  
13                 enters into the trade required under section  
14                 405(a)(1)(A);

15                 “(2) the date the vessel covered by the agreement  
16                 is withdrawn from an operating differential subsidy  
17                 contract under title VI;

18                 “(3) the date of termination of an operating dif-  
19                 ferential subsidy contract under title VI that applies  
20                 to the vessel; or

21                 “(4) the date of the expiration or termination of  
22                 a charter of the vessel to the United States Govern-  
23                 ment that was entered into before the date of the en-  
24                 actment of the Maritime Security and Competitive-  
25                 ness Act of 1993.

1       “(f) *EXPIRATION OF OFFERS FOR AGREEMENTS.*—Un-  
2 less extended by the Secretary, an offer by the Secretary  
3 to enter into an operating agreement under this section ex-  
4 pires 120 days after the date the offer is made.

5       “(g) *LENGTH OF AGREEMENTS.*—An operating agree-  
6 ment is effective for 10 years from the effective date of the  
7 agreement.

8       “(h) *REPAYMENT REQUIREMENTS.*—

9               “(1) *NONCOMPLIANCE.*—A contractor that fails  
10 to comply with the terms of an operating agreement  
11 shall be liable to the United States Government for all  
12 amounts received by the contractor as payments for  
13 the vessel under this title with respect to the period  
14 of that noncompliance, and for interest on those  
15 amounts determined under paragraph (3).

16              “(2) *FAILURE TO OPERATE REPLACEMENT VES-*  
17 *SEL.*—A contractor under an operating agreement  
18 that covers a vessel that is 25 or more years of age  
19 and that fails to replace the vessel as provided in sec-  
20 tion 405(a)(3) (A) or (B) shall be liable to the United  
21 States Government for all amounts received by the  
22 contractor as payments for the vessel under this title  
23 with respect to periods after the date the vessel be-  
24 comes 25 years of age, and for interest on those  
25 amounts determined under paragraph (3).

1           “(3) *DETERMINATION OF INTEREST.*—Interest  
2           under paragraphs (1) and (2) shall be at an annual  
3           rate equal to 125 percent of the coupon issue yield  
4           equivalent (as determined by the Secretary of the  
5           Treasury) of the average accepted auction price for  
6           auctions of 3 month United States Treasury bills set-  
7           tled during the quarter preceding the date of the fail-  
8           ure to comply or the failure to replace, respectively.

9           “(i) *PROHIBITION ON AGREEMENTS FOR CERTAIN*  
10          *VESSELS.*—The Secretary may not enter into an operating  
11          agreement for a vessel that is owned or operated by a person  
12          that was a contractor for the vessel under an operating  
13          agreement terminated under section 405(a)(10), before the  
14          end of the term of the agreement that was terminated.

15          “(j) *BINDING OBLIGATION OF GOVERNMENT.*—An op-  
16          erating agreement constitutes a contractual obligation of the  
17          United States Government to pay the amounts provided for  
18          under that agreement.

19          **“SEC. 405. TERMS OF OPERATING AGREEMENTS.**

20          “(a) *OPERATING AGREEMENT REQUIREMENTS.*—An  
21          operating agreement shall, during the effective period of the  
22          agreement, provide the following:

23                  “(1) *OPERATION AND DOCUMENTATION.*—The  
24                  vessel covered by the operating agreement—



1           “(A) shall be operated in the foreign trade  
2 or domestic trade allowed under a registry en-  
3 dorsement for the vessel issued under section  
4 12105 of title 46, United States Code;

5           “(B) may not be operated in the coastwise  
6 trade of the United States or in mixed coastwise  
7 and foreign trade, except for coastwise trade al-  
8 lowed under a registry endorsement issued for  
9 the vessel under section 12105 of title 46, United  
10 States Code; and

11           “(C) shall be documented under chapter 121  
12 of title 46, United States Code.

13           “(2) ANNUAL PAYMENTS.—

14           “(A) IN GENERAL.—The Secretary shall pay  
15 the contractor, in accordance with this sub-  
16 section, the following amounts for each fiscal  
17 year in which the vessel is operated in accord-  
18 ance with the agreement:

19                   “(i) For fiscal year 1994, \$2,300,000.

20                   “(ii) For each fiscal year thereafter,  
21 \$2,100,000.

22           “(B) LIMITATION.—The Secretary shall not  
23 pay any amount pursuant to this paragraph for  
24 any day in which the vessel is—

1           “(i) under a charter to the United  
2           States Government that was entered into be-  
3           fore the date of the enactment of the Mari-  
4           time Security and Competitiveness Act of  
5           1993; or

6           “(ii) covered by an operating differen-  
7           tial subsidy contract under title VI.

8           “(3) TERMINATION BASED ON AGE OF VESSEL.—

9           “(A) IN GENERAL.—Except as provided in  
10          subparagraph (B), the operating agreement shall  
11          terminate on the later of—

12           “(i) the date the vessel covered by the  
13           agreement is 25 years of age, or

14           “(ii) the date the vessel covered by the  
15           agreement is 30 years of age, in the case of  
16           an agreement that covers a vessel that is  
17           repowered in a United States shipyard after  
18           the effective date of the operating agreement  
19           and before the vessel is 25 years of age.

20          “(B) EXCEPTION.—The operating agree-  
21          ment shall not terminate under subparagraph  
22          (A) if the contractor agrees to acquire a replace-  
23          ment for the vessel from among vessels on the list  
24          maintained under section 403(d), and—

1           “(i) in the case of a vessel to be re-  
2           placed with a new vessel, the contractor en-  
3           ters into a binding contract with a ship-  
4           yard that requires the shipyard to deliver  
5           the replacement vessel by not later than 30  
6           months after the later of the date the operat-  
7           ing agreement is entered into or the date the  
8           operating agreement would otherwise termi-  
9           nate under subparagraph (A); or

10           “(ii) in the case of a vessel to be re-  
11           placed with an existing vessel, the contrac-  
12           tor acquires the replacement vessel from  
13           among vessels on the list maintained under  
14           section 403(d), by not later than 12 months  
15           after the later of the date the operating  
16           agreement is entered into or the date the op-  
17           erating agreement would otherwise expire  
18           under subparagraph (A).

19           “(4) AVAILABILITY OF VESSEL.—

20           “(A) IN GENERAL.—On a request of the  
21           President during time of war or national emer-  
22           gency or when considered by the President, act-  
23           ing through the Secretary in consultation with  
24           the Secretary of Defense, to be necessary in the  
25           interest of national security, and subject to sub-

1 paragraph (B), the contractor as soon as prac-  
2 ticable shall, as specified by the Secretary—

3 “(i) make the vessel covered by the  
4 agreement available to the Secretary under  
5 a time charter; or

6 “(ii) provide space on the vessel cov-  
7 ered by the agreement to the Secretary on a  
8 guaranteed basis.

9 “(B) *CONDITION FOR CHARTER.*—The Sec-  
10 retary shall allow a contractor to comply with  
11 this paragraph by providing space on a vessel  
12 under subparagraph (A)(ii) unless the Secretary  
13 determines that it is necessary in the interest of  
14 national security that the contractor make the  
15 vessel available under a time charter.

16 “(5) *DELIVERY OF VESSEL.*—The contractor  
17 shall deliver a vessel to the Secretary pursuant to a  
18 time charter under paragraph (4)(A)(i), as specified  
19 in the request for the vessel—

20 “(A) at the first port in the United States  
21 the vessel is scheduled to call after the date of re-  
22 ceipt of the request;

23 “(B) at the port in the United States to  
24 which the vessel is nearest on the date of receipt  
25 of the request; or

1           “(C) in any other reasonable manner au-  
2           thorized by the agreement and specified in the  
3           request.

4           “(6) *DELIVERY COSTS.*—In addition to amounts  
5           paid under paragraph (2), the Secretary shall reim-  
6           burse the contractor for costs incurred by the contrac-  
7           tor in delivering the vessel covered by the agreement  
8           to the Secretary in accordance with the agreement.

9           “(7) *COMPENSATION.*—In addition to amounts  
10          paid under paragraph (2), the Secretary shall pay the  
11          contractor, as provided in the operating agreement,  
12          reasonable compensation at reasonable commercial  
13          rates for the period of time the vessel is chartered or  
14          the contractor provides space on the vessel under  
15          paragraph (4).

16          “(8) *REQUIRED OPERATION.*—

17                 “(A) *IN GENERAL.*—A vessel covered by the  
18                 operating agreement shall be operated in the  
19                 trade required under paragraph (1), and under  
20                 conditions eligible for payment under this title,  
21                 for at least 320 days in a fiscal year, including  
22                 days during which the vessel is dry-docked, sur-  
23                 veyed, inspected, or repaired.

24                 “(B) *REDUCTION IN PAYMENTS.*—If a vessel  
25                 operates in the trade required under paragraph

1           (1), and under conditions eligible for payment  
2           under this title, for less than the time required  
3           under subparagraph (A), the payments required  
4           under paragraph (2) shall be reduced on a pro-  
5           rata basis to reflect the lesser time in that oper-  
6           ation.

7           “(9) *SUBSTITUTION OF VESSELS AUTHORIZED.*—  
8           The contractor may substitute for the vessel covered  
9           by the agreement another vessel on the list main-  
10          tained under section 403(d).

11          “(10) *OTHER TERMINATION.*—The operating  
12          agreement shall terminate if—

13                  “(A) in the case of a vessel that transports  
14                  less than 12,000 tons of bulk cargo under the  
15                  agreement—

16                          “(i) the vessel covered by the agreement  
17                          is not operated under an operating agree-  
18                          ment for one year; and

19                          “(ii) a substitute for that vessel is not  
20                          operated under the agreement during that  
21                          year; or

22                  “(B) the contractor notifies the Secretary  
23                  that the contractor intends to terminate the  
24                  agreement, by not later than 60 days before the  
25                  effective date of the termination.

1       “(b) *PAYMENTS.*—

2               “(1) *IN GENERAL.*—*The amount required to be*  
3 *paid by the Secretary each year to a contractor under*  
4 *an operating agreement pursuant to subsection*  
5 *(a)(2)—*

6                       “(A) *shall be paid at a pro rated amount*  
7 *at the beginning of each month in equal install-*  
8 *ments; and*

9                       “(B) *except as provided in paragraph (2),*  
10 *may not be reduced by reason of operation of the*  
11 *vessel covered by the agreement to carry civilian*  
12 *or military preference cargoes under—*

13                               “(i) *section 901(a), 901(b), or 901b;*

14                               “(ii) *section 2631 of title 10, United*  
15 *States Code; or*

16                               “(iii) *the Act of March 26, 1934 (48*  
17 *Stat. 500).*

18               “(2) *REDUCTION FOR PREFERENCE CARGO.*—*A*  
19 *contractor with respect to a vessel may not receive*  
20 *any payment under this title for any day in which*  
21 *the vessel is engaged in transporting more than*  
22 *12,000 tons of preference cargo described in para-*  
23 *graph (1)(B) that is bulk cargo (as defined in section*  
24 *3 of the Shipping Act of 1984).*

1           “(c) *REDELIVERY OF VESSELS.*—The Secretary shall,  
2 upon the termination of the need for which a vessel is deliv-  
3 ered under subsection (a)(4), return the vessel to the con-  
4 tractor—

5                   “(1) at a place that is mutually agreed upon by  
6 the Secretary of Defense and the contractor; and

7                   “(2) in the condition in which it was delivered  
8 to the Secretary, excluding normal wear and tear.

9           “(d) *TRANSFER OF OPERATING AGREEMENTS.*—A con-  
10 tractor under an operating agreement may transfer the  
11 agreement (including all rights and obligations under the  
12 agreement) to any other person that is a citizen of the  
13 United States, after notification of the Secretary in accord-  
14 ance with regulations prescribed by the Secretary, unless  
15 the transfer is disapproved by the Secretary within 90 days  
16 after the date of that notification. A transfer shall not be  
17 effective before the end of that 90-day period. A person to  
18 whom an agreement is transferred may receive payments  
19 from the Secretary under the agreement only if the vessel  
20 to be covered by the agreement after the transfer is on the  
21 list maintained under section 403(d).

22   **“SEC. 406. NONCONTIGUOUS TRADE RESTRICTIONS.**

23           “(a) *PROHIBITION.*—



1           “(1) *IN GENERAL.*—*Except as provided in this*  
2 *section, a contractor may not receive any payment*  
3 *under this title—*

4           “(A) *if the contractor or a related party*  
5 *with respect to the contractor, directly or indi-*  
6 *rectly owns, charters, or operates a vessel en-*  
7 *gaged in the transportation of cargo in non-*  
8 *contiguous trade other than in accordance with*  
9 *a waiver under subsection (b), (c), or (d); or*

10           “(B) *if the contractor is authorized to oper-*  
11 *ate a vessel in noncontiguous trade under such*  
12 *a waiver, and there is a—*

13           “(i) *material change in the domestic*  
14 *ports served by the contractor from the ports*  
15 *permitted to be served under the waiver; or*

16           “(ii) *material increase in the annual*  
17 *number or the frequency of sailings by the*  
18 *contractor from the number or frequency*  
19 *permitted under the waiver; or*

20           “(iii) *material increase in the annual*  
21 *volume of cargo carried or annual capacity*  
22 *utilized by the contractor from the annual*  
23 *volume of cargo or annual capacity per-*  
24 *mitted under the waiver.*

1           “(2) *LIMITATIONS ON PROHIBITION.*—Paragraph  
2           (1) applies to a contractor only in the years specified  
3           for payments under the operating agreement entered  
4           into by the contractor.

5           “(b) *GENERAL WAIVER AUTHORITY.*—

6           “(1) *IN GENERAL.*—Except as provided in sub-  
7           section (c), the Secretary may waive, in writing, the  
8           application of subsection (a) to a contractor pursuant  
9           to an application submitted in accordance with this  
10          subsection, unless the Secretary finds that—

11                   “(A) the waiver would result in unfair com-  
12                   petition to any person that operates vessels as a  
13                   carrier of cargo in a service exclusively in the  
14                   noncontiguous trade for which the waiver is ap-  
15                   plied;

16                   “(B) subject to paragraph (6), existing serv-  
17                   ice in that noncontiguous trade is adequate; or

18                   “(C) the waiver will result in prejudice to  
19                   the objects or policy of this title or Act.

20          “(2) *TERMS OF WAIVER.*—Any waiver granted  
21          by the Secretary under this subsection shall state—

22                   “(A) the domestic ports permitted to be  
23                   served;

24                   “(B) the annual number or frequency of  
25                   sailings that may be provided; and

1           “(C)(i) the annual volume of cargo per-  
2           mitted,

3           “(ii) for containerized or trailer service, the  
4           annual 40-foot equivalent unit shipboard con-  
5           tainer and trailer or vehicle or general cargo ca-  
6           pacity permitted, or

7           “(iii) for tug and barge service, the annual  
8           barge house cubic foot capacity and the annual  
9           barge deck general cargo capacity, or 40-foot  
10          equivalent unit container, trailer, or vehicle ca-  
11          pacity, permitted.

12          “(3) APPLICATIONS FOR WAIVERS.—An applica-  
13          tion for a waiver under this subsection may be sub-  
14          mitted by a contractor and shall describe, as applica-  
15          ble, the nature and scope of—

16                 “(A) the service proposed to be conducted in  
17                 a noncontiguous trade under the waiver; or

18                 “(B) any proposed material change or in-  
19                 crease in a service in a noncontiguous trade per-  
20                 mitted under a previous waiver.

21          “(4) ACTION ON APPLICATION AND HEARING.—

22                 “(A) NOTICE AND PROCEEDING.—Within 30  
23                 days after receipt of an application for a waiver  
24                 under this subsection, the Secretary shall—

1                   “(i) publish a notice of the application;  
2                   and

3                   “(ii) begin a proceeding on the appli-  
4                   cation under section 554 of title 5, United  
5                   States Code, to receive—

6                   “(I) evidence of the nature, quan-  
7                   tity, and quality of the existing service  
8                   in the noncontiguous trade for which  
9                   the waiver is applied;

10                  “(II) a description of the proposed  
11                  service or proposed material change or  
12                  increase in a previously permitted  
13                  service;

14                  “(III) the projected effect of the  
15                  proposed service or proposed material  
16                  change or increase in existing service;  
17                  and

18                  “(IV) recommendations on condi-  
19                  tions that should be contained in any  
20                  waiver for the proposed service or ma-  
21                  terial change or increase.

22                  “(B) INTERVENTION.—An applicant for a  
23                  waiver under this subsection, and any person  
24                  that operates cargo vessels in the noncontiguous  
25                  trade for which a waiver is applied and that has

1           *any interest in the application, may intervene in*  
2           *the proceedings on the application.*

3           “(C) *HEARING.*—*Before deciding whether to*  
4           *grant a waiver under this subsection, the Sec-*  
5           *retary shall hold a public hearing in an expedi-*  
6           *tious manner, reasonable notice of which shall be*  
7           *published.*

8           “(5) *DECISION.*—*The Secretary shall complete*  
9           *all proceedings and hearings on an application under*  
10          *this subsection and issue a decision on the record*  
11          *within 90 days after receipt of the final briefs submit-*  
12          *ted for the record.*

13          “(6) *LIMITATION ON CONSIDERATION OF CERTAIN*  
14          *EXISTING SERVICE.*—

15                 “(A) *LIMITATION.*—*In determining whether*  
16                 *to grant a waiver under this subsection for non-*  
17                 *contiguous trade with Hawaii, the Secretary*  
18                 *shall not consider the criterion set forth in para-*  
19                 *graph (1)(B) if a qualified operator—*

20                         “(i) *is a contractor, and*

21                         “(ii) *operates 4 or more vessels in for-*  
22                         *ign commerce in competition with another*  
23                         *contractor.*

24                 “(B) *QUALIFIED OPERATOR.*—*In this para-*  
25                 *graph, the term ‘qualified operator’ means a per-*

1           son that on July 1, 1992, offered service as an  
2           operator of containerized vessels, trailer vessels,  
3           or combination container and trailer vessels in  
4           noncontiguous trade with Hawaii and the John-  
5           ston Islands (including a related party with re-  
6           spect to the person).

7           “(c) *WAIVERS FOR EXISTING NONCONTIGUOUS TRADE*  
8           *OPERATORS.*—

9           “(1) *IN GENERAL.*—*The Secretary shall waive*  
10          *the application of subsection (a) to a contractor pur-*  
11          *suant to an application submitted in accordance with*  
12          *this subsection if the Secretary finds that the contrac-*  
13          *tor, or a related party or predecessor in interest with*  
14          *respect to the contractor—*

15                 “(A) *engaged in bona fide operation of a*  
16                 *vessel as a carrier of cargo by water—*

17                         “(i) *in a noncontiguous trade on July*  
18                         *1, 1992; or*

19                         “(ii) *in furnishing seasonal service in*  
20                         *a season ordinarily covered by its oper-*  
21                         *ation, during the 12 calendar months pre-*  
22                         *ceding July 1, 1992; and*

23                         “(B) *has operated in that service since that*  
24                         *time, except for interruptions of service resulting*  
25                         *from military contingency or over which the con-*

1           *tractor (or related party or predecessor in inter-*  
2           *est) had no control.*

3           “(2) *TERMS OF WAIVER.—*

4                     “(A) *IN GENERAL.—Except as otherwise*  
5           *provided in this paragraph, the level of service*  
6           *permitted under a waiver under this subsection*  
7           *shall be the level of service provided by the appli-*  
8           *cant (or related party or predecessor in interest)*  
9           *in the relevant noncontiguous trade during, for*  
10          *year-round service, the 6 calendar months pre-*  
11          *ceding July 1, 1992, or for seasonal service, the*  
12          *12 calendar months preceding July 1, 1992, de-*  
13          *termined by—*

14                     “(i) *the domestic ports called;*

15                     “(ii) *the number of sailings actually*  
16           *made, except as to interruptions in the serv-*  
17           *ice in the noncontiguous trade resulting*  
18           *from military contingency or over which the*  
19           *applicant (or related party or predecessor*  
20           *in interest) had no control; and*

21                     “(iii) *the volume of cargo carried or,*  
22           *for containerized or trailer service, the 40-*  
23           *foot equivalent unit shipboard container,*  
24           *trailer, or vehicle or general cargo capacity*  
25           *employed, or, for tug and barge service, the*

1            *barge house cubic foot capacity and barge*  
2            *deck general cargo capacity or 40-foot*  
3            *equivalent unit container, trailer, or vehicle*  
4            *capacity, employed.*

5            “(B) CERTAIN CONTAINERIZED VESSELS.—  
6            *If an applicant under this subsection was offer-*  
7            *ing service as an operator of containerized ves-*  
8            *sels in noncontiguous trades with Hawaii, Puer-*  
9            *to Rico, and Alaska on July 1, 1992, a waiver*  
10           *under this subsection for the applicant shall per-*  
11           *mit a level of service consisting of—*

12                    “(i) *104 sailings each year from the*  
13                    *West Coast of the United States to Hawaii*  
14                    *with an annual capacity allocated to the*  
15                    *service of 75 percent of the total capacity of*  
16                    *the vessels employed in the service on July*  
17                    *1, 1992;*

18                    “(ii) *156 sailings each year in each di-*  
19                    *rection between the East Coast or Gulf*  
20                    *Coast of the United States and Puerto Rico*  
21                    *with an annual capacity allocated to the*  
22                    *service of 75 percent of the total capacity of*  
23                    *its vessels employed in the service on the*  
24                    *date of the enactment of the Maritime Secu-*  
25                    *rity and Competitiveness Act of 1993; and*



1           “(iii) 103 sailings each year in each  
2           direction between Washington and Alaska  
3           with an annual capacity allocated to the  
4           service in each direction of 100 percent of  
5           the total capacity of its vessels employed in  
6           the service on July 1, 1992.

7           “(C) CERTAIN TUGS AND BARGES.—If an  
8           applicant under this subsection was offering  
9           service as an operator of tugs and barges in non-  
10          contiguous trades with Hawaii, Puerto Rico,  
11          and Alaska on July 1, 1992, a waiver under this  
12          subsection for the applicant shall permit a level  
13          of service consisting of—

14               “(i) 17 sailings each year in each di-  
15               rection between ports in Washington, Or-  
16               regon, and Northern California and ports in  
17               Hawaii with an annual barge house cubic  
18               foot capacity and annual barge deck 40-foot  
19               equivalent unit container capacity in each  
20               direction of 100 percent of the total of the  
21               capacity of its vessels employed in the serv-  
22               ice during the 6 calendar months preceding  
23               July 1, 1992, annualized;

24               “(ii) 253 sailings each year in each di-  
25               rection between the East Coast or Gulf

1 *Coast of the United States and Puerto Rico*  
2 *with an annual 40-foot equivalent unit con-*  
3 *tainer or trailer capacity equal to 100 per-*  
4 *cent of the capacity of its barges employed*  
5 *in the service on the date of the enactment*  
6 *of the Maritime Security and Competitive-*  
7 *ness Act of 1993;*

8 *“(iii) 37 regularly scheduled tandem*  
9 *tow rail barge sailings and 10 additional*  
10 *single tow rail barge sailings each year in*  
11 *each direction between Washington and the*  
12 *Alaskan port range between and including*  
13 *Anchorage and Whittier with an annual ca-*  
14 *capacity allocated to the service in each direc-*  
15 *tion of 100 percent of the total rail car ca-*  
16 *capacity of its vessels employed in the service*  
17 *on July 1, 1992;*

18 *“(iv) 8 regularly scheduled single tow*  
19 *sailings each year in each direction between*  
20 *Washington and points in Alaska (not in-*  
21 *cluding the port range between and includ-*  
22 *ing Anchorage and Whittier, except occa-*  
23 *sional deviations to discharge incidental*  
24 *quantities of cargo) with an annual capac-*  
25 *ity allocated to the service in each direction*

1           of 100 percent of the total capacity of its  
2           vessels employed in the service on July 1,  
3           1992; and

4           “(v) *unscheduled, contract carrier tug*  
5           *and barge service between points in Alaska*  
6           *south of the Arctic Circle not served by the*  
7           *common carrier service permitted under*  
8           *clause (iii) and points in the contiguous 48*  
9           *States, with an annual capacity allocated*  
10           *to that service not exceeding 100 percent of*  
11           *the total capacity of the equipment that was*  
12           *dedicated to service south of the Arctic Cir-*  
13           *cle on July 1, 1992, and actually utilized in*  
14           *that service in the 2-year period preceding*  
15           *that date.*

16           “(D) *ANNUALIZATION.—Capacity otherwise*  
17           *required by this paragraph to be permitted*  
18           *under a waiver under this subsection shall be*  
19           *annualized if not a seasonal service.*

20           “(E) *ADJUSTMENTS.—*

21           “(i) *Each written waiver granted by*  
22           *the Secretary under this subsection shall*  
23           *contain a statement that the annual capac-*  
24           *ity permitted under this waiver in any di-*  
25           *rection shall increase for a calendar year by*

1           *the percentage of increase during the preced-*  
2           *ing calendar year in the real gross product*  
3           *of the State or territory to which goods are*  
4           *transported in the noncontiguous trade cov-*  
5           *ered by the waiver, or its equivalent eco-*  
6           *nomical measure as determined by the Sec-*  
7           *retary if the real gross product is not avail-*  
8           *able, and that the increase shall not be con-*  
9           *sidered to be a material change or increase*  
10          *for purposes of subsection (a)(1)(B).*

11           “(ii) *The increase in permitted capac-*  
12          *ity under clause (i) in the noncontiguous*  
13          *trade with Alaska shall be allowed only to*  
14          *the extent the operator actually uses that in-*  
15          *creased capacity to carry cargo in the per-*  
16          *mitted service in the calendar year imme-*  
17          *diately following the preceding increase in*  
18          *gross product. However, if an operator oper-*  
19          *ating exclusively containerized vessels in*  
20          *that trade on July 1, 1992, carries an aver-*  
21          *age load factor of at least 90 percent of per-*  
22          *mitted capacity (including the capacity, if*  
23          *any, both authorized and used under the*  
24          *previous sentence) during 9 months of any*  
25          *one calendar year, than in the next follow-*

1            *ing calendar year and thereafter, the re-*  
2            *quirement that additional capacity must be*  
3            *used in the immediately following year does*  
4            *not apply.*

5            *“(F) SERVICE LEVELS NOT INCREASED BY*  
6            *TERMINATION OF AGREEMENT.—The termination*  
7            *of an operating agreement under section*  
8            *405(a)(10) shall not be considered to increase a*  
9            *level of service specified in subparagraph (A),*  
10           *(B), or (C) if the contractor under the agreement*  
11           *enters into another operating agreement after*  
12           *that termination.*

13           *“(3) APPLICATIONS FOR WAIVERS.—For a waiv-*  
14           *er under this subsection a contractor shall submit to*  
15           *the Secretary an application certifying the facts re-*  
16           *quired to be found under paragraph (1) (A) or (B),*  
17           *as applicable.*

18           *“(4) ACTION ON APPLICATION.—*

19           *“(A) NOTICE.—The Secretary shall publish*  
20           *a notice of receipt of an application for a waiver*  
21           *under this subsection within 30 days after re-*  
22           *ceiving the application.*

23           *“(B) HEARING PROHIBITED.—The Sec-*  
24           *retary may not conduct a hearing on an appli-*  
25           *cation for a waiver under this subsection.*

1           “(C) *SUBMISSION OF COMMENTS.*—*The Sec-*  
2           *retary shall give every person operating a cargo*  
3           *vessel in a noncontiguous trade for which a*  
4           *waiver is applied for under this subsection and*  
5           *who has any interest in the application a rea-*  
6           *sonable opportunity to submit comments on the*  
7           *application and on the description of the service*  
8           *that would be permitted by any waiver that is*  
9           *granted by the Secretary under the application.*

10           “(5) *DECISION ON APPLICATION.*—*Subject to the*  
11           *time required for publication of notice and for receipt*  
12           *and evaluation of comments by the Secretary, an ap-*  
13           *plication for a waiver under this subsection submitted*  
14           *at the same time the applicant applies for inclusion*  
15           *of a vessel in the Fleet shall be granted in accordance*  
16           *with the level of service determined by the Secretary*  
17           *under this subsection by not later than the date on*  
18           *which the Secretary offers to the applicant an operat-*  
19           *ing agreement with respect to that vessel.*

20           “(6) *CHANGE OR INCREASE IN SERVICE.*—*Any*  
21           *material change or increase in a service that is sub-*  
22           *ject to a waiver under this subsection is not author-*  
23           *ized except to the extent the change or increase is per-*  
24           *mitted by a waiver under subsection (b).*

1       “(d) *EMERGENCY WAIVER.*—Notwithstanding any  
2 other provision of this section, the Secretary may, without  
3 hearing, temporarily waive the application of subsection  
4 (a)(1)(B) if the Secretary finds that a material change or  
5 increase is essential in order to respond adequately to (1)  
6 an environmental or natural disaster or emergency, or (2)  
7 another emergency declared by the President. Any waiver  
8 shall be for a period of not to exceed 45 days, except that  
9 a waiver may be renewed for 30-day periods if the Sec-  
10 retary finds that adequate capacity continues to be other-  
11 wise unavailable.

12       “(e) *ANNUAL REPORT ON WAIVERS.*—Each waiver  
13 under this section shall require the person who is granted  
14 the waiver to submit to the Secretary each year an annual  
15 report setting forth for the service authorized by the waiv-  
16 er—

17               “(1) the ports served during the year;

18               “(2) the number or frequency of sailings per-  
19 formed during the year; and

20               “(3) the volume of cargo carried or, for contain-  
21 erized or trailer service, the annual 40-foot equivalent  
22 unit shipboard container, trailer, or vehicle capacity  
23 utilized during the year, or for tug and barge service,  
24 the annual barge house and barge deck capacity uti-  
25 lized during the year.

1       “(f) *DEFINITIONS.*—*In this section—*

2               “(1) *the term ‘noncontiguous trade’ means trade*  
3 *between—*

4                       “(A) *a point in the contiguous 48 States;*  
5 *and*

6                       “(B) *a point in Alaska, Hawaii, or Puerto*  
7 *Rico, other than a point in Alaska north of the*  
8 *Arctic Circle; and*

9               “(2) *the term ‘related party’ means—*

10                       “(A) *a holding company, subsidiary, affili-*  
11 *ate, or associate of a contractor; and*

12                       “(B) *an officer, director, agency, or other*  
13 *executive of a contractor or of a person referred*  
14 *to in subparagraph (A).*

15       “**SEC. 407. OPERATING COMPETING FOREIGN VESSELS.**

16               “(a) *IN GENERAL.*—*Except as provided in this section,*  
17 *a contractor (including a related party with respect to a*  
18 *contractor) may not own, charter, or operate a foreign ves-*  
19 *sel in competition with a United States documented vessel.*

20               “(b) *EXCEPTION.*—*Subsection (a) does not apply to a*  
21 *foreign vessel if—*

22                       “(1)(A) *the contractor has applied for an operat-*  
23 *ing agreement for a vessel to be operated in the same*  
24 *service as the foreign vessel; and*



1           “(B) the Secretary, due to the unavailability of  
2 funds, does not award an operating agreement to that  
3 contractor for a United States documented vessel for  
4 that service within 60 days after that application is  
5 submitted;

6           “(2) the Secretary, after notice and an oppor-  
7 tunity for a hearing, under special circumstances,  
8 and for good cause shown, waives subsection (a) for  
9 the contractor for a specified period of time; or

10           “(3) the foreign vessel was operated by that con-  
11 tractor on August 5, 1993.

12 **“SEC. 408. FUNDING FOR OPERATING AGREEMENTS.**

13           “(a) *AUTHORIZATION OF APPROPRIATIONS.*—There  
14 are authorized to be appropriated to the Secretary any  
15 amounts necessary to liquidate obligations under operating  
16 agreements.

17           “(b) *TRANSFER OF BALANCES FROM OPERATING DIF-*  
18 *FERENTIAL SUBSIDY PROGRAM.*—Any amounts otherwise  
19 available for operating differential subsidy contracts under  
20 title VI that are no longer required for those contracts are  
21 available, until expended, for operating agreements.

22 **“SEC. 409. DEFINITIONS.**

23           *“In this title:*

1           “(1) *CONTRACTOR*.—The term ‘contractor’ means  
2           an owner or operator of a vessel that enters into an  
3           operating agreement for the vessel with the Secretary.

4           “(2) *ELIGIBILITY DECISION APPLICATION*.—The  
5           term ‘eligibility decision application’ means an ap-  
6           plication for a decision by the Secretary under section  
7           403 that a vessel is eligible to be enrolled in the Fleet.

8           “(3) *ELIGIBLE VESSEL*.—The term ‘eligible ves-  
9           sel’ means a vessel that the Secretary decides under  
10          section 403 is eligible to be enrolled in the Fleet.

11          “(4) *FLEET*.—The term ‘Fleet’ means the Mari-  
12          time Security Fleet established under section 402.

13          “(5) *OPERATING AGREEMENT*.—The term ‘oper-  
14          ating agreement’ means an operating agreement en-  
15          tered into by the Secretary under section 404.

16          “(6) *RELATED PARTY*.—The term ‘related party’  
17          means, with respect to a contractor or other person—

18                 “(A) a holding company, subsidiary, affili-  
19                 ate, or association of the person; and

20                 “(B) an officer, director, other executive, or  
21                 agent of the person or of an entity referred to in  
22                 paragraph (1).

23          “(7) *SECRETARY*.—The term ‘Secretary’ means  
24          the Secretary of Transportation.

1           “(8) *UNITED STATES DOCUMENTED VESSEL.*—  
2           *The term ‘United States documented vessel’ means a*  
3           *vessel that is documented under chapter 121 of title*  
4           *46, United States Code.’”*

5   **SEC. 4. OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS.**

6           (a) *TERMINATION OF EXISTING CONTRACTS.*—*Not-*  
7           *withstanding any other provision of this Act, any contract*  
8           *in effect under title VI of the Merchant Marine Act, 1936*  
9           *(46 App. U.S.C. 1171 et seq.), on the day before the date*  
10           *of enactment of this Act shall continue in effect under its*  
11           *terms and terminate as set forth in the contract, unless vol-*  
12           *untarily terminated on an earlier date by the persons (other*  
13           *than the United States Government) that are parties to the*  
14           *contract.*

15           (b) *AGE ACCELERATION OF BULK CARGO ODS VES-*  
16           *SELS.*—*Section 506 of the Merchant Marine Act, 1936 (46*  
17           *App. U.S.C. 1156) is amended—*

18                   (1) *by inserting “(a)” after “SEC. 506.”; and*

19                   (2) *by adding at the end the following new sub-*  
20           *section:*

21           “(b) *For purposes of this section, any liquid or dry*  
22           *bulk cargo vessel for which operating-differential subsidy is*  
23           *required to be paid under a contract under title VI that*  
24           *is in force on May 19, 1993, shall, effective upon the termi-*  
25           *nation date of the contract (as set forth in the contract as*

1 *in effect on May 19, 1993, be deemed to have reached the*  
2 *age of 20 years.”.*

3 (c) *RESTRICTIONS ON OPERATIONS OF ODS VES-*  
4 *SELS.—Title VI of the Merchant Marine Act, 1936 (46 App.*  
5 *U.S.C. 1171 et seq.), as amended by this Act, is further*  
6 *amended by adding at the end the following:*

7 **“SEC. 616. LIMITATION ON APPLICATION OF RESTRICTIONS**  
8 **ON OPERATIONS.**

9 “(a) *Sections 605(c) and 804, this section, and the es-*  
10 *sential service requirements in section 601(a) and 603(a),*  
11 *do not apply to a contractor if—*

12 “(1) *the contractor submits an eligibility deci-*  
13 *sion application to the Secretary under title IV for all*  
14 *of the vessels operated by the contractor under an op-*  
15 *erating-differential subsidy contract; and*

16 “(2) *all of those vessels for which operating*  
17 *agreements are offered by the Secretary under title IV*  
18 *are enrolled in the Maritime Security Fleet.*

19 “(b)(1) *With respect to the operations of a contractor*  
20 *receiving operating-differential subsidy for liner vessels on*  
21 *a particular trade route, as defined in that contractor’s con-*  
22 *tract in effect on January 1, 1993, that operator shall not*  
23 *be subject to the restrictions of either section 605(c) or sec-*  
24 *tion 804 with respect to operations on that trade route, com-*  
25 *mencing at such time as—*

1           “(A) that operator transfers 50 percent or more  
2           of its vessels that were operating on that trade route  
3           as of January 1, 1993, from the operating-differential  
4           subsidy program to the Maritime Security Fleet pro-  
5           gram under title IV; or

6           “(B) that operator is the only contractor receiv-  
7           ing operating-differential subsidy with respect to that  
8           trade route, and all other United States-flag liner op-  
9           erators operating a vessel on that trade route are op-  
10          erating on that trade route only vessels for which  
11          there are in effect operating agreements under title  
12          IV.

13          “(2) With respect to any contractor receiving operat-  
14          ing-differential subsidy for liner vessels on Maritime Ad-  
15          ministration Essential Trade Route 1, 2, or 8, that operator  
16          shall not be subject to the restrictions of either section 605(c)  
17          or section 804 with respect to operations on any of those  
18          trade routes, commencing at such time as payments begin  
19          to accrue on behalf of another United States-flag operator  
20          that is a party to an operating agreement under title IV  
21          which provides liner service on Maritime Administration  
22          Essential Trade Route 2.”.

23          (d) *ELIMINATION OF TRADE ROUTE RESTRICTIONS.*—  
24          Section 809(a) of the Merchant Marine Act, 1936 (46  
25          U.S.C. 1213(a)) is amended by adding at the end the follow-

1 *ing: “This subsection shall not apply to contracts under*  
2 *title IV or funds for such contracts.”.*

3 **SEC. 5. ELIMINATION OF CONSTRUCTION DIFFERENTIAL**  
4 **SUBSIDY RESTRICTIONS.**

5 *Title V of the Merchant Marine Act, 1936 (46 App.*  
6 *U.S.C. 1151 et seq.), is amended by adding at the end the*  
7 *following:*

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

9 *“Notwithstanding any other provision of law or con-*  
10 *tract, all restrictions and requirements under sections 503,*  
11 *506, and 802 applicable to a liner vessel constructed, recon-*  
12 *structed, or reconditioned with the aid of construction-dif-*  
13 *ferential subsidy shall terminate upon the expiration of the*  
14 *25-year period beginning on the date of the original deliv-*  
15 *ery of the vessel from the shipyard.”.*

16 **SEC. 6. DEFINITIONS APPLICABLE TO MERCHANT MARINE**  
17 **ACT, 1936.**

18 *Section 905 of the Merchant Marine Act, 1936 (46*  
19 *App. U.S.C. 1244), is amended—*

20 *(1) by striking subsection (a) and inserting the*  
21 *following:*

22 *“(a) Each of the terms ‘foreign commerce’ and ‘foreign*  
23 *trade’ mean—*

24 *“(1) trade between the United States and a for-*  
25 *ign country; or*

1           “(2) trade between foreign ports.”;

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

4           “(c) The term ‘citizen of the United States’ means a  
5 person eligible to own a documented vessel under chapter  
6 121 of title 46, United States Code.”; and

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

8           “(h) The term ‘foreign subsidized shipyard’ means a  
9 shipyard that—

10           “(1) receives or benefits from, directly or indi-  
11 rectly, a shipyard subsidy for the construction of ves-  
12 sels; and

13           “(2) is located in a foreign country that has not  
14 signed a trade agreement with the United States that  
15 provides for the elimination of subsidies for that ship-  
16 yard.

17           “(i) The term ‘subsidy’ includes any of the following:

18           “(1) Officially supported export credits and de-  
19 velopment assistance.

20           “(2) Direct official operating support to the com-  
21 mercial shipbuilding and repair industry, or to a re-  
22 lated entity that favors the operation of shipbuilding  
23 and repair, including—

24           “(A) grants;

1           “(B) loans and loan guarantees other than  
2 those available on the commercial market;

3           “(C) forgiveness of debt;

4           “(D) equity infusions on terms inconsistent  
5 with commercially reasonable investment prac-  
6 tices;

7           “(E) preferential provision of goods and  
8 services; and

9           “(F) public sector ownership of commercial  
10 shipyards on terms inconsistent with commer-  
11 cially reasonable investment practices.

12           “(3) Direct official support for investment in the  
13 commercial shipbuilding and repair industry, or to a  
14 related entity that favors the operation of shipbuild-  
15 ing and repair, including the kinds of support listed  
16 in clauses (i) through (v) of subparagraph (B), and  
17 any restructuring support, except public support for  
18 social purposes directly and effectively linked to ship-  
19 yard closures.

20           “(4) Assistance in the form of grants, pref-  
21 erential loans, preferential tax treatment, or other-  
22 wise, that benefits or is directly related to shipbuild-  
23 ing and repair for purposes of research and develop-  
24 ment that is not equally open to domestic and foreign  
25 enterprises.



1           “(5) Tax policies and practices that favor the  
2           shipbuilding and repair industry, directly or indi-  
3           rectly, such as tax credits, deductions, exemptions and  
4           preferences, including accelerated depreciation, if the  
5           benefits are not generally available to persons or  
6           firms not engaged in shipbuilding or repair.

7           “(6) Any official regulation or practice that au-  
8           thorizes or encourages persons or firms engaged in  
9           shipbuilding or repair to enter into anticompetitive  
10          arrangements.

11          “(7) Any indirect support directly related, in  
12          law or in fact, to shipbuilding and repair at national  
13          yards, including any public assistance favoring ship-  
14          owners with an indirect effect on shipbuilding or re-  
15          pair activities, and any assistance provided to sup-  
16          pliers of significant inputs to shipbuilding, which re-  
17          sults in benefits to domestic shipbuilders.

18          “(8) Any export subsidy identified in the Illus-  
19          trative List of Export Subsidies in the Annex to the  
20          Agreement on Interpretation and Application of Arti-  
21          cles VI, XVI, and XXIII of the General Agreement on  
22          Tariffs and Trade or any other export subsidy that  
23          may be prohibited as a result of the Uruguay Round  
24          of trade negotiations.”.

1 **SEC. 7. GOVERNMENT-IMPELLED CARGOES.**

2 (a) *VESSELS ELIGIBLE FOR CARGOES.*—Section  
3 901(b) of the Merchant Marine Act, 1936 (46 App. U.S.C.  
4 1241(b)) is amended—

5 (1) in paragraph (1), by striking “For purposes  
6 of this section, the term ‘privately owned United  
7 States-flag commercial vessels’” and all that follows  
8 through the end of the paragraph; and

9 (2) by adding at the end the following new para-  
10 graphs:

11 “(3) In this section and section 901b, the term ‘pri-  
12 vately owned United States-flag commercial vessel’ means  
13 a privately owned vessel that is documented under chapter  
14 121 of title 46, United States Code, that—

15 “(A) was built in the United States;

16 “(B) was documented under chapter 121 of title  
17 46, United States Code, before May 19, 1993;

18 “(C) does not transport under section 901b or  
19 this section on any voyage more than 12,000 tons of  
20 bulk cargo (as defined in section 3 of the Shipping  
21 Act of 1984), and—

22 “(i) was built in a foreign shipyard under  
23 a contract entered into on or before May 19,  
24 1993;

25 “(ii) is built under a contract entered into  
26 after that date, in a foreign shipyard that on the

1           *date the contract is entered is not a foreign sub-*  
2           *sidized shipyard; or*

3           *“(iii) is subject to an operating agreement*  
4           *under title IV;*

5           *“(D)(i) is built under a contract entered into*  
6           *after May 19, 1993, in a foreign shipyard that on the*  
7           *date the contract was entered is not a foreign sub-*  
8           *sidized shipyard; and*

9           *“(ii) has not been documented in a foreign coun-*  
10          *try before it is documented under chapter 121 of title*  
11          *46, United States Code; or*

12          *“(E) has been documented under chapter 121 of*  
13          *title 46, United States Code, for at least 3 consecutive*  
14          *years, did not transport any equipment, materials, or*  
15          *commodities during that period under this section or*  
16          *section 901b, and—*

17                 *“(i) was built in a foreign shipyard under*  
18                 *a contract entered into before May 19, 1993; or*

19                 *“(ii) is built under a contract entered into*  
20                 *after that date, in a foreign shipyard that on the*  
21                 *date the contract was entered is not a foreign*  
22                 *subsidized shipyard.*

23           *“(4) In paragraph (3), the term ‘built’ includes re-*  
24           *built.”.*

1           (b) *CLERICAL AMENDMENT.*—Section 901b of the Mer-  
2 chant Marine Act, 1936 (46 App. U.S.C. 1241f) is amended  
3 by adding at the end the following:

4           “(f) For the definition of the term ‘privately owned  
5 United States-flag commercial vessel’, see section  
6 901(b)(3).”.

7   **SEC. 8. VESSEL FINANCING.**

8           (a) *ELIMINATION OF MORTGAGEE RESTRICTIONS.*—  
9 Section 31322(a) of title 46, United States Code, is amend-  
10 ed to read as follows:

11           “(a) A preferred mortgage is a mortgage, whenever  
12 made, that—

13                   “(1) includes the whole of the vessel;

14                   “(2) is filed in substantial compliance with sec-  
15 tion 31321 of this title; and

16                   “(3)(A) covers a documented vessel; or

17                   “(B) covers a vessel for which an application for  
18 documentation is filed that is in substantial compli-  
19 ance with the requirements of chapter 121 of this title  
20 and the regulations prescribed under that chapter.”.

21           (b) *ELIMINATION OF TRUSTEE RESTRICTIONS.*—

22                   (1) *REPEAL.*—Section 31328 of title 46, United  
23 States Code, is repealed.

24                   (2) *CONFORMING AMENDMENT.*—Section  
25 31330(b) of title 46, United States Code, is amended

1        *in paragraphs (1), (2), and (3) by striking “31328*  
2        *or” each place it appears.*

3        (c) *REMOVAL OF MORTGAGE RESTRICTIONS.*—Section  
4        *9 of the Shipping Act, 1916 (46 App. U.S.C. 808), as*  
5        *amended by this Act, is further amended—*

6                (1) *in subsection (c)—*

7                        (A) *by striking “31328” and inserting*  
8                        *“12106(e)”;* and

9                        (B) *in paragraph (1) by striking “mort-*  
10                        *gage,” each place it appears; and*

11                (2) *in subsection (d)—*

12                        (A) *in paragraph (1) by striking “transfer,*  
13                        *or mortgage” and inserting “or transfer”;*

14                        (B) *in paragraph (2) by striking “transfers,*  
15                        *or mortgages” and inserting “or transfers”;*

16                        (C) *in paragraph (3)(B) by striking “trans-*  
17                        *fers, or mortgages” and inserting “or transfers”;*  
18                        *and*

19                        (D) *in paragraph (4) by striking “transfers,*  
20                        *or mortgages” and inserting “or transfers”.*

21        (d) *LEASE FINANCING.*—Section 12106 of title 46,  
22        *United States Code, is amended by adding at the end the*  
23        *following new subsections:*

24                “(e)(1) *A certificate of documentation for a vessel may*  
25        *be endorsed with a coastwise endorsement if—*

1           “(A) the vessel is eligible for documentation  
2           under section 12102;

3           “(B) the vessel is otherwise qualified under this  
4           section to be employed in the coastwise trade;

5           “(C) the person that owns the vessel, or any  
6           other person that owns or controls the person that  
7           owns the vessel, is primarily engaged in leasing or  
8           other financing transactions;

9           “(D) the vessel is under a demise charter to a  
10          person qualifying as a citizen of the United States for  
11          engaging in the coastwise trade under section 2 of the  
12          Shipping Act, 1916; and

13          “(E) the demise charter is for—

14                  “(i) a period of at least 3 years; or

15                  “(ii) such shorter period as may be pre-  
16                  scribed by the Secretary.

17          “(2) On termination of a demise charter required  
18          under paragraph (1)(D), the coastwise endorsement may be  
19          continued for a period not to exceed 6 months on any terms  
20          and conditions that the Secretary of Transportation may  
21          prescribe.

22          “(f) For purposes of the first proviso of section 27 of  
23          the Merchant Marine Act, 1920, section 2 of the Shipping  
24          Act, 1916, and section 12102(a), a vessel meeting the cri-

1 *teria of subsection (d) or (e) is deemed to be owned exclu-*  
2 *sively by citizens of the United States.”.*

3 **SEC. 9. PLACEMENT OF VESSELS UNDER FOREIGN REG-**  
4 **ISTRY.**

5 *(a) IN GENERAL.—Section 9 of the Shipping Act, 1916*  
6 *(46 App. U.S.C. 808), as amended by this Act, is further*  
7 *amended by adding at the end the following:*

8 *“(e) Notwithstanding subsection (c)(2), the Merchant*  
9 *Marine Act, 1936, or any contract entered into with the*  
10 *Secretary under that Act, a vessel may be placed under a*  
11 *foreign registry, without approval of the Secretary, if—*

12 *“(1)(A) the Secretary determines that at least*  
13 *one replacement vessel of a capacity that is equivalent*  
14 *or greater, as measured by deadweight tons, gross*  
15 *tons, or container equivalent units, as appropriate, is*  
16 *documented under chapter 121 of title 46, United*  
17 *States Code, by the owner of the vessel placed under*  
18 *the foreign registry; and*

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

21 *“(2)(A) the owner of the vessel has applied for an*  
22 *operating agreement under title IV of the Merchant*  
23 *Marine Act, 1936; and*

24 *“(B) the Secretary, due to the unavailability of*  
25 *funds, has not awarded that owner an operating*

1       *agreement within 60 days after the date of that appli-*  
2       *cation; or*

3               “(3)(A) *before the expiration of an operating*  
4       *agreement entered into under title IV of the Merchant*  
5       *Marine Act, 1936, the owner has applied for a new*  
6       *operating agreement; and*

7               “(B) *the Secretary, due to the unavailability of*  
8       *funds, has not awarded the owner an operating agree-*  
9       *ment before the later of—*

10               “(i) *60 days after the application for a new*  
11       *operating agreement; or*

12               “(ii) *the date of expiration of the operating*  
13       *agreement.*

14       “(f) *The Secretary shall give notice and an oppor-*  
15       *tunity for a hearing for all approvals applied for under*  
16       *subsection (c)(2) for oceangoing merchant vessels that are*  
17       *of at least 3,000 gross tons.”*

18       (b) *APPLICATION.—The amendment made by sub-*  
19       *section (a) applies to vessels that are placed under foreign*  
20       *registry after the date of enactment of this Act and replace-*  
21       *ment vessels documented in the United States after that*  
22       *date.*

23       (c) *COURT SALES OF VESSELS.—Section 31329 of title*  
24       *46, United States Code, is amended to read as follows:*



1 **“§ 31329. Court sales of documented vessels**

2       *“When a documented vessel is sold by order of a dis-*  
 3 *trict court to a mortgagee not eligible to own a documented*  
 4 *vessel—*

5           *“(1) that sale is not a sale foreign within the*  
 6 *terms of the first proviso of section 27 of the Merchant*  
 7 *Marine Act, 1920 (46 App. U.S.C. 883); and*

8           *“(2) unless the vessel is transferred to a foreign*  
 9 *registry, the vessel may be operated only with the ap-*  
 10 *proval of the Secretary of Transportation.”.*

11 **SEC. 10. SERIES CONSTRUCTION ASSISTANCE.**

12       *The Merchant Marine Act, 1936 (46 App. U.S.C. 1101*  
 13 *et seq.) is amended by adding at the end the following:*

14                           **“TITLE XIV—SERIES**  
 15                           **CONSTRUCTION ASSISTANCE**

16 **“SEC. 1401. PAYMENT OF ASSISTANCE AUTHORIZED.**

17       *“(a) IN GENERAL.—The Secretary of Transportation*  
 18 *(hereinafter in this title referred to as the ‘Secretary’) may,*  
 19 *subject to the availability of appropriations, pay assistance*  
 20 *in accordance with this title to the owner of a shipyard*  
 21 *that is located in the United States for the construction (in-*  
 22 *cluding outfitting and equipping) of any commercial vessel*  
 23 *that is one of a series of vessels for which payment of assist-*  
 24 *ance under this section to the owner is approved by the Sec-*  
 25 *retary under section 1402.*

1       “(b) *AMOUNT OF ASSISTANCE.*—The total amount of  
2 assistance paid under this section with respect to a vessel  
3 shall be equal to the series transition payment determined  
4 for the vessel under section 1403(a).

5       **“SEC. 1402. APPROVAL OF ASSISTANCE FOR CONSTRU-**  
6                                   **CTION OF SERIES OF VESSELS.**

7       “(a) *APPROVAL OF ASSISTANCE.*—

8               “(1) *IN GENERAL.*—The Secretary may approve  
9 payment of assistance under section 1401 for con-  
10 struction of a series of vessels in a shipyard if—

11                       “(A) the owner of the shipyard submits an  
12 application for that assistance in accordance  
13 with section 1405;

14                       “(B) the Secretary makes the determina-  
15 tions described in subsection (b); and

16                       “(C) the Secretary determines that payment  
17 of the assistance will contribute to maintaining  
18 national vessel construction capabilities that are  
19 essential in time of war or national emergency.

20               “(2) *LIMITATION.*—The Secretary may not ap-  
21 prove assistance under this section for a series of ves-  
22 sels if the series transition payment determined under  
23 section 1403(a) for any vessel in the series is greater  
24 than 50 percent of the estimate of the cost of con-

1        *structing the vessel determined by the Secretary under*  
2        *section 1403(b)(2).*

3        *“(b) DETERMINATIONS BY SECRETARY.—The Sec-*  
4        *retary may not approve assistance for construction of a se-*  
5        *ries of vessels in a shipyard unless the Secretary has deter-*  
6        *mined the following:*

7                *“(1) VESSEL REQUIREMENTS.—The vessels are—*

8                        *“(A) commercial vessels of at least 10,000*  
9                        *gross tons; and*

10                      *“(B) commercially marketable on the inter-*  
11                      *national market.*

12                *“(2) SHIPYARD REQUIREMENTS.—The shipyard*  
13        *in which the vessels will be constructed—*

14                      *“(A) is located in the United States; and*

15                      *“(B) upon completion of construction of the*  
16        *vessels, will be capable of constructing additional*  
17        *vessels of the same type as those in the series for*  
18        *a price that is competitive in the international*  
19        *market.*

20                *“(3) APPLICANT REQUIREMENTS.—The applicant*  
21        *for the assistance—*

22                      *“(A) has the ability, financial resources,*  
23        *and other qualifications necessary for construc-*  
24        *tion of the vessels;*

1           “(B) has entered into a contract for the con-  
2           struction of each of the first 2 vessels to be con-  
3           structed in the series, which may include a con-  
4           tract for a vessel that will be constructed without  
5           assistance under this title; and

6           “(C) is the owner of the shipyard in which  
7           the vessels will be constructed.

8           “(4) *CONTRACT REQUIREMENTS.*—Each of the  
9           contracts required under paragraph (3)(B) are bind-  
10          ing obligations on the applicant and all other parties  
11          to the contracts, except that such a contract may be  
12          contingent on—

13           “(A) the approval of assistance under this  
14           title for construction of a vessel under the con-  
15           tract; and

16           “(B) the making of a guarantee or commit-  
17           ment to guarantee obligations under title XI for  
18           construction under the contract.

19           “(5) *PURCHASER REQUIREMENTS.*—Each person  
20           that is a purchaser of a vessel under a contract re-  
21           quired under paragraph (3)(B)—

22           “(A) has the ability, financial resources,  
23           and other qualifications necessary to own and  
24           operate the vessel in commercial service; and

25           “(B) is a party to the contract.

1           “(6) *SERIES TRANSITION PAYMENT.*—*The series*  
2           *transition payment under section 1403 for each vessel*  
3           *in the series.*

4           “(c) *PRIORITY FOR CERTAIN SERIES OF VESSELS.*—  
5           *In approving assistance under this title, the Secretary may*  
6           *give priority to a series of vessels—*

7           “(1) *if a smaller number of vessels in the series*  
8           *are required to be constructed with assistance before*  
9           *construction of that type of vessel becomes cost effec-*  
10           *tive;*

11           “(2) *for which the total of the series transition*  
12           *payments determined under section 1403 for all ves-*  
13           *sels in the series is less than that total for other series*  
14           *of vessels for which applications are submitted for as-*  
15           *sistance under this title;*

16           “(3) *that will be constructed in a shipyard with*  
17           *respect to which assistance under this title has not*  
18           *been provided; or*

19           “(4) *that would contribute to the preservation of*  
20           *a shipyard that would be essential in a time of war*  
21           *or national emergency.*

22           **“SEC. 1403. DETERMINATION OF SERIES TRANSITION PAY-**  
23           **MENTS.**

24           “(a) *IN GENERAL.*—*The Secretary shall determine the*  
25           *series transition payment for each vessel in a series of ves-*

1 *sels for which an application for assistance under this title*  
2 *is received by the Secretary.*

3 “(b) *AMOUNT OF SERIES TRANSITION PAYMENT.*—The  
4 *series transition payment for a vessel under subsection (a)*  
5 *is equal to the difference of—*

6 “(1) *the estimated cost of completing construc-*  
7 *tion of the vessel, as included in the application for*  
8 *assistance submitted under section 1405; minus*

9 “(2) *a reasonable estimate of the cost of con-*  
10 *structing the vessel under similar plans and specifica-*  
11 *tions in a foreign shipyard that is considered by the*  
12 *Secretary to be a fair and representative example for*  
13 *purposes of determining the payment.*

14 **“SEC. 1404. SERIES CONSTRUCTION AGREEMENT.**

15 “(a) *IN GENERAL.*—

16 “(1) *IN GENERAL.*—*The Secretary shall, for each*  
17 *series of vessels for which assistance is approved*  
18 *under section 1402, enter into a series construction*  
19 *agreement with the owner of the shipyard in which*  
20 *the series of vessels will be constructed, under which*  
21 *the Secretary is required to pay the owner assistance*  
22 *in accordance with a schedule established under para-*  
23 *graph (2).*

24 “(2) *SCHEDULE FOR PAYMENTS.*—*An agreement*  
25 *under this subsection shall establish a schedule for the*

1 *payment of assistance under the agreement, that is*  
2 *based on the construction schedule for vessels for*  
3 *which the assistance is paid.*

4 “(3) *TERMINATION OF AGREEMENT.—An agree-*  
5 *ment under this subsection shall authorize the Sec-*  
6 *retary to terminate the agreement if—*

7 “(A) *a contract required under section*  
8 *1402(b)(3)(B) is terminated by the purchaser of*  
9 *the vessel under the contract, and the owner of*  
10 *the shipyard does not enter into a new contract*  
11 *for construction of the vessel within a period*  
12 *which shall be specified in the agreement; or*

13 “(B) *the owner of the shipyard fails to enter*  
14 *into contracts for construction of all vessels in*  
15 *the series of vessels to which the agreement ap-*  
16 *plies, within a period which shall be specified in*  
17 *the agreement.*

18 “(4) *CONTINUING EFFECT OF AGREEMENT WITH*  
19 *RESPECT TO VESSELS COVERED BY CONTRACTS.—The*  
20 *termination of a series construction agreement under*  
21 *paragraph (3) shall not affect the effectiveness of the*  
22 *agreement with respect to vessels for which a construc-*  
23 *tion contract is in effect on the date of termination.*

24 “(b) *BINDING OBLIGATION OF THE UNITED STATES.—*

1           “(1) *IN GENERAL.*—*Except as provided in para-*  
2           *graph (2), a requirement that the Secretary make*  
3           *payments under a series construction agreement*  
4           *under subsection (a) shall constitute a binding obliga-*  
5           *tion of the United States.*

6           “(2) *TERMINATION OF OBLIGATION.*—*If the Sec-*  
7           *retary terminates a series construction agreement*  
8           *pursuant to subsection (a)(3), the obligation of the*  
9           *United States under paragraph (1) to make payments*  
10          *under the agreement shall terminate with respect to*  
11          *vessels for which no construction contract is in effect*  
12          *on the date of termination of the agreement.*

13          “(3) *CONTINUING AVAILABILITY OF AMOUNTS.*—  
14          *Amounts to be used to liquidate an obligation under*  
15          *paragraph (1) that terminates under paragraph (2)*  
16          *shall remain available to the Secretary for the pay-*  
17          *ment of assistance under this title.*

18          **“SEC. 1405. APPLICATIONS FOR ASSISTANCE.**

19          “(a) *SUBMITTAL.*—*A person desiring assistance under*  
20          *this title shall, in accordance with this section, submit an*  
21          *application to the Secretary.*

22          “(b) *CONTENTS OF APPLICATION.*—*An application for*  
23          *assistance under this title with respect to a series of vessels*  
24          *shall include the following:*



1           “(1) A detailed description of the type of vessels  
2 included in the series, including plans and specifica-  
3 tions for the vessels.

4           “(2) Detailed estimates of the cost of completing  
5 construction of each of the vessels in the series, includ-  
6 ing such estimates from subcontractors for the con-  
7 struction as may be required by the Secretary.

8           “(3) Copies of the contracts required under sec-  
9 tion 1402(b)(3)(B).

10           “(4) Other information required by the Secretary  
11 to fulfill the requirements of this title.

12           “(c) REGULATIONS.—The Secretary shall issue regula-  
13 tions setting forth the procedures for submitting an applica-  
14 tion for assistance under this title.

15 **“SEC. 1406. RESTRICTION ON VESSEL OPERATIONS.**

16           “A vessel for which assistance is paid under this  
17 title—

18           “(1) may be operated only in foreign trade or  
19 domestic trade authorized under a registry endorse-  
20 ment for the vessel issued under section 12105 of title  
21 46, United States Code; and

22           “(2) may not be operated in the coastwise trade  
23 of the United States (including mixed coastwise and  
24 foreign trade), except coastwise trade authorized

1        *under a registry endorsement for the vessel issued*  
2        *under section 12105 of title 46, United States Code.*

3        **“SEC. 1407. VESSEL DESIGN AWARDS.**

4        *“The Secretary, subject to the availability of appro-*  
5        *priations, may make an award to a United States shipyard*  
6        *on an equal matching basis for the cost of vessel designs*  
7        *and document and bid preparation for vessels described in*  
8        *section 403(b)(4).”.*

9        **SEC. 11. EFFECTIVE DATE.**

10        *The amendments made by this Act are effective on the*  
11        *date which is 120 days after the date of enactment of this*  
12        *Act.*

13        **SEC. 12. REGULATIONS.**

14        *(a) IN GENERAL.—The Secretary of Transportation*  
15        *shall prescribe regulations as necessary to carry out this*  
16        *Act.*

17        *(b) INTERIM REGULATIONS.—The Secretary of Trans-*  
18        *portation may prescribe interim regulations necessary to*  
19        *carry out this Act and for accepting eligibility decision ap-*  
20        *plications under section 403 of the Merchant Marine Act,*  
21        *1936, as amended by this Act. For this purpose, the Sec-*  
22        *retary of Transportation is excepted from compliance with*  
23        *the notice and comment requirements of section 553 of title*  
24        *5, United States Code. All regulations prescribed under the*  
25        *authority of this subsection that are not earlier superseded*

1 *by final rules shall expire 270 days after the date of enact-*  
2 *ment of this Act.*

3 **SEC. 13. EXPANSION OF STANDING FOR MARITIME UNIONS.**

4 *Section 301 of the Merchant Marine Act, 1936 (46*  
5 *App. U.S.C. 1131) is amended by adding at the end the*  
6 *following:*

7 *“(c) STANDING FOR MARITIME UNION REPRESENTA-*  
8 *TIVES.—The duly-elected representative of any organization*  
9 *that is certified by the Secretary of Labor as the proper*  
10 *collective bargaining agency for officers or crew employed*  
11 *on any type of United States documented vessel is an inter-*  
12 *ested party in, and has standing to challenge, any proposed*  
13 *or final order, action, or rule of the Secretary of Transpor-*  
14 *tation under this Act or section 9(c)(2) of the Shipping Act,*  
15 *1916.”.*

16 **SEC. 14. STUDY.**

17 *(a) IN GENERAL.—After providing public notice and*  
18 *opportunity for comment, the Secretary of Transportation*  
19 *shall conduct a study of—*

20 *(1) the impact of this Act on the international*  
21 *competitiveness of United States documented vessels*  
22 *and whether this Act has had a favorable or unfavor-*  
23 *able impact on the ability of United States docu-*  
24 *mented vessels to compete successfully with foreign-*  
25 *flag vessels;*

1           (2) *whether continuation of the Maritime Security Fleet program established by this Act would assist the international competitiveness of United States documented vessels;*

5           (3) *whether the Maritime Security Fleet program should be continued, modified, or discontinued;*

7           (4) *alternatives that are or should be available to operators of United States documented vessels if the Maritime Security Fleet program is discontinued;*  
10 *and*

11           (5) *any other issues related to promoting the international competitiveness of United States documented vessels that the Secretary considers appropriate.*

15           (b) *REPORT.*—*The Secretary of Transportation shall submit to the Congress a report on the findings and conclusions of the study required by subsection (a) by not later than 4 years after the date of enactment of this Act, which shall include such recommendations as the Secretary considers appropriate.*

21 **SEC. 15. CARGO PREFERENCE ADMINISTRATIVE REFORM.**

22           (a) *FINDINGS.*—*The Congress finds and declares that—*

24           (1) *the Congress continues to support the cargo preference program as an important element of sup-*  
25

1 *port for the United States-flag merchant marine be-*  
2 *cause the United States merchant marine is critical*  
3 *to the economic and national security of the United*  
4 *States;*

5 *(2) reserving a small portion of Government*  
6 *cargo for United States-flag vessels encourages com-*  
7 *petition among United States-flag vessels; and*

8 *(3) administering the cargo preference program*  
9 *in a centralized, commercially based manner reduces*  
10 *costs of the program.*

11 *(b) ADMINISTRATIVE REFORM.—Section 901 of the*  
12 *Merchant Marine Act, 1936 (46 App. U.S.C. 1241) is*  
13 *amended by adding at the end the following new sub-*  
14 *sections:*

15 *“(d) A privately owned United States-flag commercial*  
16 *vessel transporting any equipment, materials, or commod-*  
17 *ities under this section or section 901b shall be engaged*  
18 *under terms no less favorable than the most favorable terms*  
19 *offered to any foreign-flag vessel transporting equipment,*  
20 *materials, or commodities under this section or section*  
21 *901b.*

22 *“(e) A contract for the ocean transportation of any*  
23 *equipment, materials, or commodities under this section or*  
24 *section 901b, to the extent the Secretary of Transportation*  
25 *determines necessary to further the purposes of this section*

1 *and section 901b, shall be based on contracts used for com-*  
2 *mercial shipments.*

3       “(f) *The Secretary of Transportation shall participate*  
4 *in negotiations relating to agreements with recipient coun-*  
5 *tries for equipment, materials, or commodities subject to*  
6 *this section or section 901b to the extent the Secretary con-*  
7 *siders to be necessary to ensure agreement provisions relat-*  
8 *ing to or affecting the transportation of such equipment,*  
9 *materials, or commodities permit fair and reasonable trans-*  
10 *portation services to be provided.*

11       “(g) *No later than 180 days after the date of the enact-*  
12 *ment of the Maritime Security and Competitiveness Act of*  
13 *1993, the heads of appropriate Federal agencies, or their*  
14 *representatives, shall transmit to the Secretary of Transpor-*  
15 *tation recommendations relating to the methodology used*  
16 *by the Secretary of Transportation to determine whether*  
17 *rates for United States-flag vessels are fair and reasonable*  
18 *in compliance with section 901(b) and will achieve the pol-*  
19 *icy objectives of this Act.”.*

20 **SEC. 16. WAGES FOR WHICH PREFERRED MARITIME LIEN**  
21 **MAY BE ESTABLISHED.**

22       (a) *IN GENERAL.*—Section 31301(5)(D) of title 46,  
23 *United States Code, is amended by inserting before the*  
24 *semicolon the following: “(including any payment described*  
25 *in paragraph (5), (6), (7), (8), or (9) of section 302(c) of*

1 *the Labor Management Relations Act, 1947 for any indi-*  
 2 *vidual as a member of the crew of the vessel, that is due*  
 3 *from and unpaid by an owner or managing operator of*  
 4 *the vessel)''.*

5 (b) *INCURRING OBLIGATIONS BEFORE EXECUTING*  
 6 *PREFERRED MORTGAGES.—Section 31323(b)(2) of title 46,*  
 7 *United States Code, is amended by inserting before the*  
 8 *semicolon the following: “(including any payment described*  
 9 *in paragraph (5), (6), (7), (8), or (9) of section 302(c) of*  
 10 *the Labor Management Relations Act, 1947 for any member*  
 11 *of the crew of the vessel)''.*

12 (c) *MASTER’S LIEN FOR WAGES.—Section 11112 of*  
 13 *title 46, United States Code, is amended by inserting after*  
 14 *“wages” the following: “(including any payment described*  
 15 *in paragraph (5), (6), (7), (8), or (9) of section 302(c) of*  
 16 *the Labor Management Relations Act, 1947 for an individ-*  
 17 *ual as master of the vessel, that is due from and unpaid*  
 18 *by an owner or managing operator of the vessel)''.*

19 (d) *APPLICATION.—The amendments made by sub-*  
 20 *sections (a), (b), and (c) shall apply with respect to pay-*  
 21 *ments that first become due on or after the date of the enact-*  
 22 *ment of this Act.*

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