

Calendar No. 157

111TH CONGRESS }
1st Session }

SENATE

{ REPORT
111-73

MARITIME ADMINISTRATION
AUTHORIZATION ACT OF 2010

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1308



SEPTEMBER 9, 2009.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

79-010

WASHINGTON : 2009

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

JOHN D. ROCKEFELLER IV, West Virginia, *Chairman*

DANIEL K. INOUE, Hawaii	KAY BAILEY HUTCHISON, Texas
JOHN F. KERRY, Massachusetts	OLYMPIA J. SNOWE, Maine
BYRON L. DORGAN, North Dakota	JOHN ENSIGN, Nevada
BARBARA BOXER, California	JIM DEMINT, South Carolina
BILL NELSON, Florida	JOHN THUNE, South Dakota
MARIA CANTWELL, Washington	ROGER F. WICKER, Mississippi
FRANK R. LAUTENBERG, New Jersey	JOHNNY ISAKSON, Georgia
MARK PRYOR, Arkansas	DAVID VITTER, Louisiana
CLAIRE MCCASKILL, Missouri	SAM BROWNBACK, Kansas
AMY KLOBUCHAR, Minnesota	MEL MARTINEZ, Florida
TOM UDALL, Colorado	MIKE JOHANNIS, Nebraska
MARK WARNER, Virginia	
MARK BEGICH, Alaska	

ELLEN DONESKI, *Chief of Staff*

JAMES REID, *Deputy Chief of Staff*

BRUCE ANDREWS, *General Counsel*

ANN BEGEMAN, *Republican Staff Director*

BRIAN HENDRICKS, *Republican Chief Counsel*

TODD BERTSON, *Republican Senior Counsel*

Calendar No. 157

111TH CONGRESS }
1st Session }

SENATE

{ REPORT
111-73

MARITIME ADMINISTRATION AUTHORIZATION ACT OF 2010

SEPTEMBER 9, 2009.—Ordered to be printed

Mr. ROCKEFELLER, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 1308]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1308) to reauthorize the Maritime Administration, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

This legislation is the annual authorization act for the Maritime Administration (MARAD) within the Department of Transportation (DOT). The bill would authorize funds for fiscal year (FY) 2010 and amend laws governing the activities of the MARAD. The bill would improve the operations and fiscal controls at the U.S. Merchant Marine Academy (USMMA), authorize and strengthen the Port Infrastructure Development program, provide grant authority for Short Sea Transportation development projects, and authorize the Marine View (MARVIEW) information technology system.

BACKGROUND AND NEEDS

The MARAD was authorized through FY 2009 in the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (P.L. 110-417). The MARAD administers U.S. merchant marine support programs within the DOT, including the Maritime Security Program (MSP); the Title XI guaranteed loan program; various cargo preference programs; the Small Shipyard Assistance pro-

gram; the Short Sea Transportation Program; the maintenance of the Ready Reserve Force (RRF) and the National Defense Reserve Fleet (NDRF); and operation of the USMMA at Kings Point, New York.

SUMMARY OF PROVISIONS

The legislation would provide the USMMA permanent authority to hire adjunct professors, authority to liquidate unused leave of non-appropriated fund instrumentality employees who were terminated or converted in the transition to civil service in FY 2009, limit fees that can be imposed on midshipmen at the USMMA, and require MARAD to develop a separate and distinct accounting of such fees in the Operations and Training account to establish greater financial accountability. The DOT Secretary would be authorized to establish a Short Sea Transportation Grant Program to assist in the development of Short Sea Transportation projects and along marine transportation corridors designated by the Secretary. Additionally, the bill would authorize the establishment of a Port Infrastructure Development Program to allow the MARAD to provide technical and other assistance to modernize port facilities and generate greater efficiencies in the movement of freight. Such assistance would be provided at the request of State, regional, or other municipal partners. This bill would provide the MARAD authority to enter into cooperative agreements. Lastly, the legislation would limit the administrative expenses for Maritime Administration grant programs to no more than three percent unless otherwise stipulated by law.

LEGISLATIVE HISTORY

S. 1308 was introduced by Senator Lautenberg and is cosponsored by Senator Rockefeller, Senator Hutchison, Senator Thune, and Senator Wicker. An amendment was offered by Senator Begich to authorize and expand the MARVIEW System. The Senate Committee on Commerce, Science, and Transportation reported the bill favorably as amended on July 8, 2009. The staff members assigned to this legislation are: Dabney Hegg, Democratic Senior Professional Staff; and Todd Bertosen, Senior Republican Counsel.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

AUGUST 25, 2009.

Hon. JOHN D. ROCKEFELLER IV,
Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1308, the Maritime Administration Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 1308—Maritime Administration Act of 2010

Summary: S. 1308 would amend various laws governing the activities of the Maritime Administration (MARAD) and would authorize appropriations for that agency, mostly for fiscal year 2010. Assuming appropriation of the amounts specifically authorized and estimated to be necessary, CBO estimates that implementing S. 1308 would result in outlays of \$223 million over the 2010–2014 period. Additional amounts could be spent for the port development program authorized by section 8 of S. 1308, but such spending could occur in the absence of this legislation and also would be subject to future appropriation action.

Enacting S. 1308 also would increase direct spending by allowing MARAD to spend, without further appropriation, amounts credited as interest earnings on any unspent balances in a proposed fund for port development projects and by authorizing the agency to pay certain former employees for accrued leave. We estimate that direct spending under the bill would total \$190 million over the 2010–2019 period. Enacting the bill would not affect revenues.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1308 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—						
	2010	2011	2012	2013	2014	2010–2014	2010–2019
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
MARAD Activities:							
Authorization Level	178	10	10	10	0	208	208
Estimated Outlays	145	29	22	10	2	208	208
Short Sea Transportation Grants:							
Estimated Authorization Level	15	0	0	0	0	15	15
Estimated Outlays	5	5	5	0	0	15	15
Total Changes:							
Estimated Authorization Level	193	10	10	10	0	223	223
Estimated Outlays	150	34	27	10	2	223	223
CHANGES IN DIRECT SPENDING ^a							
Estimated Budget Authority	20	20	20	20	20	100	200
Estimated Outlays	10	20	20	20	20	90	190

^a CBO estimates that direct spending under S. 1308 would be \$20 million a year over the 2015–2019 period.

Basis of estimate: For this estimate, CBO assumes that S. 1308 will be enacted near the end of fiscal year 2009 and that the amounts newly authorized by the bill will be appropriated for each year. Estimated budget authority for provisions that may affect direct spending is based on information provided by MARAD. Estimated outlays are based on historical spending patterns for MARAD activities.

SPENDING SUBJECT TO APPROPRIATION

Maritime Operations and Grants. CBO estimates that implementing S. 1308 would increase discretionary spending by \$223 million over the 2010–2014 period, including \$153 million for MARAD operations, \$15 million for the agency’s program to dispose of obsolete vessels in the National Defense Reserve Fleet (both specifically authorized for fiscal year 2010), \$10 million specifically authorized for each of fiscal years 2010 through 2013 for MARAD’s Internet programs, and an estimated \$15 million for 2010 for grants to states and other entities to encourage the use of short-distance shipping by sea (short sea transportation grants).

S. 1308 also would authorize appropriations for other MARAD programs, including \$174 million for subsidies to U.S. flag vessels under the maritime security program, \$19.5 million for reimbursements to vessel owners for repairs made in U.S. shipyards, and \$36 million for the cost of making maritime loan guarantees. Those amounts are not shown in the table, however, because they are already authorized under current law.

Port Infrastructure Development. Section 8 of the bill would direct MARAD to create a program to develop and improve port facilities. Under this section, MARAD would act as the lead entity for port development projects nationwide and would coordinate activities among participants, including ports, states, businesses, and the many federal agencies that are typically involved in such projects (such as the U.S. Army Corps of Engineers).

Section 8 also would establish a Port Infrastructure Development Fund (PIDF) to be available to MARAD to administer and finance port development projects. The PIDF would receive amounts appropriated to MARAD (or other federal agencies and transferred to MARAD), contributions from nonfederal partners such as local port authorities, and (as discussed below under Direct Spending) interest credited on unspent balances in the fund.

The effect of section 8 on discretionary spending is uncertain, largely because funding for port development projects can occur even in the absence of this legislation. The federal government already finances many projects at U.S. ports through MARAD and other agencies within the Departments of Transportation (DOT), Homeland Security, and Defense. Several of those projects (most notably, those in Hawaii, Alaska, and Guam) are being managed by MARAD in much the same manner as authorized in section 8. The cost of such projects varies widely from as little as a few million at smaller facilities to over \$500 million at larger ports. The federal share of those costs also varies widely, from less than 10 percent to over 50 percent.

Based on information provided by states, port authorities, and MARAD, we expect that U.S. ports will spend between \$5 billion and \$10 billion over the next 10 years to improve and develop their facilities. We expect that some portion of this spending would be financed by the federal government, but any such financing could also be provided in the absence of this legislation. Therefore, CBO has not attributed any additional discretionary costs to the provisions in section 8.

DIRECT SPENDING

Two provisions of S. 1308 could increase direct spending. Section 8 would allow MARAD to spend amounts credited as interest on unspent balances in the PIDF. CBO expects that transfers into the PIDF would begin early in fiscal year 2010 and would include over \$600 million from amounts previously appropriated for specific port development projects (for example, the Anchorage initiative), from transfers of related federal funds (for example, DOT grants for intermodal projects), or from deposits of reprogrammed funds (such as emergency appropriations to certain states such as Mississippi). We estimate that interest credited on those amounts and other appropriations or cost-sharing contributions to the PIDF would increase direct spending by \$190 million over the 2010–2019 period. We expect that MARAD would use those amounts to fund smaller projects at U.S. ports.

Section 4 would allow MARAD to use balances of previously appropriated funds to make lump-sum payments to former employees of the U.S. Merchant Marine Academy for unused annual leave. Because this amount would not have been spent under current law, CBO estimates that this provision would increase direct spending by about \$200,000 in fiscal year 2010.

Intergovernmental and private-sector impact: S. 1308 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would authorize grants to states for marine transportation infrastructure and relative initiatives. Any costs to state, local, or tribal governments would result from complying with conditions of assistance.

Previous CBO estimate: On June 22, 2009, CBO transmitted a cost estimate for H.R. 2647, the National Defense Authorization for Fiscal Year 2010, as ordered reported by the House Committee on Armed Services on June 18, 2009. H.R. 2647 would authorize funding for MARAD operations and ship disposal at the same level as under S. 1308 but would not authorize appropriations for short sea transportation grants or for MARAD's Internet program. The House legislation also would allow the agency to pay accrued leave to certain former employees, as would S. 1308. Other provisions of the two versions of the legislation are different, however, as reflected in the CBO cost estimates.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Patrice Gordon.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

S. 1308 would require the development of grant guidelines for the Short Sea Transportation Grand Program to be administered by the Office of Intermodal System Development. The legislation would not require additional reporting requirements. The legislation would have no further effect on the number or types of individuals and businesses regulated, the economic impact of such regulation, the personal privacy of affected individuals, or the paperwork required from such individuals and businesses.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title.

Section 1 would provide that the legislation may be cited as the “Maritime Administration Authorization Act for Fiscal Year 2010”.

Section 2. Cooperative Agreements, Grant Administrative Expenses, and Contracting Authority.

Section 2 would clarify that the MARAD has the authority to enter into cooperative agreements. The MARAD has been entering into agreements that are encompassed within the broad contracting authority of 49 U.S.C. § 109. Section 2 would clarify this legal issue.

This section would also include a paragraph that would address funding for administrative expenses associated with grant programs administered by the MARAD. This would allow the MARAD to use no more than three percent of any grant funds to offset such administrative expenses, unless another number is specifically set by statute.

This section would also correct an inadvertent change resulting from recent codification of 46 U.S.C. App., which limited the use of this contracting authority to duties and activities carried out by the Secretary under 49 U.S.C. § 109 and Chapter V of Title 46. Section 2 would also clarify the statutory contracting authority of the MARAD set forth in 49 U.S.C. § 109 which applies to all of the MARAD’s programs.

Section 3. Maritime Administration Use of Funding for Maritime Heritage Property of the Department of Transportation.

Section 3 would allow the MARAD to use proceeds from the sale of National Defense Reserve Fleet (NDRF) vessels under the maritime heritage program for the purpose of preserving the historic maritime property of the MARAD.

The National Maritime Heritage Act allows the use of funds from the sale of scrapping of obsolete vessels. Fifty percent of such funds shall be available to the Maritime Administration for the acquisition, maintenance, repair, reconditioning, or improvement of NDRF vessels; twenty-five percent shall be available to the MARAD for payment or reimbursement of expenses incurred by or on behalf of the State maritime academies or the U.S. Merchant Marine Academy for facility and training ship maintenance, repair and modernization, and for the purchase of simulators and fuel. The remaining twenty-five percent shall be available to the Secretary of Interior to carry out a maritime heritage program.

The MARAD has maritime heritage property for which funding is needed for historic preservation. This section would grant the Secretary of Interior the authority to preserve the historic maritime property of the MARAD with a portion of the remaining twenty-five percent of the funds available.

Section 4. Liquidation of Unused Leave Balance at the U.S. Merchant Marine Academy.

Section 4 would authorize the use of appropriated funds to pay the unpaid annual leave balances of former non-appropriated fund instrumentality employees at the U.S. Merchant Marine Academy who were terminated or converted to the civil service during FY 2009.

Section 5. Permanent Authority to Hire Adjunct Professors at the U.S. Merchant Marine Academy.

Section 5 would make permanent the authority established in Section 3506 of P.L. 110-417, the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, to hire adjunct professors at the U.S. Merchant Marine Academy.

Section 6. Use of Midshipman Fees.

Section 6 would authorize the MARAD to credit midshipman fees to a separate account within its Operations and Training appropriations to achieve greater accountability and financial management. The funds would remain available until expended, for those expenses directly related to the purposes of the fees. Fees collected in excess of actual expenses may be returned to the midshipman through a mechanism approved by the Maritime Administrator. The MARAD would be directed to maintain a separate and detailed accounting of fee revenue and all associated expenses.

Section 7. Construction of Vessels in the United States.

Section 7 would make a technical correction to section 50101(a) of title 46, U.S.C. regarding vessel construction that was the result of the recent codification of title 46. The provisions contained in the codification no longer contain the reference to the need and policy for having a merchant marine constructed in the United States. Promoting vessel construction in the United States is an important component of the Merchant Marine Act, 1936. The recent codification of title 46 was not intended to make any substantive changes.

Section 8. Authorization to Establish a Port Infrastructure Development Program.

Section 8 would establish a Port Infrastructure Development Program. This section would allow the MARAD to assist States, territories, municipalities, and port facilities, at their request, with the management and federal coordination of their port infrastructure development projects.

America's ports are the critical link between other modes of transportation and in the movement of freight. Port authorities are working to meet a projected demand for additional capacity, and maintain and modernize their aging infrastructure. The MARAD has been successful in assisting ports with infrastructure projects as the lead federal agency overseeing redevelopment and expansion projects. In this role, they have coordinated with other federal agencies to expedite the Port development environmental review process, speed construction activities, and reduce overall costs.

Section 9. Authorization to Convey Obsolete Vessels to Foreign Countries.

Section 9 would place into title 46 the Maritime Administration's existing authority to convey obsolete vessels to foreign countries. This is consistent with the MARAD's authority as set out in P.L. 108-136.

Section 10. Student Incentive Payment Agreements.

Section 10 would strike the requirement that the MARAD pay student incentive payments at the beginning of the school year. The funding allocation for student incentive payments is inconsistent with the timing of federal appropriations. This change is necessary to appropriately align the execution of Student Incentive Payments to the federal fiscal year.

Section 11. United States Merchant Marine Academy Graduate Program Receipt, Disbursement, and Accounting for Non-Appropriated Funds.

Section 11 would allow the MARAD to credit tuition and designated gifts to its Operations and Training appropriations. The funds will remain available until expended, for those expenses directly related for the purposes of the program. The MARAD would be directed to maintain a separate and detailed accounting of these revenues and all associated expenses.

Section 12. America's Short Sea Transportation Grants for the Development of the Marine Highway.

Section 12 would allow the Secretary to establish a Short Sea Transportation Grant Program to support the Short Sea Transportation Initiative created in the Energy Independence and Security Act of 2007. The Act required the Secretary to implement programs to establish America's Marine Highway as an extension of the surface transportation system to mitigate landside congestion.

America's Marine Highway provides several advantages to the overall national transportation system, including reduced surface transportation congestion, decreased air emissions, decreased energy consumption, and the potential to improve highway safety by reducing motor carrier freight transportation. A typical vessel and barge service can shift over 450 trucks or 225 rail cars from costly and congested road and rail corridors to our underutilized waterways. The typical Marine Highway vessel and barge service can move one ton of cargo 576 miles on one gallon of fuel, whereas a truck would move that same cargo 155 miles and a train 413 miles on the same gallon of fuel. Inland marine transportation involves only 1 fatality for every 155 by truck and 22 by rail for every billion ton-miles moved.

Section 13. Expansion of the Marine View System.

Section 13 would expand the information technology system known as MARVIEW to support the strategic requirements of the United States marine transportation system and its contribution to the economic viability of the United States.

MARVIEW is a web-based resource that pulls maritime information from several Federal sources and non-profit organizations to create a common operating picture of the maritime domain. This

system provides for various levels of information access to users based upon clearance level. Some of the basic applications include: maritime domain awareness, centralized information exchange, support for critical incident response, emergency alerts, and statistical information on ports, vessels, and waterway usage on both a national and global basis.

Section 14. Authorization of Appropriations for Fiscal Year 2010.

Section 14 would describe the Authorization of Appropriations for the MARAD for Fiscal Year 2010.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART A. GENERAL

CHAPTER 501. POLICY, STUDIES, AND REPORTS

§ 50101. Objectives and policy

(a) OBJECTIVES.—It is necessary for the national defense and the development of the domestic and foreign commerce of the United States that the United States have a merchant marine—

(1) sufficient to carry the waterborne domestic commerce and a substantial part of the waterborne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of the waterborne domestic and foreign commerce at all times;

(2) capable of serving as a naval and military auxiliary in time of war or national emergency;

(3) owned and operated as vessels of the United States by citizens of the United States;

(4) composed of the best-equipped, safest, and most suitable types of vessels *constructed in the United States* and manned with a trained and efficient citizen personnel; and

(5) supplemented by efficient facilities for building and repairing vessels.

(b) POLICY.—It is the policy of the United States to encourage and aid the development and maintenance of a merchant marine satisfying the objectives described in subsection (a).

TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART A. GENERAL

CHAPTER 503. ADMINISTRATIVE

§ 50302. Port development

(a) GENERAL REQUIREMENTS.—With the objective of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which the Secretary of Transportation has jurisdiction, the Secretary, in cooperation with the Secretary of the Army, shall—

(1) investigate territorial regions and zones tributary to ports, taking into consideration the economies of transportation by rail, water, and highway and the natural direction of the flow of commerce;

(2) investigate the causes of congestion of commerce at ports and applicable remedies;

(3) investigate the subject of water terminals, including the necessary docks, warehouses, and equipment, to devise and suggest the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between water carriers and rail carriers;

(4) consult with communities on the appropriate location and plan of construction of wharves, piers, and water terminals;

(5) investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and

(6) investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight that naturally would pass through those ports.

(b) SUBMISSION OF FINDINGS TO SURFACE TRANSPORTATION BOARD.—After an investigation under subsection (a), if the Secretary of Transportation believes that the rates or practices of a rail carrier subject to the jurisdiction of the Surface Transportation Board are detrimental to the objective specified in subsection (a), or that new rates or practices, new or additional port terminal facilities, or affirmative action by a rail carrier is necessary to promote that objective, the Secretary may submit findings to the Board for action the Board considers appropriate under existing law.

(c) PORT INFRASTRUCTURE DEVELOPMENT PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—*The Secretary of Transportation, through the Maritime Administration, shall establish a port infrastructure development program for the improvement of port facilities.*

(2) AUTHORITY OF THE ADMINISTRATOR.—*In order to carry out any program established under paragraph (1), the Maritime Administrator may—*

(A) receive funds provided for the program from non-Federal and private entities that have a specific agreement or contract with the Maritime Administration to further the purposes of this subsection;

(B) coordinate with other Federal agencies to expedite the process established under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the improvement of port facilities to relieve port congestion, to increase port security, or to provide greater access to port facilities;

(C) seek to coordinate all reviews or requirements with appropriate local, State, and Federal agencies;

(D) provide such technical assistance to port authorities or commissions or their subdivisions and agents as needed for project planning, design, and construction; and

(E) encourage such public-private partnerships as may be necessary for the development of financial support of the project as the Administrator deems necessary.

(3) PORT INFRASTRUCTURE DEVELOPMENT FUND.—

(A) ESTABLISHMENT.—There is a Port Infrastructure Development Fund for use by the Administrator in carrying out the port infrastructure development program. The Fund shall be available to the Administrator—

(i) to administer and carry out the program;

(ii) to receive non-Federal and private funds from entities which have specific agreements or contracts with the Administrator; and

(iii) to make refunds for projects that will not be completed.

(B) CREDITS.—There shall be deposited into the Fund—

(i) funds from non-Federal and private entities which have agreements or contracts with the Administrator and which shall remain in the Fund until expended;

(ii) income from investments made pursuant to subparagraph (D); and

(iii) such amounts as may be appropriated or transferred to the Fund under this subsection.

(C) TRANSFERS.—Amounts appropriated or otherwise made available for any fiscal year for an intermodal or marine facility comprising a component of the program shall be transferred to the Fund and administered by the Administrator.

(D) INVESTMENTS.—Amounts in the Fund which are not currently needed for the program shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(E) ADMINISTRATIVE EXPENSES.—Administrative and related expenses for the program for any fiscal year may not exceed 3 percent of the amount available to the program for that fiscal year.

(F) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as may be necessary to carry out the program, taking into account amounts received under subparagraph (A)(ii).

TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART B. MERCHANT MARINE SERVICE

CHAPTER 513. UNITED STATES MERCHANT MARINE ACADEMY

§ 51309. Academic degree

(a) BACHELOR'S DEGREE.—

(1) IN GENERAL.—The Superintendent of the United States Merchant Marine Academy may confer the degree of bachelor of science on an individual who—

(A) has met the conditions prescribed by the Secretary of Transportation; and

(B) if a citizen of the United States, has passed the examination for a merchant marine officer's license.

(2) EFFECT OF PHYSICAL DISQUALIFICATION.—An individual not allowed to take the examination for a merchant marine officer's license only because of physical disqualification may not be denied a degree for not taking the examination.

(b) MASTER'S DEGREE.—The Superintendent of the Academy may confer a master's degree on an individual who has met the conditions prescribed by the Secretary. A master's degree program may be funded through non-appropriated funds. To maintain the appropriate academic standards, the program shall be accredited by the appropriate accreditation body. *Non-appropriated funds received for this purpose shall be credited to the Maritime Administration's Operations and Training appropriation, to remain available until expended, for those expenses directly related to the purpose of such receipts. The Superintendent shall maintain a separate and detailed accounting of non-appropriated fund receipts and all associated expenses.* The Secretary may prescribe regulations necessary to administer such a program.

(c) GRADUATION NOT ENTITLEMENT TO HOLD LICENSE.—Graduation from the Academy does not entitle an individual to hold a license authorizing service on a merchant vessel.

§ 51314. Limitation on charges and fees for attendance

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the United States Merchant Marine Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, [1994.] 1994, or for calculators, computers, personal and academic supplies, midshipman services such as barber, tailor, or laundry services, and U.S. Coast Guard license fees. The Secretary of Transportation shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.

(c) USE AND ACCOUNTING.—

(1) USE.—*Midshipman fees collected by the Academy shall be credited to the Maritime Administration's Operations and Training appropriations, to remain available until expended,*

for those expenses directly related to the purposes of the fees. Fees collected in excess of actual expenses may be returned to the midshipmen through a mechanism approved by the Maritime Administrator.

(2) ACCOUNTING.—*The Maritime Administration shall maintain a separate and detailed accounting of fee revenue and all associated expenses.*

* * * * *

§ 51317. Adjunct professors

(a) IN GENERAL.—*The Maritime Administrator may, subject to the availability of appropriations, contract with individuals as personal services contractors to provide services as adjunct professors at the United States Merchant Marine Academy, if the Maritime Administrator determines that there is a need for adjunct professors and the need is not of permanent duration.*

(b) CONTRACT REQUIREMENTS.—*Each contract under this section—*

(1) shall be approved by the Maritime Administrator; and

(2) shall be for a duration, including options, of not to exceed one year unless the Maritime Administration finds that exceptional circumstances justify an extension, which may not exceed one additional year.

(c) LIMITATION ON NUMBER OF CONTRACTORS.—*In awarding contracts under this section, the Maritime Administrator shall ensure that not more than 25 individuals actively provide services in any one academic trimester, or equivalent, as contractors under subsection (a).*

(d) EXISTING CONTRACTS.—*Any contract entered into before the date of enactment of the Maritime Administration Authorization Act of 2010 for the services of an adjunct professor at the Academy shall remain in effect for the trimester (or trimesters) for which the services were contracted.*

* * * * *

TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART B. MERCHANT MARINE SERVICE

CHAPTER 515. STATE MARITIME ACADEMY SUPPORT PROGRAM

§ 51509. Student incentive payment agreements

(a) GENERAL AUTHORITY.—*If a State maritime academy has an agreement with the Secretary of Transportation under section 51505 of this title, the Secretary may make an agreement with a student at the academy who is a citizen of the United States to make student incentive payments to the individual. An agreement with a student may not be effective for more than 4 academic years. The Secretary shall allocate payments under this section among the various State maritime academies in an equitable manner.*

(b) PAYMENTS.—*Payments under an agreement under this section shall be equal to \$8,000 each academic year and be [paid be-*

fore the start of each academic year,] *paid* as prescribed by the Secretary, while the individual is attending the academy. The payments shall be used for uniforms, tuition, books, and subsistence.

(c) ENLISTED RESERVE STATUS.—An agreement under this section shall require the student to accept enlisted reserve status in the Navy Reserve (including the Merchant Marine Reserve, Navy Reserve) or the Coast Guard Reserve before receiving any payments under the agreement.

(d) AGREEMENT REQUIREMENTS.—An agreement under this section shall require the student to—

(1) complete the course of instruction at the academy the individual is attending;

(2) take the examination for a license as an officer in the merchant marine of the United States before graduation from the academy and fulfill the requirements for such a license within 3 months after graduation from the academy;

(3) maintain a valid license as an officer in the merchant marine of the United States for at least 6 years after graduation from the academy, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;

(4) accept, if tendered, an appointment as a commissioned officer in the Navy Reserve (including the Merchant Marine Reserve, Navy Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the academy;

(5) serve the foreign and domestic commerce and the national defense of the United States for at least 3 years after graduation from the academy—

(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under subparagraph (A) is not available to the individual;

(C) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

(D) by a combination of the service alternatives referred to in subparagraphs (A)–(C); and

(6) report to the Secretary on compliance with this subsection.

(e) FAILURE TO COMPLETE COURSE OF INSTRUCTION.—

(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual who has accepted the payments described in subsection (b) for a minimum of 2 academic years has failed to fulfill the part of the agreement described in subsection (d)(1), the individual may be ordered by the Secretary of Defense to serve on active duty in the armed forces of the

United States for a period of not more than 2 years. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

(f) FAILURE TO CARRY OUT OTHER REQUIREMENTS.—

(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual has failed to fulfill any part of the agreement described in subsection (d)(2)-(6), the individual may be ordered to serve on active duty for a period of at least 2 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (d)(5). The Secretary of Transportation, in consultation with the Secretary of Defense, shall determine in which service the individual shall serve. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

(g) ACTIONS TO RECOVER COST.—To aid in the recovery of the cost of education provided by the Government under a commitment agreement under this section, the Secretary of Transportation may—

(1) request the Attorney General to bring a civil action against the individual; and

(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART D. PROMOTIONAL PROGRAMS

CHAPTER 556. SHORT SEA TRANSPORTATION

§ 55602. Short sea transportation grant program

(a) *IN GENERAL.*—*The Secretary of Transportation shall establish and implement a short sea transportation grant program.*

(b) *PURPOSE.*—*The purposes of the program are to make grants to States and other public entities and sponsors of short sea transportation projects designated by the Secretary—*

(1) *to facilitate and support marine transportation initiatives at the State and local levels to facilitate commerce, mitigate landside congestion, reduce the transportation energy consumption, reduce harmful emissions, improve safety, assist in environmental mitigation efforts, and improve transportation system resiliency; and*

(2) *to provide capital funding to address short sea transportation infrastructure and freight transportation needs for ports, vessels, and intermodal cargo facilities.*

(c) *ELIGIBLE PROJECTS.*—*To be eligible for a grant under the program, a project—*

(1) *shall be designed to help relieve congestion, improve transportation safety, facilitate domestic and international trade, or encourage public-private partnerships; and*

(2) *may include development, modification, and construction of marine and intermodal cargo facilities, vessels, port infrastructure and cargo handling equipment, and transfer facilities at ports.*

(d) *SELECTION PROCESS.*—

(1) *APPLICATIONS.*—*A State or other public entity, or the sponsor of any short sea transportation project designated by the Secretary under the America's Marine Highway Program (MARAD Docket No. 2008–0096; 73 FR 59530), may submit an application to Secretary for a grant under the short sea transportation grant program. The application shall contain such information and assurances as the Secretary may require.*

(2) *PRIORITY.*—*In selecting projects for grants, the Secretary shall give priority to projects that are consistent with the objectives of the short sea transportation initiative and America's Marine Highway Program that will—*

(A) *mitigate landside congestion;*

(B) *provide the greatest public benefit in energy savings, reduced emissions, improved system resiliency, and improved safety;*

(C) *include and demonstrate the greatest environmental responsibility; and*

(D) *provide savings as an alternative to or means to avoid highway or rail transportation infrastructure construction and maintenance.*

(e) *USE OF GRANT FUNDS.*—*Funds made available to a recipient of a grant under this section shall be used by the recipient for the*

project described in the application of the recipient approved by the Secretary.

【§ 55602. Cargo and shippers】

§ 55603. Cargo and shippers

(a) MEMORANDUMS OF AGREEMENT.—The Secretary of Transportation shall enter into memorandums of understanding with the heads of other Federal entities to transport federally owned or generated cargo using a short sea transportation project designated under section 55601 when practical or available.

(b) SHORT-TERM INCENTIVES.—The Secretary shall consult shippers and other participants in transportation logistics and develop proposals for short-term incentives to encourage the use of short sea transportation.

【§ 55603. Interagency coordination】

§ 55604. Interagency coordination

The Secretary of Transportation shall establish a board to identify and seek solutions to impediments hindering effective use of short sea transportation. The board shall include representatives of the Environmental Protection Agency and other Federal, State, and local governmental entities and private sector entities.

【§ 55604. Research on short sea transportation】

§ 55605. Research on short sea transportation

The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, may conduct research on short sea transportation, regarding—

- (1) the environmental and transportation benefits to be derived from short sea transportation alternatives for other forms of transportation;
- (2) technology, vessel design, and other improvements that would reduce emissions, increase fuel economy, and lower costs of short sea transportation and increase the efficiency of intermodal transfers; and
- (3) solutions to impediments to short sea transportation projects designated under section 55601.

【§ 55605. Short sea transportation defined】

§ 55606. Short sea transportation defined

In this chapter, the term “short sea transportation” means the carriage by vessel of cargo—

- (1) that is—
 - (A) contained in intermodal cargo containers and loaded by crane on the vessel; or
 - (B) loaded on the vessel by means of wheeled technology; and
- (2) that is—
 - (A) loaded at a port in the United States and unloaded either at another port in the United States or at a port in Canada located in the Great Lakes Saint Lawrence Seaway System; or

(B) loaded at a port in Canada located in the Great Lakes Saint Lawrence Seaway System and unloaded at a port in the United States.

TITLE 49. TRANSPORTATION

SUBTITLE I. DEPARTMENT OF TRANSPORTATION

CHAPTER 1. ORGANIZATION

§ 109. Maritime Administration

(a) ORGANIZATION.—The Maritime Administration is an administration in the Department of Transportation.

(b) MARITIME ADMINISTRATOR.—The head of the Maritime Administration is the Maritime Administrator, who is appointed by the President by and with the advice and consent of the Senate. The Administrator shall report directly to the Secretary of Transportation and carry out the duties prescribed by the Secretary.

(c) DEPUTY MARITIME ADMINISTRATOR.—The Maritime Administration shall have a Deputy Maritime Administrator, who is appointed in the competitive service by the Secretary, after consultation with the Administrator. The Deputy Administrator shall carry out the duties prescribed by the Administrator. The Deputy Administrator shall be Acting Administrator during the absence or disability of the Administrator and, unless the Secretary designates another individual, during a vacancy in the office of Administrator.

(d) DUTIES AND POWERS VESTED IN SECRETARY.—All duties and powers of the Maritime Administration are vested in the Secretary.

(e) REGIONAL OFFICES.—The Maritime Administration shall have regional offices for the Atlantic, Gulf, Great Lakes, and Pacific port ranges, and may have other regional offices as necessary. The Secretary shall appoint a qualified individual as Director of each regional office. The Secretary shall carry out appropriate activities and programs of the Maritime Administration through the regional offices.

(f) INTERAGENCY AND INDUSTRY RELATIONS.—The Secretary shall establish and maintain liaison with other agencies, and with representative trade organizations throughout the United States, concerned with the transportation of commodities by water in the export and import foreign commerce of the United States, for the purpose of securing preference to vessels of the United States for the transportation of those commodities.

(g) DETAILING OFFICERS FROM ARMED FORCES.—To assist the Secretary in carrying out duties and powers relating to the Maritime Administration, not more than five officers of the armed forces may be detailed to the Secretary at any one time, in addition to details authorized by any other law. During the period of a detail, the Secretary shall pay the officer an amount that, when added to the officer's pay and allowances as an officer in the armed forces, makes the officer's total pay and allowances equal to the amount that would be paid to an individual performing work the Secretary considers to be of similar importance, difficulty, and responsibility as that performed by the officer during the detail.

[(h) CONTRACTS AND AUDITS.—]

(h) *CONTRACTS, COOPERATIVE AGREEMENTS, AND AUDITS.*—

[(1) CONTRACTS.—] *(1) CONTRACTS AND COOPERATIVE AGREEMENTS.*—In the same manner that a private corporation may make a contract within the scope of its authority under its charter, the Secretary may **[make contracts]** *make contracts and cooperative agreements* for the United States Government and disburse amounts to—

(A) carry out the Secretary's duties and powers under this **[section and]** *section*, subtitle V of **[title 46;]** *title 46, and all other Maritime Administration programs;* and

(B) protect, preserve, and improve collateral held by the Secretary to secure indebtedness.

(2) AUDITS.—The financial transactions of the Secretary under paragraph (1) shall be audited by the Comptroller General. The Comptroller General shall allow credit for an expenditure shown to be necessary because of the nature of the business activities authorized by this section or subtitle V of title 46. At least once a year, the Comptroller General shall report to Congress any departure by the Secretary from this section or subtitle V of title 46.

(i) GRANT ADMINISTRATIVE EXPENSES.—Except as otherwise provided by law, the administrative and related expenses for the administration of any grant programs by the Maritime Administrator may not exceed 3 percent.

[(i)] (j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, there are authorized to be appropriated such amounts as may be necessary to carry out the duties and powers of the Secretary relating to the Maritime Administration.

(2) LIMITATIONS.—Only those amounts specifically authorized by law may be appropriated for the use of the Maritime Administration for—

(A) acquisition, construction, or reconstruction of vessels;

(B) construction-differential subsidies incident to the construction, reconstruction, or reconditioning of vessels;

(C) costs of national defense features;

(D) payments of obligations incurred for operating-differential subsidies;

(E) expenses necessary for research and development activities, including reimbursement of the Vessel Operations Revolving Fund for losses resulting from expenses of experimental vessel operations;

(F) the Vessel Operations Revolving Fund;

(G) National Defense Reserve Fleet expenses;

(H) expenses necessary to carry out part B of subtitle V of title 46; and

(I) other operations and training expenses related to the development of waterborne transportation systems, the use of waterborne transportation systems, and general administration.

(3) TRAINING VESSELS.—Amounts may not be appropriated for the purchase or construction of training vessels for State maritime academies unless the Secretary has approved a plan for sharing training vessels between State maritime academies.

PUBLIC LAW 92-402

SEC. 3. STATE APPLICATIONS FOR OBSOLETE SHIPS FOR USE AS OFFSHORE REEFS.**§ 1220. State applications for obsolete ships for use as offshore reefs**

(a) CONSERVATION OF MARINE LIFE.—Any State may apply to the Secretary of Transportation (hereafter referred to in this Act as the “Secretary”) for obsolete ships which, but for the operation of this Act, would be designated by the Secretary for scrapping if the State intends to sink such ships for use as an offshore artificial reef for the conservation of marine life.

(b) MANNER AND FORM OF APPLICATIONS; MINIMUM REQUIREMENTS.—A State shall apply for obsolete ships under this Act in such manner and form as the Secretary shall prescribe, but such application shall include at least (1) the location at which the State proposes to sink the ships, (2) a certificate from the Administrator, Environmental Protection Agency, that the proposed use of the particular vessel or vessels requested by the State will be compatible with water quality standards and other appropriate environmental protection requirements, and (3) statements and estimates with respect to the conservation goals which are sought to be achieved by use of the ships.

(c) COPIES TO FEDERAL OFFICERS FOR OFFICIAL COMMENTS AND VIEWS.—Before taking any action with respect to an application submitted under this Act, the Secretary shall provide copies of the application to the Secretary of the Interior, the Secretary of Defense, and any other appropriate Federal officer, and shall consider comments and views of such officers with respect to the application.

(d) *Any territory, possession, or Commonwealth of the United States, and any foreign country, may apply to the Secretary for an obsolete vessel to be used for an artificial reef under this section. The application process and reefing of any such obsolete vessel shall be performed in a manner consistent with the process jointly developed by the Secretary of Transportation and the Administrator of the Environmental Protection Agency under section 3504(b) of Public Law 107-314 (16 U.S.C. 1220 note).*

PUBLIC LAW 92-402

SEC. 7. FINANCIAL ASSISTANCE TO STATE TO PREPARE TRANSFERRED SHIP.

[16 U.S.C. 1220e-1]

(a) ASSISTANCE AUTHORIZED.—The Secretary, subject to the availability of appropriations, may provide, to any State to which an obsolete ship is transferred under this Act, financial assistance to prepare the ship for use as an artificial reef, including for—

- (1) environmental remediation;
- (2) towing; and
- (3) sinking.

(b) AMOUNT OF ASSISTANCE.—The Secretary shall determine the amount of assistance under this section with respect to an obsolete ship based on—

- (1) the total amount available for providing assistance under this section;
 - (2) the benefit achieved by providing assistance for that ship; and
 - (3) the cost effectiveness of disposing of the ship by transfer under this Act and provision of assistance under this section, compared to other disposal options for that ship.
- (c) TERMS AND CONDITIONS.—The Secretary—
- (1) shall require a State seeking assistance under this section to provide cost data and other information determined by the Secretary to be necessary to justify and document the assistance; and
 - (2) may require a State receiving such assistance to comply with terms and conditions necessary to protect the environment and the interests of the United States.
- (d) LIMITATION.—*The Secretary may not provide assistance under this section to a foreign country to which an obsolete ship is transferred under this Act.*

NATIONAL MARITIME HERITAGE ACT OF 1994

SEC. 6. FUNDING.

[16 U.S.C. 5405]

(a) AVAILABILITY OF FUNDS FROM SALE AND SCRAPPING OF OBSOLETE VESSELS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the amount of funds credited in a fiscal year to the Vessel Operations Revolving Fund established by the Act of June 2, 1951 (46 App. U.S.C. 1241a), that is attributable to the sale of obsolete vessels in the National Defense Reserve Fleet that are scrapped or sold under section 508 or 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 or 1160(i)) shall be available until expended as follows:

(A) 50 percent shall be available to the Administrator of the Maritime Administration for such acquisition, maintenance, repair, reconditioning, or improvement of vessels in the National Defense Reserve Fleet as is authorized under other Federal law.

(B) 25 percent shall be available to the Administrator of the Maritime Administration for the payment or reimbursement of expenses incurred by or on behalf of State maritime academies or the United States Merchant Marine Academy for facility and training ship maintenance, repair, and modernization, and for the purchase of simulators and fuel.

[(C) The remainder shall be available to the Secretary to carry out the Program, as provided in subsection (b).]

(C) The remainder, whether collected before or after the date of enactment of the Maritime Administration Authorization Act of 2010, shall be available to the Secretary to carry out the Program, as provided in subsection (b) of this section or, if otherwise determined by the Maritime Administrator, for use in the preservation and presentation to the public of maritime heritage property of the Maritime Administration.

(2) APPLICATION.—Paragraph (1) does not apply to amounts credited to the Vessel Operations Revolving Fund before July 1, 1994.

(b) USE OF AMOUNTS FOR PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (2), of amounts available each fiscal year for the Program under subsection (a)(1)(C)—

(A) 1/2 shall be used for grants under section 4(b); and

(B) 1/2 shall be used for grants under section 4(c).

(2) USE FOR INTERIM PROJECTS.—Amounts available for the Program under subsection (a)(1)(C) that are the proceeds of any of the first 8 obsolete vessels in the National Defense Reserve Fleet that are sold or scrapped after July 1, 1994, under section 508 or 510(i) of the Merchant Marine Act, 1936 (46 U.S.C. 1158 or 1160(i)) are available to the Secretary for grants for interim projects approved under section 4(j) of this Act.

(3) ADMINISTRATIVE EXPENSES.—

(A) IN GENERAL.—Not more than 15 percent or \$ 500,000, whichever is less, of the amount available for the Program under subsection (a)(1)(C) for a fiscal year may be used for expenses of administering the Program.

(B) ALLOCATION.—Of the amount available under subparagraph (A) for a fiscal year—

(i) 1/2 shall be allocated to the National Trust for expenses incurred in administering grants under section 4(b); and

(ii) 1/2 shall be allocated as appropriate by the Secretary to the National Park Service and participating State Historic Preservation Officers.

(c) DISPOSALS OF VESSELS.—

(1) REQUIREMENT.—The Secretary of Transportation shall dispose (either by sale or purchase of disposal services) of all vessels described in paragraph (2)—

(A) in accordance with a priority system for disposing of vessels, as determined by the Secretary, which shall include provisions requiring the Maritime Administration to—

(i) dispose of all deteriorated high priority ships that are available for disposal, within 12 months of their designation as such; and

(ii) give priority to the disposition of those vessels that pose the most significant danger to the environment or cost the most to maintain;

(B) in the manner that provides the best value to the Government, except in any case in which obtaining the best value would require towing a vessel and such towing poses a serious threat to the environment; and

(C) in accordance with the plan of the Department of Transportation for disposal of those vessels and requirements under sections 508 and 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158, 1160(i)).

(2) VESSELS DESCRIBED.—The vessels referred to in paragraph (1) are the vessels in the National Defense Reserve Fleet after July 1, 1994, that—

- (A) are not assigned to the Ready Reserve Force component of that fleet; and
- (B) are not specifically authorized or required by statute to be used for a particular purpose.
- (d) TREATMENT OF AMOUNTS AVAILABLE.—Amounts available under this section shall not be considered in any determination of the amounts available to the Department of the Interior.

DUNCAN HUNTER NATIONAL DEFENSE AUTHORIZATION
ACT FOR FISCAL YEAR 2009

[46 U.S.C. 53101 note]

§ 53101. Definitions

In this chapter:

- (1) BULK CARGO.—The term “bulk cargo” means cargo that is loaded and carried in bulk without mark or count.
- (2) CONTRACTOR.—The term “contractor” means an owner or operator of a vessel that enters into an operating agreement for the vessel with the Secretary under section 53103.
- (3) FLEET.—The term “Fleet” means the Maritime Security Fleet established under section 53102(a).
- (4) FOREIGN COMMERCE.—The term “foreign commerce”—
 - (A) subject to subparagraph (B), means—
 - (i) commerce or trade between the United States, its territories or possessions, or the District of Columbia, and a foreign country; and
 - (ii) commerce or trade between foreign countries; and
 - (B) includes, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in such manner as will permit United States-documented vessels freely to compete with foreign-flag bulk carrying vessels in their operation or in competing for charters, subject to rules and regulations promulgated by the Secretary of Transportation pursuant to this chapter or subtitle D of the Maritime Security Act of 2003.
- (5) LASH VESSEL.—The term “LASH vessel” means a lighter aboard ship vessel.
- (6) PARTICIPATING FLEET VESSEL.—The term “participating fleet vessel” means any vessel that—
 - (A) on October 1, 2005—
 - (i) meets the requirements of paragraph (1), (2), (3), or (4) of section 53102(c); and
 - (ii) is less than 25 years of age, or less than 30 years of age in the case of a LASH vessel; and
 - (B) on December 31, 2004, is covered by an operating agreement under subtitle B of title VI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1187 et seq.).
- (7) PERSON.—The term “person” includes corporations, partnerships, and associations existing under or authorized by the laws of the United States, or any State, Territory, District, or possession thereof, or of any foreign country.
- (8) PRODUCT TANK VESSEL.—The term “product tank vessel” means a double hulled tank vessel capable of carrying simulta-

neously more than 2 separated grades of refined petroleum products.

(9) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(10) TANK VESSEL.—The term “tank vessel” has the meaning that term has under section 2101 of this title.

(11) UNITED STATES.—The term “United States” includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands.

(12) UNITED STATES CITIZEN TRUST.—

(A) Subject to subparagraph (C), the term “United States citizen trust” means a trust that is qualified under this paragraph.

(B) A trust is qualified under this paragraph with respect to a vessel only if—

(i) each of the trustees is a citizen of the United States; and

(ii) the application for documentation of the vessel under chapter 121 of this title includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

(C) If any person that is not a citizen of the United States has authority to direct or participate in directing a trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this paragraph unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.

(D) This paragraph shall not be considered to prohibit a person who is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

(13) UNITED STATES-DOCUMENTED VESSEL.—The term “United States-documented vessel” means a vessel documented under chapter 121 of this title.

[SEC. 3506. TEMPORARY PROGRAM AUTHORIZING CONTRACTS WITH ADJUNCT PROFESSORS AT THE UNITED STATES MERCHANT MARINE ACADEMY AND FOR OTHER PURPOSES.

[(a) IN GENERAL.—The Maritime Administrator may establish a temporary program for the purpose of, subject to the availability of appropriations, contracting with individuals as personal services contractors to provide services as adjunct professors at the Acad-

emy, if the Maritime Administrator determines that there is a need for adjunct professors and the need is not of permanent duration.

[(b) CONTRACT REQUIREMENTS.—Each contract under the program—

[(1) must be approved by the Maritime Administrator;

[(2) subject to paragraph (3), shall be for a duration, including options, of not to exceed one year unless the Maritime Administrator finds that exceptional circumstances justify an extension of up to one additional year; and

[(3) shall terminate not later than 6 months after the termination of contract authority under subsection (d).

[(c) LIMITATION ON NUMBER OF CONTRACTORS.—In awarding contracts under the program, the Maritime Administrator shall ensure that not more than 25 individuals actively provide services in any one academic trimester, or equivalent, as contractors under the program.

[(d) TERMINATION OF CONTRACTING AUTHORITY.—The authority to award contracts under the program shall terminate upon the end of the academic year 2008-2009.

[(e) EXISTING CONTRACTS.—Any contract entered into before the effective date of this section for the services of an adjunct professor at the Academy shall remain in effect for the trimester (or trimesters) for which the services were contracted.

[(f) DEFINITIONS.—In this section:

[(1) ACADEMY.—The term “Academy” means the United States Merchant Marine Academy.

[(2) MARITIME ADMINISTRATOR.—The term “Maritime Administrator” means the Administrator of the Maritime Administration, or a designee of the Administrator.

[(3) PROGRAM.—The term “program” means the program established under subsection (a).]