

House Calendar No. 61

109TH CONGRESS
1ST SESSION

H. R. 1442

[Report No. 109–170]

To complete the codification of title 46, United States Code, “Shipping”,
as positive law.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2005

Mr. SENSENBRENNER (for himself and Mr. CONYERS) introduced the
following bill; which was referred to the Committee on the Judiciary

JULY 14, 2005

Reported with an amendment, referred to the House Calendar, 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 introduced on March 17, 2005]

A BILL

To complete the codification of title 46, United States Code,
“Shipping”, as positive law.

- 1 *Be it enacted by the Senate and House of Representatives of the United*
- 2 *States of America in Congress assembled,*
- 3 **SECTION 1. TABLE OF CONTENTS.**
- 4 *The table of contents for this Act is as follows:*

- Sec. 1. Table of contents.*
- Sec. 2. Purpose; conformity with original intent.*
- Sec. 3. Title analysis.*
- Sec. 4. Subtitle I of title 46.*
- Sec. 5. Subtitle II of title 46.*

- Sec. 6. Subtitle III of title 46.
 Sec. 7. Subtitle IV of title 46.
 Sec. 8. Subtitle V of title 46.
 Sec. 9. Subtitle VI of title 46.
 Sec. 10. Subtitle VII of title 46.
 Sec. 11. Subtitle VIII of title 46.
 Sec. 12. Maritime Administration.
 Sec. 13. Amendments relating to Maritime Security Act of 2003.
 Sec. 14. Amendments to partially restated provisions.
 Sec. 15. Additional amendments to title 46.
 Sec. 16. Recreational boating safety technical amendments.
 Sec. 17. Conforming amendments to other laws.
 Sec. 18. Transitional and savings provisions.
 Sec. 19. Repeals.

1 **SEC. 2. PURPOSE; CONFORMITY WITH ORIGINAL INTENT.**

2 (a) *PURPOSE.*—The purpose of this Act is to complete the codification of
 3 title 46, United States Code, “Shipping”, as positive law, by reorganizing
 4 and restating the laws currently in the appendix to title 46.

5 (b) *CONFORMITY WITH ORIGINAL INTENT.*—In the codification of laws by
 6 this Act, the intent is to conform to the understood policy, intent, and purpose
 7 of the Congress in the original enactments, with such amendments and correc-
 8 tions as will remove ambiguities, contradictions, and other imperfections, in
 9 accordance with section 205(c)(1) of House Resolution No. 988, 93d Congress,
 10 as enacted into law by Public Law 93–554 (2 U.S.C. 285b(1)).

11 **SEC. 3. TITLE ANALYSIS.**

12 The title analysis of title 46, United States Code, is amended to read as
 13 follows:

<i>“Subtitle</i>	<i>Sec.</i>
“I. GENERAL	101
“II. VESSELS AND SEAMEN	2101
“III. MARITIME LIABILITY	30101
“IV. REGULATION OF OCEAN SHIPPING	40101
“V. MERCHANT MARINE	50101
“VI. CLEARANCE, TONNAGE TAXES, AND DUTIES	60101
“VII. SECURITY AND DRUG ENFORCEMENT	70101
“VIII. MISCELLANEOUS	80101”.

14 **SEC. 4. SUBTITLE I OF TITLE 46.**

15 Title 46, United States Code, is amended by inserting after the title anal-
 16 ysis the following:

17 **“Subtitle I—General**

<i>“Chapter</i>	<i>Sec.</i>
“1. Definitions	101
“3. Federal Maritime Commission	301
“5. Other General Provisions	501

18 **“CHAPTER 1—DEFINITIONS**

- “Sec.*
 “101. Agency.
 “102. Barge.
 “103. Boundary Line.
 “104. Citizen of the United States.
 “105. Consular officer.
 “106. Documented vessel.
 “107. Exclusive economic zone.
 “108. Fisheries.

“109. *Foreign commerce or trade.*

“110. *Foreign vessel.*

“111. *Numbered vessel.*

“112. *State.*

“113. *Undocumented.*

“114. *United States.*

“115. *Vessel.*

“116. *Vessel of the United States.*

1 **“§ 101. Agency**

2 *“In this title, the term ‘agency’ means a department, agency, or instrumen-*
3 *tality of the United States Government.*

4 **“§ 102. Barge**

5 *“In this title, the term ‘barge’ means a non-self-propelled vessel.*

6 **“§ 103. Boundary Line**

7 *“In this title, the term ‘Boundary Line’ means a line established under sec-*
8 *tion 2(b) of the Act of February 19, 1895 (33 U.S.C. 151).*

9 **“§ 104. Citizen of the United States**

10 *“In this title, the term ‘citizen of the United States’, when used in reference*
11 *to a natural person, means an individual who is a national of the United*
12 *States as defined in section 101(a)(22) of the Immigration and Nationality*
13 *Act (8 U.S.C. 1101(a)(22)).*

14 **“§ 105. Consular officer**

15 *“In this title, the term ‘consular officer’ means an officer or employee of*
16 *the United States Government designated under regulations to issue visas.*

17 **“§ 106. Documented vessel**

18 *“In this title, the term ‘documented vessel’ means a vessel for which a cer-*
19 *tificate of documentation has been issued under chapter 121 of this title.*

20 **“§ 107. Exclusive economic zone**

21 *“In this title, the term ‘exclusive economic zone’ means the zone established*
22 *by Presidential Proclamation 5030 of March 10, 1983 (16 U.S.C. 1453 note).*

23 **“§ 108. Fisheries**

24 *“In this title, the term ‘fisheries’ includes processing, storing, transporting*
25 *(except in foreign commerce), planting, cultivating, catching, taking, or har-*
26 *vesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in*
27 *the navigable waters of the United States or in the exclusive economic zone.*

28 **“§ 109. Foreign commerce or trade**

29 *“(a) IN GENERAL.—In this title, the terms ‘foreign commerce’ and ‘foreign*
30 *trade’ mean commerce or trade between a place in the United States and a*
31 *place in a foreign country.*

32 *“(b) CAPITAL CONSTRUCTION FUNDS AND CONSTRUCTION-DIFFERENTIAL*
33 *SUBSIDIES.—In the context of capital construction funds under chapter 535*
34 *of this title, and in the context of construction-differential subsidies under*
35 *title V of the Merchant Marine Act, 1936, the terms ‘foreign commerce’ and*
36 *‘foreign trade’ also include, in the case of liquid and dry bulk cargo carrying*

1 *services, trading between foreign ports in accordance with normal commercial*
 2 *bulk shipping practices in a manner that will permit bulk vessels of the*
 3 *United States to compete freely with foreign bulk vessels in their operation*
 4 *or competition for charters, subject to regulations prescribed by the Secretary*
 5 *of Transportation.*

6 **“§ 110. Foreign vessel**

7 *“In this title, the term ‘foreign vessel’ means a vessel of foreign registry or*
 8 *operated under the authority of a foreign country.*

9 **“§ 111. Numbered vessel**

10 *“In this title, the term ‘numbered vessel’ means a vessel for which a number*
 11 *has been issued under chapter 123 of this title.*

12 **“§ 112. State**

13 *“In this title, the term ‘State’ means a State of the United States, the Dis-*
 14 *trict of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa,*
 15 *the Northern Mariana Islands, and any other territory or possession of the*
 16 *United States.*

17 **“§ 113. Undocumented**

18 *“In this title, the term ‘undocumented’ means not having and not required*
 19 *to have a certificate of documentation issued under chapter 121 of this title.*

20 **“§ 114. United States**

21 *“In this title, the term ‘United States’, when used in a geographic sense,*
 22 *means the States of the United States, the District of Columbia, Guam, Puer-*
 23 *to Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands,*
 24 *and any other territory or possession of the United States.*

25 **“§ 115. Vessel**

26 *“In this title, the term ‘vessel’ has the meaning given that term in section*
 27 *3 of title 1.*

28 **“§ 116. Vessel of the United States**

29 *“In this title, the term ‘vessel of the United States’ means a vessel docu-*
 30 *mented under chapter 121 of this title (or exempt from documentation under*
 31 *section 12102(c) of this title), numbered under chapter 123 of this title, or*
 32 *titled under the law of a State.*

33 **“CHAPTER 3—FEDERAL MARITIME COMMISSION**

“Sec.

“301. *General organization.*

“302. *Quorum.*

“303. *Record of meetings and votes.*

“304. *Delegation of authority.*

“305. *Regulations.*

“306. *Annual report.*

“307. *Expenditures.*

34 **“§ 301. General organization**

35 *“(a) ORGANIZATION.—The Federal Maritime Commission is an inde-*
 36 *pendent establishment of the United States Government.*

1 “(b) COMMISSIONERS.—

2 “(1) COMPOSITION.—*The Commission is composed of 5 Commis-*
3 *sioners, appointed by the President by and with the advice and consent*
4 *of the Senate. Not more than 3 Commissioners may be appointed from*
5 *the same political party.*

6 “(2) TERMS.—*The term of each Commissioner is 5 years, with each*
7 *term beginning one year apart. An individual appointed to fill a va-*
8 *cancy is appointed only for the unexpired term of the individual being*
9 *succeeded. A vacancy shall be filled in the same manner as the original*
10 *appointment. When the term of a Commissioner ends, the Commissioner*
11 *may continue to serve until a successor is appointed and qualified.*

12 “(3) REMOVAL.—*The President may remove a Commissioner for inef-*
13 *iciency, neglect of duty, or malfeasance in office.*

14 “(c) CHAIRMAN.—

15 “(1) DESIGNATION.—*The President shall designate one of the Commis-*
16 *sioners as Chairman.*

17 “(2) GENERAL AUTHORITY.—*The Chairman is the chief executive and*
18 *administrative officer of the Commission. In carrying out the duties and*
19 *powers of the Commission (other than under paragraph (3)), the Chair-*
20 *man is subject to the policies, regulatory decisions, findings, and deter-*
21 *minations of the Commission.*

22 “(3) PARTICULAR DUTIES.—

23 “(A) IN GENERAL.—*The Chairman shall—*

24 “(i) *appoint and supervise officers and employees of the*
25 *Commission;*

26 “(ii) *appoint the heads of major organizational units, but*
27 *only after consultation with the other Commissioners;*

28 “(iii) *distribute the business of the Commission among per-*
29 *sonnel and organizational units;*

30 “(iv) *supervise the expenditure of money for administrative*
31 *purposes; and*

32 “(v) *assign Commission personnel, including Commissioners,*
33 *to perform duties and powers delegated by the Commission*
34 *under section 304 of this title.*

35 “(B) NONAPPLICATION.—*Subparagraph (A) (other than clause*
36 *(v)) does not apply to personnel employed regularly and full-time*
37 *in the offices of Commissioners other than the Chairman.*

38 “(4) DELEGATION.—*The Chairman may designate officers and em-*
39 *ployees under the Chairman’s jurisdiction to perform duties and powers*
40 *of the Chairman, subject to the Chairman’s supervision and direction.*

1 “(d) *SEAL.*—*The Commission shall have a seal which shall be judicially*
2 *recognized.*

3 **“§ 302. Quorum**

4 “*A vacancy or vacancies in the membership of the Federal Maritime Com-*
5 *mission do not impair the power of the Commission to execute its functions.*
6 *The affirmative vote of a majority of the Commissioners serving on the Com-*
7 *mission is required to dispose of any matter before the Commission.*

8 **“§ 303. Record of meetings and votes**

9 “*The Federal Maritime Commission, through its secretary, shall keep a*
10 *record of its meetings and the votes taken on any action, order, contract, or*
11 *financial transaction of the Commission.*

12 **“§ 304. Delegation of authority**

13 “(a) *DELEGATION.*—*The Federal Maritime Commission, by published order*
14 *or regulation, may delegate to a division of the Commission, an individual*
15 *Commissioner, an employee board, or an officer or employee of the Commis-*
16 *sion, any of its duties or powers, including those relating to hearing, deter-*
17 *mining, ordering, certifying, reporting, or otherwise acting on any matter.*
18 *This subsection does not affect section 556(b) of title 5.*

19 “(b) *REVIEW.*—*The Commission may review any action taken under a del-*
20 *egation of authority under subsection (a). The review may be taken on the*
21 *Commission’s own initiative or on the petition of a party to or an intervenor*
22 *in the action, within the time and in the manner prescribed by the Commis-*
23 *sion. The vote of a majority of the Commission, less one member, is sufficient*
24 *to bring an action before the Commission for review.*

25 “(c) *DEEMED ACTION OF COMMISSION.*—*If the Commission declines review,*
26 *or if review is not sought, within the time prescribed under subsection (b),*
27 *the action taken under the delegation of authority is deemed to be the action*
28 *of the Commission.*

29 **“§ 305. Regulations**

30 “*The Federal Maritime Commission may prescribe regulations to carry out*
31 *its duties and powers.*

32 **“§ 306. Annual report**

33 “(a) *IN GENERAL.*—*Not later than April 1 of each year, the Federal Mari-*
34 *time Commission shall submit a report to Congress. The report shall include*
35 *the results of its investigations, a summary of its transactions, the purposes*
36 *for which all of its expenditures were made, and any recommendations for*
37 *legislation.*

38 “(b) *REPORT ON FOREIGN LAWS AND PRACTICES.*—*The Commission shall*
39 *include in its annual report to Congress—*

1 “(1) a list of the 20 foreign countries that generated the largest volume
2 of oceanborne liner cargo for the most recent calendar year in bilateral
3 trade with the United States;

4 “(2) an analysis of conditions described in section 42302(a) of this
5 title being investigated or found to exist in foreign countries;

6 “(3) any actions being taken by the Commission to offset those condi-
7 tions;

8 “(4) any recommendations for additional legislation to offset those
9 conditions; and

10 “(5) a list of petitions filed under section 42302(b) of this title that
11 the Commission rejected and the reasons for each rejection.

12 **“§307. Expenditures**

13 “The Federal Maritime Commission may make such expenditures as are
14 necessary in the performance of its functions from funds appropriated or oth-
15 erwise made available to it, which appropriations are authorized.

16 **“CHAPTER 5—OTHER GENERAL PROVISIONS**

“Sec.

“501. Waiver of navigation and vessel-inspection laws.

“502. Cargo exempt from forfeiture.

“503. Notice of seizure.

“504. Remission of fees and penalties.

“505. Penalty for violating regulation or order.

17 **“§501. Waiver of navigation and vessel-inspection laws**

18 “(a) *ON REQUEST OF SECRETARY OF DEFENSE.*—On request of the Sec-
19 retary of Defense, the head of an agency responsible for the administration
20 of the navigation or vessel-inspection laws shall waive compliance with those
21 laws to the extent the Secretary considers necessary in the interest of national
22 defense.

23 “(b) *BY HEAD OF AGENCY.*—When the head of an agency responsible for
24 the administration of the navigation or vessel-inspection laws considers it nec-
25 essary in the interest of national defense, the individual may waive compli-
26 ance with those laws to the extent, in the manner, and on the terms the indi-
27 vidual prescribes.

28 “(c) *TERMINATION OF AUTHORITY.*—The authority granted by this section
29 shall terminate at such time as the Congress by concurrent resolution or the
30 President may designate.

31 **“§502. Cargo exempt from forfeiture**

32 “Cargo on a vessel is exempt from forfeiture under this title if—

33 “(1) the cargo is owned in good faith by a person not the owner, mas-
34 ter, or crewmember of the vessel; and

35 “(2) the customs duties on the cargo have been paid or secured for
36 payment as provided by law.

1 **“§ 503. Notice of seizure**

2 “When a forfeiture of a vessel or cargo accrues, the official of the United
3 States Government required to give notice of the seizure of the vessel or cargo
4 shall include in the notice, if they are known to that official, the name and
5 the place of residence of the owner or consignee at the time of the seizure.

6 **“§ 504. Remission of fees and penalties**

7 “Any part of a fee, tax, or penalty paid or a forfeiture incurred under a
8 law or regulation relating to vessels or seamen may be remitted if—

9 “(1) application for the remission is made within one year after the
10 date of the payment or forfeiture; and

11 “(2) it is found that the fee, tax, penalty, or forfeiture was improperly
12 or excessively imposed.

13 **“§ 505. Penalty for violating regulation or order**

14 “A person convicted of knowingly and willfully violating a regulation or
15 order of the Federal Maritime Commission or the Secretary of Transportation
16 under subtitle IV or V of this title, for which no penalty is expressly provided,
17 shall be fined not more than \$500. Each day of a continuing violation is a
18 separate offense.”.

19 **SEC. 5. SUBTITLE II OF TITLE 46.**

20 Chapter 121 of title 46, United States Code, is amended to read as follows:

21 **“CHAPTER 121—DOCUMENTATION OF VESSELS**

“SUBCHAPTER I—GENERAL

“Sec.

“12101. Definitions.

“12102. Vessels requiring documentation.

“12103. General eligibility requirements.

“12104. Applications for documentation.

“12105. Issuance of documentation.

“12106. Surrender of title and number.

“12107. Wrecked vessels.

“SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

“12111. Registry endorsement.

“12112. Coastwise endorsement.

“12113. Fishery endorsement.

“12114. Recreational endorsement.

“12115. Temporary endorsement for vessels procured outside the United States.

“12116. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands.

“12117. Oil spill response vessels.

“12118. Owners engaged primarily in manufacturing or mineral industry.

“12119. Owners engaged primarily in leasing or financing transactions.

“12120. Liquefied gas tankers.

“12121. Small passenger vessels and uninspected passenger vessels.

“SUBCHAPTER III—MISCELLANEOUS

“12131. Command of documented vessels.

“12132. Loss of coastwise trade privileges.

“12133. Duty to carry certificate on vessel and allow examination.

“12134. Evidentiary uses of documentation.

“12135. Invalidation of certificates of documentation.

“12136. Surrender of certificates of documentation.

“12137. Recording of vessels built in the United States.

“12138. List of documented vessels.

“12139. Reports.

“SUBCHAPTER IV—PENALTIES

“12151. Penalties.

“12152. Denial or revocation of endorsement for non-payment of civil penalty.

“SUBCHAPTER I—GENERAL

“§ 12101. Definitions

“(a) *REBUILT IN THE UNITED STATES.*—In this chapter, a vessel is deemed to have been rebuilt in the United States only if the entire rebuilding, including the construction of any major component of the hull or superstructure, was done in the United States.

“(b) *RELATED TERMS IN OTHER LAWS.*—When the following terms are used in a law, regulation, document, ruling, or other official act referring to the documentation of a vessel, the following definitions apply:

“(1) *REGISTRY ENDORSEMENT.*—The terms ‘certificate of registry’, ‘register’, and ‘registry’ mean a certificate of documentation with a registry endorsement issued under this chapter.

“(2) *COASTWISE ENDORSEMENT.*—The terms ‘license’, ‘enrollment and license’, ‘license for the coastwise (or coasting) trade’, and ‘enrollment and license for the coastwise (or coasting) trade’ mean a certificate of documentation with a coastwise endorsement issued under this chapter.

“(3) *YACHT.*—The term ‘yacht’ means a recreational vessel even if not documented.

“§ 12102. Vessels requiring documentation

“(a) *IN GENERAL.*—Except as otherwise provided, a vessel may engage in a trade only if the vessel has been issued a certificate of documentation with an endorsement for that trade under this chapter.

“(b) *VESSELS LESS THAN 5 NET TONS.*—A vessel of less than 5 net tons may engage in a trade without being documented if the vessel otherwise satisfies the requirements to engage in the particular trade.

“(c) *BARGES.*—A barge qualified to engage in the coastwise trade may engage in the coastwise trade, without being documented, on rivers, harbors, lakes (except the Great Lakes), canals, and inland waters.

“§ 12103. General eligibility requirements

“(a) *IN GENERAL.*—Except as otherwise provided, a certificate of documentation for a vessel may be issued under this chapter only if the vessel is—

“(1) wholly owned by one or more individuals or entities described in subsection (b);

“(2) at least 5 net tons as measured under part J of this subtitle; and

“(3) not documented under the laws of a foreign country.

“(b) *ELIGIBLE OWNERS.*—For purposes of subsection (a)(1), the following are eligible owners:

“(1) An individual who is a citizen of the United States.

“(2) An association, trust, joint venture, or other entity if—

1 “(A) each of its members is a citizen of the United States; and
 2 “(B) it is capable of holding title to a vessel under the laws of
 3 the United States or a State.

4 “(3) A partnership if—

5 “(A) each general partner is a citizen of the United States; and
 6 “(B) the controlling interest in the partnership is owned by citi-
 7 zens of the United States.

8 “(4) A corporation if—

9 “(A) it is incorporated under the laws of the United States or
 10 a State;

11 “(B) its chief executive officer, by whatever title, and the chair-
 12 man of its board of directors are citizens of the United States; and

13 “(C) no more of its directors are noncitizens than a minority of
 14 the number necessary to constitute a quorum.

15 “(5) The United States Government.

16 “(6) The government of a State.

17 “(c) *TEMPORARY CERTIFICATES PRIOR TO MEASUREMENT.*—Notwith-
 18 standing subsection (a)(2), the Secretary may issue a temporary certificate
 19 of documentation for a vessel before it is measured.

20 **“§ 12104. Applications for documentation**

21 “(a) *IN GENERAL.*—An application for a certificate of documentation or
 22 endorsement under this chapter must be filed by the owner of the vessel. The
 23 application must be filed in the manner, be in the form, and contain the in-
 24 formation prescribed by the Secretary.

25 “(b) *APPLICANT’S IDENTIFYING INFORMATION.*—The Secretary shall require
 26 the applicant to provide—

27 “(1) if the applicant is an individual, the individual’s social security
 28 number; or

29 “(2) if the applicant is an entity—

30 “(A) the entity’s taxpayer identification number; or

31 “(B) if the entity does not have a taxpayer identification number,
 32 the social security number of an individual who is a corporate offi-
 33 cer, general partner, or individual trustee of the entity and who
 34 signs the application.

35 **“§ 12105. Issuance of documentation**

36 “(a) *IN GENERAL.*—Except as provided in section 12152 of this title, the
 37 Secretary, on receipt of a proper application, shall issue a certificate of docu-
 38 mentation or a temporary certificate of documentation for a vessel satisfying
 39 the requirements of section 12103 of this title. The certificate shall contain
 40 each endorsement under subchapter II of this chapter for which the owner ap-
 41 plies and the vessel is eligible.

1 “(b) *TEMPORARY CERTIFICATES FOR RECREATIONAL VESSELS.*—The Sec-
 2 retary may delegate, subject to the supervision and control of the Secretary
 3 and under terms prescribed by regulation, to private entities determined and
 4 certified by the Secretary to be qualified, the authority to issue a temporary
 5 certificate of documentation for a recreational vessel eligible under section
 6 12103 of this title. A temporary certificate issued under this subsection is
 7 valid for not more than 30 days.

8 “(c) *INFORMATION TO BE INCLUDED IN CERTIFICATE.*—A certificate of
 9 documentation shall—

10 “(1) identify and describe the vessel;

11 “(2) identify the owner of the vessel; and

12 “(3) contain additional information prescribed by the Secretary.

13 “(d) *PROCEDURES TO ENSURE INTEGRITY AND ACCURACY.*—The Secretary
 14 shall prescribe procedures to ensure the integrity of, and the accuracy of infor-
 15 mation contained in, certificates of documentation.

16 **“§ 12106. Surrender of title and number**

17 “(a) *IN GENERAL.*—A documented vessel may not be titled by a State or
 18 required to display numbers under chapter 123 of this title, and any certifi-
 19 cate of title issued by a State for a documented vessel shall be surrendered
 20 as provided by regulations prescribed by the Secretary.

21 “(b) *VESSELS COVERED BY PREFERRED MORTGAGE.*—The Secretary may
 22 approve the surrender under subsection (a) of a certificate of title for a vessel
 23 covered by a preferred mortgage under section 31322(d) of this title only if
 24 the mortgagee consents.

25 **“§ 12107. Wrecked vessels**

26 “(a) *REQUIREMENTS.*—A vessel is a wrecked vessel under this chapter if
 27 it—

28 “(1) was wrecked on a coast of the United States or adjacent waters;
 29 and

30 “(2) has undergone repairs in a shipyard in the United States equal
 31 to at least 3 times the appraised salvage value of the vessel.

32 “(b) *APPRAISALS.*—The Secretary may appoint a board of three appraisers
 33 to determine whether a vessel satisfies subsection (a)(2). The costs of the ap-
 34 praisal shall be paid by the owner of the vessel.

35 “SUBCHAPTER II—ENDORSEMENTS AND SPECIAL
 36 DOCUMENTATION

37 **“§ 12111. Registry endorsement**

38 “(a) *REQUIREMENTS.*—A registry endorsement may be issued for a vessel
 39 that satisfies the requirements of section 12103 of this title.

1 “(b) *AUTHORIZED ACTIVITY.*—A vessel for which a registry endorsement is
2 issued may engage in foreign trade or trade with Guam, American Samoa,
3 Wake, Midway, or Kingman Reef.

4 “(c) *CERTAIN VESSELS OWNED BY TRUSTS.*—

5 “(1) *NONAPPLICATION OF BENEFICIARY CITIZENSHIP REQUIREMENT.*—

6 *For the issuance of a certificate of documentation with only a registry*
7 *endorsement, the beneficiaries of a trust are not required to be citizens*
8 *of the United States if the trust qualifies under paragraph (2) and the*
9 *vessel is subject to a charter to a citizen of the United States.*

10 “(2) *REQUIREMENTS FOR TRUST TO QUALIFY.*—

11 “(A) *IN GENERAL.*—Subject to subparagraph (B), a trust quali-
12 fies under this paragraph with respect to a vessel only if—

13 “(i) each trustee is a citizen of the United States; and

14 “(ii) the application for documentation of the vessel includes
15 the affidavit of each trustee stating that the trustee is not
16 aware of any reason involving a beneficiary of the trust that
17 is not a citizen of the United States, or involving any other
18 person that is not a citizen of the United States, as a result
19 of which the beneficiary or other person would hold more than
20 25 percent of the aggregate power to influence or limit the exer-
21 cise of the authority of the trustee with respect to matters in-
22 volving any ownership or operation of the vessel that may ad-
23 versely affect the interests of the United States.

24 “(B) *AUTHORITY OF NON-CITIZENS.*—If any person that is not a
25 citizen of the United States has authority to direct or participate
26 in directing a trustee for a trust in matters involving any owner-
27 ship or operation of the vessel that may adversely affect the interests
28 of the United States or in removing a trustee for a trust without
29 cause, either directly or indirectly through the control of another
30 person, the trust is not qualified under this paragraph unless the
31 trust instrument provides that persons who are not citizens of the
32 United States may not hold more than 25 percent of the aggregate
33 authority to so direct or remove a trustee.

34 “(C) *OWNERSHIP BY NON-CITIZENS.*—Subparagraphs (A) and
35 (B) do not prohibit a person that is not a citizen of the United
36 States from holding more than 25 percent of the beneficial interest
37 in a trust.

38 “(3) *CITIZENSHIP OF PERSON CHARTERING VESSEL.*—If a person
39 chartering a vessel from a trust that qualifies under paragraph (2) is
40 a citizen of the United States under section 50501 of this title, the vessel

1 is deemed to be owned by a citizen of the United States for purposes of
2 that section and related laws, except chapter 531 of this title.

3 **“§ 12112. Coastwise endorsement**

4 “(a) *REQUIREMENTS.*—A coastwise endorsement may be issued for a vessel
5 that—

6 “(1) satisfies the requirements of section 12103 of this title;

7 “(2)(A) was built in the United States; or

8 “(B) if not built in the United States—

9 “(i) was captured in war by citizens of the United States and
10 lawfully condemned as prize;

11 “(ii) was adjudged to be forfeited for a breach of the laws of the
12 United States; or

13 “(iii) qualifies as a wrecked vessel under section 12107 of this
14 title; and

15 “(3) otherwise qualifies under the laws of the United States to engage
16 in the coastwise trade.

17 “(b) *AUTHORIZED ACTIVITY.*—Subject to the laws of the United States reg-
18 ulating the coastwise trade, a vessel for which a coastwise endorsement is
19 issued may engage in the coastwise trade.

20 **“§ 12113. Fishery endorsement**

21 “(a) *REQUIREMENTS.*—A fishery endorsement may be issued for a vessel
22 that—

23 “(1) satisfies the requirements of section 12103 of this title and, if
24 owned by an entity, the entity satisfies the ownership requirements in
25 subsection (c);

26 “(2) was built in the United States;

27 “(3) if rebuilt, was rebuilt in the United States;

28 “(4) was not forfeited to the United States Government after July 1,
29 2001, for a breach of the laws of the United States; and

30 “(5) otherwise qualifies under the laws of the United States to engage
31 in the fisheries.

32 “(b) *AUTHORIZED ACTIVITY.*—

33 “(1) *IN GENERAL.*—Subject to the laws of the United States regulating
34 the fisheries, a vessel for which a fishery endorsement is issued may en-
35 gage in the fisheries.

36 “(2) *USE BY PROHIBITED PERSONS.*—A fishery endorsement is invalid
37 immediately if the vessel for which it is issued is used as a fishing vessel
38 while it is chartered or leased to an individual who is not a citizen of
39 the United States or to an entity that is not eligible to own a vessel with
40 a fishery endorsement.

41 “(c) *OWNERSHIP REQUIREMENTS FOR ENTITIES.*—

1 “(1) *IN GENERAL.*—A vessel owned by an entity is eligible for a fish-
 2 ery endorsement only if at least 75 percent of the interest in the entity,
 3 at each tier of ownership and in the aggregate, is owned and controlled
 4 by citizens of the United States.

5 “(2) *DETERMINING 75 PERCENT INTEREST.*—In determining whether
 6 at least 75 percent of the interest in the entity is owned and controlled
 7 by citizens of the United States under paragraph (1), the Secretary shall
 8 apply section 50501(d) of this title, except that for this purpose the terms
 9 ‘control’ or ‘controlled’—

10 “(A) include the right to—

11 “(i) direct the business of the entity;

12 “(ii) limit the actions of or replace the chief executive officer,
 13 a majority of the board of directors, any general partner, or
 14 any person serving in a management capacity of the entity; or

15 “(iii) direct the transfer, operation, or manning of a vessel
 16 with a fishery endorsement; but

17 “(B) do not include the right to simply participate in the activi-
 18 ties under subparagraph (A), or the exercise of rights under loan
 19 or mortgage covenants by a mortgagee eligible to be a preferred
 20 mortgagee under section 31322(a) of this title, except that a mort-
 21 gagee not eligible to own a vessel with a fishery endorsement may
 22 only operate such a vessel to the extent necessary for the immediate
 23 safety of the vessel or for repairs, drydocking, or berthing changes.

24 “(3) *EXCEPTIONS.*—This subsection does not apply to a vessel when
 25 it is engaged in the fisheries in the exclusive economic zone under the
 26 authority of the Western Pacific Fishery Management Council established
 27 under section 302(a)(1)(H) of the Magnuson-Stevens Fishery Conserva-
 28 tion and Management Act (16 U.S.C. 1852(a)(1)(H)) or to a purse seine
 29 vessel when it is engaged in tuna fishing in the Pacific Ocean outside
 30 the exclusive economic zone or pursuant to the South Pacific Regional
 31 Fisheries Treaty, provided that the owner of the vessel continues to com-
 32 ply with the eligibility requirements for a fishery endorsement under the
 33 Federal law that was in effect on October 1, 1998. A fishery endorsement
 34 issued pursuant to this paragraph is valid for engaging only in the ac-
 35 tivities described in this paragraph.

36 “(d) *REQUIREMENTS BASED ON LENGTH, TONNAGE, OR HORSEPOWER.*—

37 “(1) *APPLICATION.*—This subsection applies to a vessel that—

38 “(A) is greater than 165 feet in registered length;

39 “(B) is more than 750 gross registered tons as measured under
 40 chapter 145 of this title or 1,900 gross registered tons as measured
 41 under chapter 143 of this title; or

1 “(C) has an engine or engines capable of producing a total of
2 more than 3,000 shaft horsepower.

3 “(2) REQUIREMENTS.—A vessel subject to this subsection is not eligible
4 for a fishery endorsement unless—

5 “(A)(i) a certificate of documentation was issued for the vessel
6 and endorsed with a fishery endorsement that was effective on Sep-
7 tember 25, 1997;

8 “(ii) the vessel is not placed under foreign registry after October
9 21, 1998; and

10 “(iii) if the fishery endorsement is invalidated after October 21,
11 1998, application is made for a new fishery endorsement within 15
12 business days of the invalidation; or

13 “(B) the owner of the vessel demonstrates to the Secretary that
14 the regional fishery management council of jurisdiction established
15 under section 302(a)(1) of the Magnuson-Stevens Fishery Conserva-
16 tion and Management Act (16 U.S.C. 1852(a)(1)) has recommended
17 after October 21, 1998, and the Secretary of Commerce has ap-
18 proved, conservation and management measures in accordance with
19 the American Fisheries Act (Public Law 105–277, div. C, title II)
20 (16 U.S.C. 1851 note) to allow the vessel to be used in fisheries
21 under the council’s authority.

22 “(e) VESSELS MEASURING 100 FEET OR GREATER.—

23 “(1) IN GENERAL.—The Administrator of the Maritime Administra-
24 tion shall administer subsections (c) and (d) with respect to vessels 100
25 feet or greater in registered length. The owner of each such vessel shall
26 file a statement of citizenship setting forth all relevant facts regarding
27 vessel ownership and control with the Administrator on an annual basis
28 to demonstrate compliance with those provisions.

29 “(2) REGULATIONS.—Regulations to implement this subsection shall
30 conform to the extent practicable with the regulations establishing the
31 form of citizenship affidavit set forth in part 355 of title 46, Code of
32 Federal Regulations, as in effect on September 25, 1997, except that the
33 form of the statement shall be written in a manner to allow the owner
34 of the vessel to satisfy any annual renewal requirements for a certificate
35 of documentation for the vessel and to comply with this subsection and
36 subsections (c) and (d), and shall not be required to be notarized.

37 “(3) TRANSFER OF OWNERSHIP.—Transfers of ownership and control
38 of vessels subject to subsection (c) or (d), which are 100 feet or greater
39 in registered length, shall be rigorously scrutinized for violations of those
40 provisions, with particular attention given to—

1 “(A) leases, charters, mortgages, financing, and similar arrange-
2 ments;

3 “(B) the control of persons not eligible to own a vessel with a
4 fishery endorsement under subsection (c) or (d), over the manage-
5 ment, sales, financing, or other operations of an entity; and

6 “(C) contracts involving the purchase over extended periods of
7 time of all, or substantially all, of the living marine resources har-
8 vested by a fishing vessel.

9 “(f) *VESSELS MEASURING LESS THAN 100 FEET.*—The Secretary shall es-
10 tablish reasonable and necessary requirements to demonstrate compliance with
11 subsections (c) and (d), with respect to vessels measuring less than 100 feet
12 in registered length, and shall seek to minimize the administrative burden on
13 individuals who own and operate those vessels.

14 “(g) *VESSELS PURCHASED THROUGH FISHING CAPACITY REDUCTION PRO-*
15 *GRAM.*—A vessel purchased by the Secretary of Commerce through a fishing
16 capacity reduction program under the Magnuson-Stevens Fishery Conserva-
17 tion Management Act (16 U.S.C. 1801 et seq.) or section 308 of the Interjuris-
18 dictional Fisheries Act of 1986 (16 U.S.C. 4107) is not eligible for a fishery
19 endorsement, and any fishery endorsement issued for that vessel is invalid.

20 “(h) *REVOCATION OF ENDORSEMENTS.*—The Secretary shall revoke the fish-
21 ery endorsement of any vessel subject to subsection (c) or (d) whose owner does
22 not comply with those provisions.

23 “(i) *REGULATIONS.*—Regulations to implement subsections (c) and (d) and
24 sections 12151(c) and 31322(b) of this title shall prohibit impermissible trans-
25 fers of ownership or control, specify any transactions that require prior ap-
26 proval of an implementing agency, identify transactions that do not require
27 prior agency approval, and to the extent practicable, minimize disruptions
28 to the commercial fishing industry, to the traditional financing arrangements
29 of that industry, and to the opportunity to form fishery cooperatives.

30 **“§ 12114. Recreational endorsement**

31 “(a) *REQUIREMENTS.*—A recreational endorsement may be issued for a ves-
32 sel that satisfies the requirements of section 12103 of this title.

33 “(b) *AUTHORIZED ACTIVITY.*—A vessel operating under a recreational en-
34 dorsement may be operated only for pleasure.

35 “(c) *APPLICATION OF CUSTOMS LAWS.*—A vessel for which a recreational
36 endorsement is issued may proceed between a port of the United States and
37 a port of a foreign country without entering or clearing with the Secretary
38 of Homeland Security. However, a recreational vessel is subject to the require-
39 ments for reporting arrivals under section 433 of the Tariff Act of 1930 (19
40 U.S.C. 1433), and individuals on the vessel are subject to applicable customs
41 regulations.

1 **“§ 12115. Temporary endorsement for vessels procured out-**
 2 **side the United States**

3 “(a) *GENERAL AUTHORITY.*—*The Secretary and the Secretary of State, act-*
 4 *ing jointly, may provide for the issuance of a certificate of documentation*
 5 *with an appropriate endorsement for a vessel procured outside the United*
 6 *States and meeting the ownership requirements of section 12103 of this title.*

7 “(b) *AUTHORIZED ACTIVITY.*—*Subject to limitations the Secretary may*
 8 *prescribe, a vessel documented under this section may proceed to the United*
 9 *States and engage en route in foreign trade or trade with Guam, American*
 10 *Samoa, Wake, Midway, or Kingman Reef.*

11 “(c) *APPLICATION OF UNITED STATES JURISDICTION AND LAWS.*—*A vessel*
 12 *documented under this section is subject to the jurisdiction and laws of the*
 13 *United States. However, if the Secretary considers it to be in the public inter-*
 14 *est, the Secretary may suspend for a period of not more than 6 months the*
 15 *application of a vessel inspection law carried out by the Secretary or regula-*
 16 *tions prescribed under that law.*

17 “(d) *SURRENDER OF CERTIFICATE.*—*On the vessel’s arrival in the United*
 18 *States, the certificate of documentation shall be surrendered as provided by*
 19 *regulations prescribed by the Secretary.*

20 **“§ 12116. Limited endorsements for Guam, American Samoa,**
 21 **and Northern Mariana Islands**

22 “(a) *ENDORSEMENTS.*—*A vessel satisfying the requirements of subsection*
 23 *(b) may be issued—*

24 “(1) *a coastwise endorsement to engage in the coastwise trade of fish-*
 25 *eries products between places in Guam, American Samoa, and the North-*
 26 *ern Mariana Islands; or*

27 “(2) *a fishery endorsement to engage in fishing in the territorial sea*
 28 *and fishery conservation zone adjacent to Guam, American Samoa, and*
 29 *the Northern Mariana Islands.*

30 “(b) *REQUIREMENTS.*—*An endorsement may be issued under subsection (a)*
 31 *for a vessel that—*

32 “(1) *satisfies the requirements of section 12103 of this title;*

33 “(2) *was not built in the United States, except that for an endorse-*
 34 *ment under subsection (a)(2), the vessel must not have been built or re-*
 35 *built in the United States;*

36 “(3) *is less than 200 gross tons as measured under section 14502 of*
 37 *this title, or an alternate tonnage as measured under section 14302 of*
 38 *this title as prescribed by the Secretary under section 14104 of this title;*
 39 *and*

40 “(4) *otherwise qualifies under the laws of the United States to engage*
 41 *in the coastwise trade or the fisheries, as the case may be.*

1 **“§ 12117. Oil spill response vessels**

2 “(a) *REQUIREMENTS.*—A coastwise endorsement may be issued for a vessel
3 that—

4 “(1) *satisfies the requirements for a coastwise endorsement, except for*
5 *the ownership requirement otherwise applicable without regard to this*
6 *section;*

7 “(2) *is owned by a not-for-profit oil spill response cooperative or by*
8 *members of such a cooperative that dedicate the vessel to use by the coop-*
9 *erative;*

10 “(3) *is at least 50 percent owned by individuals or entities described*
11 *in section 12103(b) of this title; and*

12 “(4) *is to be used only for—*

13 “(i) *deploying equipment, supplies, and personnel to recover, con-*
14 *tain, or transport oil discharged into the navigable waters of the*
15 *United States or the exclusive economic zone; or*

16 “(ii) *training exercises to prepare to respond to such a discharge.*

17 “(b) *DEEMED OWNED BY CITIZENS.*—A vessel satisfying subsection (a) is
18 *deemed to be owned only by citizens of the United States under sections*
19 *12103, 12132, and 50501 of this title.*

20 **“§ 12118. Owners engaged primarily in manufacturing or**
21 ***mineral industry***

22 “(a) *DEFINITIONS.*—In this section:

23 “(1) *BOWATERS CORPORATION.*—The term ‘Bowaters corporation’
24 *means a corporation that has filed a certificate under oath with the Sec-*
25 *retary, in the form and at the times prescribed by the Secretary, estab-*
26 *lishing that—*

27 “(A) *the corporation is incorporated under the laws of the United*
28 *States or a State;*

29 “(B) *a majority of the officers and directors of the corporation*
30 *are individuals who are citizens of the United States;*

31 “(C) *at least 90 percent of the employees of the corporation are*
32 *residents of the United States;*

33 “(D) *the corporation is engaged primarily in a manufacturing*
34 *or mineral industry in the United States;*

35 “(E) *the total book value of the vessels owned by the corporation*
36 *is not more than 10 percent of the total book value of the assets of*
37 *the corporation; and*

38 “(F) *the corporation buys or produces in the United States at*
39 *least 75 percent of the raw materials used or sold in its operations.*

1 “(2) *PARENT*.—The term ‘parent’ means a corporation that has filed
2 a certificate under oath with the Secretary, in the form and at the times
3 prescribed by the Secretary, establishing that the corporation—

4 “(A) is incorporated under the laws of the United States or a
5 State; and

6 “(B) controls, directly or indirectly, at least 50 percent of the vot-
7 ing stock of a Bowaters corporation.

8 “(3) *SUBSIDIARY*.—The term ‘subsidiary’ means a corporation that
9 has filed a certificate under oath with the Secretary, in the form and
10 at the times prescribed by the Secretary, establishing that the corpora-
11 tion—

12 “(A) is incorporated under the laws of the United States or a
13 State; and

14 “(B) has at least 50 percent of its voting stock controlled, directly
15 or indirectly, by a Bowaters corporation or its parent.

16 “(b) *DEEMED CITIZEN*.—A Bowaters corporation is deemed to be a citizen
17 of the United States for purposes of chapters 121, 551, and 561 and section
18 80104 of this title.

19 “(c) *ISSUANCE OF DOCUMENTATION*.—A certificate of documentation and
20 appropriate endorsement may be issued for a vessel that—

21 “(1) is owned by a Bowaters corporation;

22 “(2) was built in the United States; and

23 “(3)(A) is self-propelled and less than 500 gross tons as measured
24 under section 14502 of this title, or an alternate tonnage as measured
25 under section 14302 of this title as prescribed by the Secretary under sec-
26 tion 14104 of this title; or

27 “(B) is not self-propelled.

28 “(d) *EFFECTS OF DOCUMENTATION*.—

29 “(1) *IN GENERAL*.—Subject to paragraph (2)—

30 “(A) a vessel documented under this section may engage in the
31 coastwise trade; and

32 “(B) the vessel and its owner and master are entitled to the same
33 benefits and are subject to the same requirements and penalties as
34 if the vessel were otherwise documented or exempt from documenta-
35 tion under this chapter.

36 “(2) *TRANSPORTATION OF PASSENGERS OR MERCHANDISE*.—A vessel
37 documented under this section may transport passengers or merchandise
38 for hire in the coastwise trade only—

39 “(A) as a service for a parent or subsidiary of the corporation
40 owning the vessel; or

1 “(B) when under a demise or bareboat charter, at prevailing
2 rates for use not in the domestic noncontiguous trades, from the cor-
3 poration owning the vessel to a carrier that—

4 “(i) is subject to jurisdiction under subchapter II of chapter
5 135 of title 49;

6 “(ii) otherwise qualifies as a citizen of the United States
7 under section 50501 of this title; and

8 “(iii) is not owned or controlled, directly or indirectly, by
9 the corporation owning the vessel.

10 “(e) *VALIDITY OF CORPORATE CERTIFICATE.*—A certificate filed by a cor-
11 poration under this section remains valid only as long as the corporation con-
12 tinues to satisfy the conditions required of the corporation by this section.
13 When a corporation no longer satisfies those conditions, the corporation loses
14 its status under this section and immediately shall surrender to the Secretary
15 any documents issued to it based on that status.

16 “(f) *PENALTIES.*—

17 “(1) *FALSIFYING MATERIAL FACT.*—If a corporation knowingly fal-
18 sifies a material fact in a certificate filed under subsection (a), the vessel
19 (or its value) documented or operated under this section shall be forfeited.

20 “(2) *TRANSPORTING MERCHANDISE.*—If a vessel transports merchand-
21 ise for hire in violation of this section, the merchandise shall be forfeited
22 to the United States Government.

23 “(3) *TRANSPORTING PASSENGERS.*—If a vessel transports passengers
24 for hire in violation of this section, the vessel is liable for a penalty of
25 \$200 for each passenger so transported.

26 “(4) *REMISSION OR MITIGATION.*—A penalty or forfeiture incurred
27 under this subsection may be remitted or mitigated under section 2107(b)
28 of this title.

29 “**§ 12119. Owners engaged primarily in leasing or financing**
30 **transactions**

31 “(a) *DEFINITIONS.*—In this section:

32 “(1) *AFFILIATE.*—The term ‘affiliate’ means, with respect to any per-
33 son, any other person that is—

34 “(i) directly or indirectly controlled by, under common control
35 with, or controlling that person; or

36 “(ii) named as being part of the same consolidated group in any
37 report or other document submitted to the United States Securities
38 and Exchange Commission or the Internal Revenue Service.

39 “(2) *CARGO.*—The term ‘cargo’ does not include cargo to which title
40 is held for non-commercial reasons and primarily for the purpose of
41 evading the requirements of subsection (c)(3).

1 “(3) OIL.—The term ‘oil’ has the meaning given that term in section
2 2101(20) of this title.

3 “(4) PASSIVE INVESTMENT.—The term ‘passive investment’ means an
4 investment in which neither the investor nor any affiliate of the investor
5 is involved in, or has the power to be involved in, the formulation, deter-
6 mination, or direction of any activity or function concerning the man-
7 agement, use, or operation of the asset that is the subject of the invest-
8 ment.

9 “(5) QUALIFIED PROPRIETARY CARGO.—The term ‘qualified propri-
10 etary cargo’ means—

11 “(A) oil, petroleum products, petrochemicals, or liquefied natural
12 gas cargo that is beneficially owned by the person that submits to
13 the Secretary an application or annual certification under sub-
14 section (c)(3), or by an affiliate of that person, immediately before,
15 during, or immediately after the cargo is carried in coastwise trade
16 on a vessel owned by that person;

17 “(B) oil, petroleum products, petrochemicals, or liquefied natural
18 gas cargo not beneficially owned by the person that submits to the
19 Secretary an application or an annual certification under sub-
20 section (c)(3), or by an affiliate of that person, but which is carried
21 in coastwise trade by a vessel owned by that person and which is
22 part of an arrangement in which vessels owned by that person and
23 at least one other person are operated collectively as one fleet, to the
24 extent that an equal amount of oil, petroleum products, petrochemi-
25 cals, or liquefied natural gas cargo beneficially owned by that per-
26 son, or by an affiliate of that person, is carried in coastwise trade
27 on one or more other vessels, not owned by that person, or by an
28 affiliate of that person, if the other vessel or vessels are also part
29 of the same arrangement;

30 “(C) in the case of a towing vessel associated with a non-self-pro-
31 pelled tank vessel where both vessels function as a single self-pro-
32 pelled vessel, oil, petroleum products, petrochemicals, or liquefied
33 natural gas cargo that is beneficially owned by the person that owns
34 both the towing vessel and the non-self-propelled tank vessel, or any
35 United States affiliate of that person, immediately before, during,
36 or immediately after the cargo is carried in coastwise trade on ei-
37 ther of those vessels; or

38 “(D) any oil, petroleum products, petrochemicals, or liquefied
39 natural gas cargo carried on any vessel that is either a self-pro-
40 pelled tank vessel having a length of at least 210 meters or a tank
41 vessel that is a liquefied natural gas carrier that—

1 “(i) was delivered by the builder of the vessel to the owner
2 of the vessel after December 31, 1999; and

3 “(ii) was purchased by a person for the purpose, and with
4 the reasonable expectation, of transporting on the vessel lique-
5 fied natural gas or unrefined petroleum beneficially owned by
6 the owner of the vessel, or an affiliate of the owner, from Alas-
7 ka to the continental United States.

8 “(6) UNITED STATES AFFILIATE.—The term ‘United States affiliate’
9 means, with respect to any person, an affiliate the principal place of
10 business of which is located in the United States.

11 “(b) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel
12 if—

13 “(1) the vessel satisfies the requirements for a coastwise endorsement,
14 except for the ownership requirement otherwise applicable without regard
15 to this section;

16 “(2) the person that owns the vessel (or, if the vessel is owned by a
17 trust or similar arrangement, the beneficiary of the trust or similar ar-
18 rangement) meets the requirements of subsection (c);

19 “(3) the vessel is under a demise charter to a person that certifies to
20 the Secretary that the person is a citizen of the United States under sec-
21 tion 50501 of this title for engaging in the coastwise trade; and

22 “(4) the demise charter is for a period of at least 3 years or a shorter
23 period as may be prescribed by the Secretary.

24 “(c) OWNERSHIP CERTIFICATION.—

25 “(1) IN GENERAL.—A person meets the requirements of this subsection
26 if the person transmits to the Secretary each year the certification re-
27 quired by paragraph (2) or (3) with respect to a vessel.

28 “(2) INVESTMENT CERTIFICATION.—To meet the certification require-
29 ment of this paragraph, a person shall certify that it—

30 “(A) is a leasing company, bank, or financial institution;

31 “(B) owns, or holds the beneficial interest in, the vessel solely as
32 a passive investment;

33 “(C) does not operate any vessel for hire and is not an affiliate
34 of any person that operates any vessel for hire; and

35 “(D) is independent from, and not an affiliate of, any charterer
36 of the vessel or any other person that has the right, directly or indi-
37 rectly, to control or direct the movement or use of the vessel.

38 “(3) CERTAIN TANK VESSELS.—

39 “(A) IN GENERAL.—To meet the certification requirement of this
40 paragraph, a person shall certify that—

1 “(i) the aggregate book value of the vessels owned by the per-
2 son and United States affiliates of the person does not exceed
3 10 percent of the aggregate book value of all assets owned by
4 the person and its United States affiliates;

5 “(ii) not more than 10 percent of the aggregate revenues of
6 the person and its United States affiliates is derived from the
7 ownership, operation, or management of vessels;

8 “(iii) at least 70 percent of the aggregate tonnage of all
9 cargo carried by all vessels owned by the person and its United
10 States affiliates and documented with a coastwise endorsement
11 is qualified proprietary cargo;

12 “(iv) any cargo other than qualified proprietary cargo car-
13 ried by all vessels owned by the person and its United States
14 affiliates and documented with a coastwise endorsement con-
15 sists of oil, petroleum products, petrochemicals, or liquified
16 natural gas;

17 “(v) no vessel owned by the person or any of its United
18 States affiliates and documented with a coastwise endorsement
19 carries molten sulphur; and

20 “(vi) the person owned one or more vessels documented under
21 this section as of August 9, 2004.

22 “(B) APPLICATION ONLY TO CERTAIN VESSELS.—A person may
23 make a certification under this paragraph only with respect to—

24 “(i) a tank vessel having a tonnage of at least 6,000 gross
25 tons, as measured under section 14502 of this title (or an alter-
26 native tonnage measured under section 14302 of this title as
27 prescribed by the Secretary under section 14104 of this title);
28 or

29 “(ii) a towing vessel associated with a non-self-propelled
30 tank vessel that meets the requirements of clause (i), where both
31 vessels function as a single self-propelled vessel.

32 “(d) FILING OF DEMISE CHARTER.—The demise charter and any amend-
33 ments to the charter shall be filed with the certification required by subsection
34 (b)(3) or within 10 days after filing an amendment to the charter. The char-
35 ter and amendments shall be made available to the public.

36 “(e) CONTINUATION OF ENDORSEMENT AFTER TERMINATION OF CHAR-
37 TER.—When a charter required by subsection (b)(3) is terminated for default
38 by the charterer, the Secretary may continue the coastwise endorsement for
39 not more than 6 months on terms and conditions the Secretary may prescribe.

1 *notice and an opportunity for a hearing, determines that the certificate*
 2 *or endorsement was obtained by fraud.*

3 “(2) *OTHER PROVISIONS NOT AFFECTED.*—Paragraph (1) does not af-
 4 fect—

5 “(A) *the criminal prohibition on fraud and false statements in*
 6 *section 1001 of title 18; or*

7 “(B) *any other authority of the Secretary to revoke a certificate*
 8 *or endorsement issued under subsection (b).*

9 “SUBCHAPTER III—MISCELLANEOUS

10 **“§ 12131. Command of documented vessels**

11 “(a) *IN GENERAL.*—Except as provided in subsection (b), a documented
 12 vessel may be placed under the command only of a citizen of the United
 13 States.

14 “(b) *EXCEPTIONS.*—Subsection (a) does not apply to—

15 “(1) *a vessel with only a recreational endorsement; or*

16 “(2) *an unmanned barge operating outside of the territorial waters of*
 17 *the United States.*

18 **“§ 12132. Loss of coastwise trade privileges**

19 “(a) *SOLD FOREIGN OR PLACED UNDER FOREIGN REGISTRY.*—A vessel of
 20 more than 200 gross tons (as measured under chapter 143 of this title), eligi-
 21 ble to engage in the coastwise trade, and later sold foreign in whole or in
 22 part or placed under foreign registry may not thereafter engage in the coast-
 23 wise trade.

24 “(b) *REBUILT OUTSIDE THE UNITED STATES.*—A vessel eligible to engage
 25 in the coastwise trade and later rebuilt outside the United States may not
 26 thereafter engage in the coastwise trade.

27 **“§ 12133. Duty to carry certificate on vessel and allow exam-
 28 ination**

29 “(a) *DUTY TO CARRY.*—The certificate of documentation of a vessel shall
 30 be carried on the vessel unless the vessel is exempt by regulation from carrying
 31 the certificate.

32 “(b) *AVAILABILITY.*—The owner or individual in charge of a vessel required
 33 to carry its certificate of documentation shall make the certificate available
 34 for examination at the request of an officer enforcing the revenue laws or as
 35 otherwise required by law or regulation.

36 “(c) *CRIMINAL PENALTY.*—A person willfully violating subsection (b) shall
 37 be fined under title 18, imprisoned for not more than one year, or both.

38 **“§ 12134. Evidentiary uses of documentation**

39 “A certificate of documentation is—

40 “(1) *conclusive evidence of nationality for international purposes, but*
 41 *not in a proceeding conducted under the laws of the United States;*

1 “(2) *conclusive evidence of qualification to engage in a specified trade;*
2 *and*

3 “(3) *not conclusive evidence of ownership in a proceeding in which*
4 *ownership is in issue.*

5 **“§ 12135. *Invalidation of certificates of documentation***

6 *“A certificate of documentation or an endorsement on the certificate is in-*
7 *valid if the vessel for which it is issued—*

8 *“(1) no longer meets the requirements of this chapter and regulations*
9 *prescribed under this chapter applicable to the certificate or endorsement;*
10 *or*

11 *“(2) is placed under the command of an individual not a citizen of*
12 *the United States in violation of section 12131 of this title.*

13 **“§ 12136. *Surrender of certificates of documentation***

14 *“(a) SURRENDER.—An invalid certificate of documentation, or a certificate*
15 *with an invalid endorsement, shall be surrendered as provided by regulations*
16 *prescribed by the Secretary.*

17 *“(b) CONDITIONS FOR SURRENDER.—*

18 *“(1) VESSELS OVER 1,000 TONS.—The Secretary may condition ap-*
19 *proval of the surrender of the certificate of documentation for a vessel*
20 *over 1,000 gross tons.*

21 *“(2) VESSELS COVERED BY MORTGAGE.—The Secretary may approve*
22 *the surrender of the certificate of documentation of a vessel covered by*
23 *a mortgage filed or recorded under section 31321 of this title only if the*
24 *mortgagee consents.*

25 *“(3) NOTICE OF LIEN.—The Secretary may not refuse to approve the*
26 *surrender of the certificate of documentation for a vessel solely on the*
27 *basis that a notice of a claim of a lien on the vessel has been recorded*
28 *under section 31343(a) of this title.*

29 *“(c) CONTINUED APPLICATION OF CERTAIN LAWS.—*

30 *“(1) IN GENERAL.—Notwithstanding subsection (a), until the certifi-*
31 *cate of documentation is surrendered with the approval of the Secretary,*
32 *a documented vessel is deemed to continue to be documented under this*
33 *chapter for purposes of—*

34 *“(A) chapter 313 of this title for an instrument filed or recorded*
35 *before the date of invalidation and an assignment after that date;*

36 *“(B) sections 56101 and 56102(a)(2) and chapter 563 of this*
37 *title; and*

38 *“(C) any other law of the United States identified by the Sec-*
39 *retary by regulation as a law to which the Secretary applies this*
40 *subsection.*

1 “(2) *EXCEPTION.*—*This subsection does not apply when a vessel is for-*
2 *feited or sold by order of a district court of the United States.*

3 **“§ 12137. Recording of vessels built in the United States**

4 *“The Secretary may provide for recording and certifying information about*
5 *vessels built in the United States that the Secretary considers to be in the*
6 *public interest.*

7 **“§ 12138. List of documented vessels**

8 “(a) *IN GENERAL.*—*The Secretary shall publish periodically a list of all*
9 *documented vessels and information about those vessels that the Secretary con-*
10 *siders pertinent or useful. The list shall contain a notation clearly indicating*
11 *all vessels classed by the American Bureau of Shipping.*

12 “(b) *VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR.*—

13 “(1) *IN GENERAL.*—*The Secretary of Transportation shall develop,*
14 *maintain, and periodically update an inventory of vessels that are docu-*
15 *mented under this chapter, are at least 200 feet in length, and have the*
16 *capability to lay, maintain, or repair a submarine cable, without regard*
17 *to whether a particular vessel is classed as a cable ship or cable vessel.*

18 “(2) *INFORMATION TO BE INCLUDED.*—*For each vessel listed in the in-*
19 *ventory, the Secretary of Transportation shall include in the inventory—*

20 “(A) *the name, length, beam, depth, and other distinguishing*
21 *characteristics of the vessel;*

22 “(B) *the abilities and limitations of the vessel with respect to lay-*
23 *ing, maintaining, and repairing a submarine cable; and*

24 “(C) *the name and address of the person to whom inquiries re-*
25 *garding the vessel may be made.*

26 “(3) *PUBLICATION.*—*The Secretary of Transportation shall publish in*
27 *the Federal Register an updated inventory every 6 months.*

28 **“§ 12139. Reports**

29 “(a) *IN GENERAL.*—*To ensure compliance with this chapter and laws gov-*
30 *erning the qualifications of vessels to engage in the coastwise trade and the*
31 *fisheries, the Secretary may require owners, masters, and charterers of docu-*
32 *mented vessels to submit reports in any reasonable form and manner the Sec-*
33 *retary may prescribe.*

34 “(b) *VESSELS REBUILT OUTSIDE UNITED STATES.*—

35 “(1) *IN GENERAL.*—*Under regulations prescribed by the Secretary, if*
36 *a vessel exceeding the tonnage specified in paragraph (2) and docu-*
37 *mented or last documented under the laws of the United States is rebuilt*
38 *outside the United States, the owner or master shall submit a report of*
39 *the rebuilding to the Secretary.*

40 “(2) *TONNAGE.*—*The tonnage referred to in paragraph (1) is—*

1 “(A) 500 gross tons as measured under section 14502 of this title;
2 or

3 “(B) an alternate tonnage as measured under section 14302 of
4 this title as prescribed by the Secretary under section 14104 of this
5 title.

6 “(3) *TIMING OF SUBMISSION.*—If the rebuilding is completed in the
7 United States, the report shall be submitted when the rebuilding is com-
8 pleted. If the rebuilding is completed outside the United States, the report
9 shall be submitted when the vessel first arrives at a port in the customs
10 territory of the United States.

11 “SUBCHAPTER IV—PENALTIES

12 “§ 12151. *Penalties*

13 “(a) *IN GENERAL.*—A person that violates this chapter or a regulation pre-
14 scribed under this chapter is liable to the United States Government for a
15 civil penalty of not more than \$10,000. Each day of a continuing violation
16 is a separate violation.

17 “(b) *SEIZURE AND FORFEITURE OF VESSELS.*—A vessel and its equipment
18 are liable to seizure by and forfeiture to the Government if—

19 “(1) the owner of the vessel or the representative or agent of the owner
20 knowingly falsifies or conceals a material fact, or knowingly makes a
21 false statement or representation, about the documentation of the vessel
22 or in applying for documentation of the vessel;

23 “(2) a certificate of documentation is knowingly and fraudulently used
24 for the vessel;

25 “(3) the vessel is operated after its endorsement has been denied or re-
26 voked under section 12152 of this title;

27 “(4) the vessel is employed in a trade without an appropriate endorse-
28 ment;

29 “(5) the vessel has only a recreational endorsement and is operated
30 other than for pleasure;

31 “(6) the vessel is a documented vessel and is placed under the com-
32 mand of a person not a citizen of the United States, except as authorized
33 by section 12131(b) of this title; or

34 “(7) the vessel is rebuilt outside the United States and a report of the
35 rebuilding is not submitted as required by section 12139(b) of this title.

36 “(c) *ENGAGING IN FISHING AFTER FALSIFYING ELIGIBILITY.*—In addition
37 to other penalties under this section, the owner of a documented vessel for
38 which a fishery endorsement has been issued is liable to the Government for
39 a civil penalty of not more than \$100,000 for each day the vessel engages in
40 fishing (as defined in section 3 of the Magnuson-Stevens Fishery Conservation
41 and Management Act (16 U.S.C. 1802)) within the exclusive economic zone,

1 if the owner or the representative or agent of the owner knowingly falsified
 2 or concealed a material fact, or knowingly made a false statement or represen-
 3 tation, about the eligibility of the vessel under section 12113(c) or (d) of this
 4 title in applying for or applying to renew the fishery endorsement.

5 **“§ 12152. Denial or revocation of endorsement for non-pay-**
 6 **ment of civil penalty**

7 “If the owner of a vessel fails to pay a civil penalty imposed by the Sec-
 8 retary, the Secretary may deny the issuance or renewal of an endorsement,
 9 or revoke the endorsement, on a certificate of documentation issued for the ves-
 10 sel under this chapter.”.

11 **SEC. 6. SUBTITLE III OF TITLE 46.**

12 (a) *SUBTITLE ANALYSIS.*—The analysis of subtitle III of title 46, United
 13 States Code, is amended to read as follows:

<i>“Chapter</i>	<i>Sec.</i>
“301. General Liability Provisions	30101
“303. Death on the High Seas	30301
“305. Exoneration and Limitation of Liability	30501
“307. Liability of Water Carriers	30701
“309. Suits in Admiralty Against the United States	30901
“311. Suits Involving Public Vessels	31101
“313. Commercial Instruments and Maritime Liens	31301”.

14 (b) *REPEALS.*—Title 46, United States Code, is amended by striking chap-
 15 ter 301 and the lines appearing immediately before and immediately after
 16 chapter 313 indicating that certain chapters are reserved.

17 (c) *CHAPTERS 301–311.*—Title 46, United States Code, is amended by in-
 18 serting after the analysis of subtitle III the following:

19 **“CHAPTER 301—GENERAL LIABILITY PROVISIONS**

“Sec.

“30101. Extension of jurisdiction to cases of damage or injury on land.

“30102. Liability to passengers.

“30103. Liability of master, mate, engineer, and pilot.

“30104. Personal injury to or death of seamen.

*“30105. Restriction on recovery by non-citizens and non-resident aliens for incidents in waters
 of other countries.*

“30106. Time limit on bringing maritime action for personal injury or death.

20 **“§ 30101. Extension of jurisdiction to cases of damage or in-**
 21 **jury on land**

22 “(a) *IN GENERAL.*—The admiralty and maritime jurisdiction of the United
 23 States extends to and includes cases of injury or damage, to person or prop-
 24 erty, caused by a vessel on navigable waters, even though the injury or dam-
 25 age is done or consummated on land.

26 “(b) *PROCEDURE.*—A civil action in a case under subsection (a) may be
 27 brought in rem or in personam according to the principles of law and the
 28 rules of practice applicable in cases where the injury or damage has been done
 29 and consummated on navigable waters.

30 “(c) *ACTIONS AGAINST UNITED STATES.*—

1 “(b) *RESTRICTION.*—*Except as provided in subsection (c), a civil action for*
 2 *maintenance and cure or for damages for personal injury or death may not*
 3 *be brought under a maritime law of the United States if—*

4 “(1) *the individual suffering the injury or death was not a citizen or*
 5 *permanent resident alien of the United States at the time of the incident*
 6 *giving rise to the action;*

7 “(2) *the incident occurred in the territorial waters or waters over-*
 8 *laying the continental shelf of a country other than the United States;*
 9 *and*

10 “(3) *the individual suffering the injury or death was employed at the*
 11 *time of the incident by a person engaged in the exploration, development,*
 12 *or production of offshore mineral or energy resources, including drilling,*
 13 *mapping, surveying, diving, pipelaying, maintaining, repairing, con-*
 14 *structing, or transporting supplies, equipment, or personnel, but not in-*
 15 *cluding transporting those resources by a vessel constructed or adapted*
 16 *primarily to carry oil in bulk in the cargo spaces.*

17 “(c) *NONAPPLICATION.*—*Subsection (b) does not apply if the individual*
 18 *bringing the action establishes that a remedy is not available under the laws*
 19 *of—*

20 “(1) *the country asserting jurisdiction over the area in which the inci-*
 21 *dent occurred; or*

22 “(2) *the country in which the individual suffering the injury or death*
 23 *maintained citizenship or residency at the time of the incident.*

24 **“§ 30106. Time limit on bringing maritime action for per-**
 25 ***sonal injury or death***

26 “*Except as otherwise provided by law, a civil action for damages for per-*
 27 *sonal injury or death arising out of a maritime tort must be brought within*
 28 *3 years after the cause of action arose.*

29 **“CHAPTER 303—DEATH ON THE HIGH SEAS**

“*Sec.*

“30301. *Short title.*

“30302. *Cause of action.*

“30303. *Amount and apportionment of recovery.*

“30304. *Contributory negligence.*

“30305. *Death of plaintiff in pending action.*

“30306. *Foreign cause of action.*

“30307. *Commercial aviation accidents.*

“30308. *Nonapplication.*

30 **“§ 30301. Short title**

31 “*This chapter may be cited as the ‘Death on the High Seas Act’.*

32 **“§ 30302. Cause of action**

33 “*When the death of an individual is caused by wrongful act, neglect, or*
 34 *default occurring on the high seas beyond 3 nautical miles from the shore of*
 35 *the United States, the personal representative of the decedent may bring a*

1 *civil action in admiralty against the person or vessel responsible. The action*
 2 *shall be for the exclusive benefit of the decedent’s spouse, parent, child, or de-*
 3 *pendent relative.*

4 **“§ 30303. Amount and apportionment of recovery**

5 *“The recovery in an action under this chapter shall be a fair compensation*
 6 *for the pecuniary loss sustained by the individuals for whose benefit the action*
 7 *is brought. The court shall apportion the recovery among those individuals*
 8 *in proportion to the loss each has sustained.*

9 **“§ 30304. Contributory negligence**

10 *“In an action under this chapter, contributory negligence of the decedent*
 11 *is not a bar to recovery. The court shall consider the degree of negligence of*
 12 *the decedent and reduce the recovery accordingly.*

13 **“§ 30305. Death of plaintiff in pending action**

14 *“If a civil action in admiralty is pending in a court of the United States*
 15 *to recover for personal injury caused by wrongful act, neglect, or default de-*
 16 *scribed in section 30302 of this title, and the individual dies during the ac-*
 17 *tion as a result of the wrongful act, neglect, or default, the personal represent-*
 18 *ative of the decedent may be substituted as the plaintiff and the action may*
 19 *proceed under this chapter for the recovery authorized by this chapter.*

20 **“§ 30306. Foreign cause of action**

21 *“When a cause of action exists under the law of a foreign country for death*
 22 *by wrongful act, neglect, or default on the high seas, a civil action in admi-*
 23 *rality may be brought in a court of the United States based on the foreign*
 24 *cause of action, without abatement of the amount for which recovery is au-*
 25 *thorized.*

26 **“§ 30307. Commercial aviation accidents**

27 *“(a) DEFINITION.—In this section, the term ‘nonpecuniary damages’ means*
 28 *damages for loss of care, comfort, and companionship.*

29 *“(b) BEYOND 12 NAUTICAL MILES.—In an action under this chapter, if the*
 30 *death resulted from a commercial aviation accident occurring on the high seas*
 31 *beyond 12 nautical miles from the shore of the United States, additional com-*
 32 *penensation is recoverable for nonpecuniary damages, but punitive damages are*
 33 *not recoverable.*

34 *“(c) WITHIN 12 NAUTICAL MILES.—This chapter does not apply if the*
 35 *death resulted from a commercial aviation accident occurring on the high seas*
 36 *12 nautical miles or less from the shore of the United States.*

37 **“§ 30308. Nonapplication**

38 *“(a) STATE LAW.—This chapter does not affect the law of a State regu-*
 39 *lating the right to recover for death.*

40 *“(b) INTERNAL WATERS.—This chapter does not apply to the Great Lakes*
 41 *or waters within the territorial limits of a State.*

1 “(b) *CLAIMS SUBJECT TO LIMITATION.*—Unless otherwise excluded by law,
2 claims, debts, and liabilities subject to limitation under subsection (a) are
3 those arising from any embezzlement, loss, or destruction of any property,
4 goods, or merchandise shipped or put on board the vessel, any loss, damage,
5 or injury by collision, or any act, matter, or thing, loss, damage, or forfeiture,
6 done, occasioned, or incurred, without the privity or knowledge of the owner.

7 “(c) *WAGES.*—Subsection (a) does not apply to a claim for wages.

8 **“§ 30506. Limit of liability for personal injury or death**

9 “(a) *APPLICATION.*—This section applies only to seagoing vessels, but does
10 not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fish-
11 ing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters,
12 or nondescript vessels.

13 “(b) *MINIMUM LIABILITY.*—If the amount of the vessel owner’s liability de-
14 termined under section 30505 of this title is insufficient to pay all losses in
15 full, and the portion available to pay claims for personal injury or death is
16 less than \$420 times the tonnage of the vessel, that portion shall be increased
17 to \$420 times the tonnage of the vessel. That portion may be used only to
18 pay claims for personal injury or death.

19 “(c) *CALCULATION OF TONNAGE.*—Under subsection (b), the tonnage of a
20 self-propelled vessel is the gross tonnage without deduction for engine room,
21 and the tonnage of a sailing vessel is the tonnage for documentation. However,
22 space for the use of seamen is excluded.

23 “(d) *CLAIMS ARISING ON DISTINCT OCCASIONS.*—Separate limits of liabil-
24 ity apply to claims for personal injury or death arising on distinct occasions.

25 “(e) *PRIVITY OR KNOWLEDGE.*—In a claim for personal injury or death,
26 the privity or knowledge of the master or the owner’s superintendent or man-
27 aging agent, at or before the beginning of each voyage, is imputed to the
28 owner.

29 **“§ 30507. Apportionment of losses**

30 “*If the amounts determined under sections 30505 and 30506 of this title*
31 *are insufficient to pay all claims—*

32 “(1) *all claimants shall be paid in proportion to their respective losses*
33 *out of the amount determined under section 30505 of this title; and*

34 “(2) *personal injury and death claimants, if any, shall be paid an ad-*
35 *ditional amount in proportion to their respective losses out of the addi-*
36 *tional amount determined under section 30506(b) of this title.*

37 **“§ 30508. Provisions requiring notice of claim or limiting**
38 ***time for bringing action***

39 “(a) *APPLICATION.*—This section applies only to seagoing vessels, but does
40 not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fish-

1 *ing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters,*
 2 *or nondescript vessels.*

3 “(b) *MINIMUM TIME LIMITS.*—*The owner, master, manager, or agent of a*
 4 *vessel transporting passengers or property between ports in the United States,*
 5 *or between a port in the United States and a port in a foreign country, may*
 6 *not limit by regulation, contract, or otherwise the period for—*

7 “(1) *giving notice of, or filing a claim for, personal injury or death*
 8 *to less than 6 months after the date of the injury or death; or*

9 “(2) *bringing a civil action for personal injury or death to less than*
 10 *one year after the date of the injury or death.*

11 “(c) *EFFECT OF FAILURE TO GIVE NOTICE.*—*When notice of a claim for*
 12 *personal injury or death is required by a contract, the failure to give the no-*
 13 *tice is not a bar to recovery if—*

14 “(1) *the court finds that the owner, master, or agent of the vessel had*
 15 *knowledge of the injury or death and the owner has not been prejudiced*
 16 *by the failure;*

17 “(2) *the court finds there was a satisfactory reason why the notice*
 18 *could not have been given; or*

19 “(3) *the owner of the vessel fails to object to the failure to give the*
 20 *notice.*

21 “(d) *TOLLING OF PERIOD TO GIVE NOTICE.*—*If a claimant is a minor or*
 22 *mental incompetent, or if a claim is for wrongful death, any period provided*
 23 *by a contract for giving notice of the claim is tolled until the earlier of—*

24 “(1) *the date a legal representative is appointed for the minor, incom-*
 25 *petent, or decedent’s estate; or*

26 “(2) *3 years after the injury or death.*

27 **“§ 30509. Provisions limiting liability for personal injury or**
 28 **death**

29 “(a) *PROHIBITION.*—

30 “(1) *IN GENERAL.*—*The owner, master, manager, or agent of a vessel*
 31 *transporting passengers between ports in the United States, or between*
 32 *a port in the United States and a port in a foreign country, may not*
 33 *include in a regulation or contract a provision limiting—*

34 “(A) *the liability of the owner, master, or agent for personal in-*
 35 *jury or death caused by the negligence or fault of the owner or the*
 36 *owner’s employees or agents; or*

37 “(B) *the right of a claimant for personal injury or death to a*
 38 *trial by court of competent jurisdiction.*

39 “(2) *VOIDNESS.*—*A provision described in paragraph (1) is void.*

40 “(b) *EMOTIONAL DISTRESS, MENTAL SUFFERING, AND PSYCHOLOGICAL IN-*
 41 *JURY.*—

1 “(1) *IN GENERAL.*—Subsection (a) does not prohibit a provision in a
2 contract or in ticket conditions of carriage with a passenger that relieves
3 an owner, master, manager, agent, operator, or crewmember of a vessel
4 from liability for infliction of emotional distress, mental suffering, or
5 psychological injury so long as the provision does not limit such liability
6 when the emotional distress, mental suffering, or psychological injury
7 is—

8 “(A) the result of physical injury to the claimant caused by the
9 negligence or fault of a crewmember or the owner, master, manager,
10 agent, or operator;

11 “(B) the result of the claimant having been at actual risk of phys-
12 ical injury, and the risk was caused by the negligence or fault of
13 a crewmember or the owner, master, manager, agent, or operator;
14 or

15 “(C) intentionally inflicted by a crewmember or the owner, mas-
16 ter, manager, agent, or operator.

17 “(2) *SEXUAL OFFENSES.*—This subsection does not limit the liability
18 of a crewmember or the owner, master, manager, agent, or operator of
19 a vessel in a case involving sexual harassment, sexual assault, or rape.

20 **“§30510. Vicarious liability for medical malpractice with re-
21 gard to crew**

22 *“In a civil action by any person in which the owner or operator of a vessel
23 or employer of a crewmember is claimed to have vicarious liability for med-
24 ical malpractice with regard to a crewmember occurring at a shoreside facil-
25 ity, and to the extent the damages resulted from the conduct of any shoreside
26 doctor, hospital, medical facility, or other health care provider, the owner, op-
27 erator, or employer is entitled to rely on any statutory limitations of liability
28 applicable to the doctor, hospital, medical facility, or other health care pro-
29 vider in the State of the United States in which the shoreside medical care
30 was provided.*

31 **“§30511. Action by owner for limitation**

32 *“(a) IN GENERAL.*—The owner of a vessel may bring a civil action in a
33 district court of the United States for limitation of liability under this chap-
34 ter. The action must be brought within 6 months after a claimant gives the
35 owner written notice of a claim.

36 *“(b) CREATION OF FUND.*—When the action is brought, the owner (at the
37 owner’s option) shall—

38 “(1) deposit with the court, for the benefit of claimants—

39 “(A) an amount equal to the value of the owner’s interest in the
40 vessel and pending freight, or approved security; and

1 “(B) an amount, or approved security, that the court may fix
2 from time to time as necessary to carry out this chapter; or

3 “(2) transfer to a trustee appointed by the court, for the benefit of
4 claimants—

5 “(A) the owner’s interest in the vessel and pending freight; and

6 “(B) an amount, or approved security, that the court may fix
7 from time to time as necessary to carry out this chapter.

8 “(c) CESSATION OF OTHER ACTIONS.—When an action has been brought
9 under this section and the owner has complied with subsection (b), all claims
10 and proceedings against the owner related to the matter in question shall
11 cease.

12 **“§ 30512. Liability as master, officer, or seaman not affected**

13 *“This chapter does not affect the liability of an individual as a master,
14 officer, or seaman, even though the individual is also an owner of the vessel.*

15 **“CHAPTER 307—LIABILITY OF WATER CARRIERS**

“Sec.

“30701. Definition.

“30702. Application.

“30703. Bills of lading.

“30704. Loading, stowage, custody, care, and delivery.

“30705. Seaworthiness.

“30706. Defenses.

“30707. Criminal penalty.

16 **“§ 30701. Definition**

17 *“In this chapter, the term ‘carrier’ means the owner, manager, charterer,
18 agent, or master of a vessel.*

19 **“§ 30702. Application**

20 “(a) IN GENERAL.—Except as otherwise provided, this chapter applies to
21 a carrier engaged in the carriage of goods to or from any port in the United
22 States.

23 “(b) LIVE ANIMALS.—Sections 30703 and 30704 of this title do not apply
24 to the carriage of live animals.

25 **“§ 30703. Bills of lading**

26 “(a) ISSUANCE.—On demand of a shipper, the carrier shall issue a bill of
27 lading or shipping document.

28 “(b) CONTENTS.—The bill of lading or shipping document shall include a
29 statement of—

30 “(1) the marks necessary to identify the goods;

31 “(2) the number of packages, or the quantity or weight, and whether
32 it is carrier’s or shipper’s weight; and

33 “(3) the apparent condition of the goods.

34 “(c) PRIMA FACIE EVIDENCE OF RECEIPT.—A bill of lading or shipping
35 document issued under this section is prima facie evidence of receipt of the
36 goods described.

1 **“§ 30704. Loading, stowage, custody, care, and delivery**

2 *“A carrier may not insert in a bill of lading or shipping document a pro-*
 3 *vision avoiding its liability for loss or damage arising from negligence or*
 4 *fault in loading, stowage, custody, care, or proper delivery. Any such provi-*
 5 *sion is void.*

6 **“§ 30705. Seaworthiness**

7 *“(a) PROHIBITION.—A carrier may not insert in a bill of lading or ship-*
 8 *ping document a provision lessening or avoiding its obligation to exercise due*
 9 *diligence to—*

10 *“(1) make the vessel seaworthy; and*

11 *“(2) properly man, equip, and supply the vessel.*

12 *“(b) VOIDNESS.—A provision described in subsection (a) is void.*

13 **“§ 30706. Defenses**

14 *“(a) DUE DILIGENCE.—If a carrier has exercised due diligence to make the*
 15 *vessel in all respects seaworthy and to properly man, equip, and supply the*
 16 *vessel, the carrier and the vessel are not liable for loss or damage arising from*
 17 *an error in the navigation or management of the vessel.*

18 *“(b) OTHER DEFENSES.—A carrier and the vessel are not liable for loss*
 19 *or damage arising from—*

20 *“(1) dangers of the sea or other navigable waters;*

21 *“(2) acts of God;*

22 *“(3) public enemies;*

23 *“(4) seizure under legal process;*

24 *“(5) inherent defect, quality, or vice of the goods;*

25 *“(6) insufficiency of package;*

26 *“(7) act or omission of the shipper or owner of the goods or their*
 27 *agent; or*

28 *“(8) saving or attempting to save life or property at sea, including*
 29 *a deviation in rendering such a service.*

30 **“§ 30707. Criminal penalty**

31 *“(a) IN GENERAL.—A carrier that violates this chapter shall be fined under*
 32 *title 18.*

33 *“(b) LIEN.—The amount of the fine and costs for the violation constitute*
 34 *a lien on the vessel engaged in the carriage. A civil action in rem to enforce*
 35 *the lien may be brought in the district court of the United States for any*
 36 *district in which the vessel is found.*

37 *“(c) DISPOSITION OF FINE.—Half of the fine shall go to the person injured*
 38 *by the violation and half to the United States Government.*

39 **“CHAPTER 309—SUITS IN ADMIRALTY AGAINST THE**
 40 **UNITED STATES**

“Sec.

“30901. Short title.

- “30902. *Definition.*
 “30903. *Waiver of immunity.*
 “30904. *Exclusive remedy.*
 “30905. *Period for bringing action.*
 “30906. *Venue.*
 “30907. *Procedure for hearing and determination.*
 “30908. *Exemption from arrest or seizure.*
 “30909. *Security.*
 “30910. *Exoneration and limitation.*
 “30911. *Costs and interest.*
 “30912. *Arbitration, compromise, or settlement.*
 “30913. *Payment of judgment or settlement.*
 “30914. *Release of privately owned vessel after arrest or attachment.*
 “30915. *Seizures and other proceedings in foreign jurisdictions.*
 “30916. *Recovery by the United States for salvage services.*
 “30917. *Disposition of amounts recovered by the United States.*
 “30918. *Reports.*

1 **“§ 30901. Short title**

2 *“This chapter may be cited as the ‘Suits in Admiralty Act’.*

3 **“§ 30902. Definition**

4 *“In this chapter, the term ‘federally-owned corporation’ means a corpora-*
 5 *tion in which the United States owns all the outstanding capital stock.*

6 **“§ 30903. Waiver of immunity**

7 *“(a) IN GENERAL.—In a case in which, if a vessel were privately owned*
 8 *or operated, or if cargo were privately owned or possessed, or if a private per-*
 9 *son or property were involved, a civil action in admiralty could be main-*
 10 *tained, a civil action in admiralty in personam may be brought against the*
 11 *United States or a federally-owned corporation. In a civil action in admi-*
 12 *ralty brought by the United States or a federally-owned corporation, an ad-*
 13 *miralty claim in personam may be filed or a setoff claimed against the*
 14 *United States or corporation.*

15 *“(b) NON-JURY.—A claim against the United States or a federally-owned*
 16 *corporation under this section shall be tried without a jury.*

17 **“§ 30904. Exclusive remedy**

18 *“If a remedy is provided by this chapter, it shall be exclusive of any other*
 19 *action arising out of the same subject matter against the officer, employee,*
 20 *or agent of the United States or the federally-owned corporation whose act*
 21 *or omission gave rise to the claim.*

22 **“§ 30905. Period for bringing action**

23 *“A civil action under this chapter must be brought within 2 years after*
 24 *the cause of action arose.*

25 **“§ 30906. Venue**

26 *“(a) IN GENERAL.—A civil action under this chapter shall be brought in*
 27 *the district court of the United States for the district in which—*

28 *“(1) any plaintiff resides or has its principal place of business; or*

29 *“(2) the vessel or cargo is found.*

1 “(b) *TRANSFER*.—On a motion by a party, the court may transfer the ac-
2 tion to any other district court of the United States.

3 **“§ 30907. Procedure for hearing and determination**

4 “(a) *IN GENERAL*.—A civil action under this chapter shall proceed and be
5 heard and determined according to the principles of law and the rules of
6 practice applicable in like cases between private parties.

7 “(b) *IN REM*.—

8 “(1) *REQUIREMENTS*.—The action may proceed according to the prin-
9 ciples of an action in rem if—

10 “(A) the plaintiff elects in the complaint; and

11 “(B) it appears that an action in rem could have been main-
12 tained had the vessel or cargo been privately owned and possessed.

13 “(2) *EFFECT ON RELIEF IN PERSONAM*.—An election under paragraph
14 (1) does not prevent the plaintiff from seeking relief in personam in the
15 same action.

16 **“§ 30908. Exemption from arrest or seizure**

17 “The following are not subject to arrest or seizure by judicial process in
18 the United States:

19 “(1) A vessel owned by, possessed by, or operated by or for the United
20 States or a federally-owned corporation.

21 “(2) Cargo owned or possessed by the United States or a federally-
22 owned corporation.

23 **“§ 30909. Security**

24 “Neither the United States nor a federally-owned corporation may be re-
25 quired to give a bond or admiralty stipulation in a civil action under this
26 chapter.

27 **“§ 30910. Exoneration and limitation**

28 “The United States is entitled to the exemptions from and limitations of
29 liability provided by law to an owner, charterer, operator, or agent of a ves-
30 sel.

31 **“§ 30911. Costs and interest**

32 “(a) *IN GENERAL*.—A judgment against the United States or a federally-
33 owned corporation under this chapter may include costs and interest at the
34 rate of 4 percent per year until satisfied. Interest shall run as ordered by the
35 court, except that interest is not allowable for the period before the action is
36 filed.

37 “(b) *CONTRACT PROVIDING FOR INTEREST*.—Notwithstanding subsection
38 (a), if the claim is based on a contract providing for interest, interest may
39 be awarded at the rate and for the period provided in the contract.

1 **“§ 30912. Arbitration, compromise, or settlement**

2 *“The Secretary of a department of the United States Government, or the*
3 *board of trustees of a federally-owned corporation, may arbitrate, compromise,*
4 *or settle a claim under this chapter.*

5 **“§ 30913. Payment of judgment or settlement**

6 *“(a) IN GENERAL.—The proper accounting officer of the United States*
7 *shall pay a final judgment, arbitration award, or settlement under this chap-*
8 *ter on presentation of an authenticated copy.*

9 *“(b) SOURCE OF PAYMENT.—Payment shall be made from an appropria-*
10 *tion or fund available specifically for the purpose. If no appropriation or*
11 *fund is specifically available, there is hereby appropriated, out of money in*
12 *the Treasury not otherwise appropriated, an amount sufficient to pay the*
13 *judgment, award, or settlement.*

14 **“§ 30914. Release of privately owned vessel after arrest or at-**
15 **achment**

16 *“If a privately owned vessel not in the possession of the United States or*
17 *a federally-owned corporation is arrested or attached in a civil action arising*
18 *or alleged to have arisen from prior ownership, possession, or operation by*
19 *the United States or corporation, the vessel shall be released without bond or*
20 *stipulation on a statement by the United States, through the Attorney General*
21 *or other authorized law officer, that the United States is interested in the ac-*
22 *tion, desires release of the vessel, and assumes liability for the satisfaction of*
23 *any judgment obtained by the plaintiff. After the vessel is released, the action*
24 *shall proceed against the United States in accordance with this chapter.*

25 **“§ 30915. Seizures and other proceedings in foreign jurisdic-**
26 **tions**

27 *“(a) IN GENERAL.—If a vessel or cargo described in section 30908 or 30914*
28 *of this title is arrested, attached, or otherwise seized by judicial process in*
29 *a foreign country, or if an action is brought in a court of a foreign country*
30 *against the master of such a vessel for a claim arising from the ownership,*
31 *possession, or operation of the vessel, or the ownership, possession, or carriage*
32 *of such cargo, the Secretary of State, on request of the Attorney General or*
33 *another officer authorized by the Attorney General, may direct the United*
34 *States consul residing at or nearest the place at which the action was*
35 *brought—*

36 *“(1) to claim the vessel or cargo as immune from arrest, attachment,*
37 *or other seizure, and to execute an agreement, stipulation, bond, or un-*
38 *dertaking, for the United States or federally-owned corporation, for the*
39 *release of the vessel or cargo and the prosecution of any appeal; or*

40 *“(2) if an action has been brought against the master of such a vessel,*
41 *to enter the appearance of the United States or corporation and to pledge*

1 *the credit of the United States or corporation to the payment of any*
 2 *judgment and costs in the action.*

3 “(b) *ARRANGING BOND OR STIPULATION.—The Attorney General may—*

4 “(1) *arrange with a bank, surety company, or other person, whether*
 5 *in the United States or a foreign country, to execute a bond or stipula-*
 6 *tion; and*

7 “(2) *pledge the credit of the United States to secure the bond or stipu-*
 8 *lation.*

9 “(c) *PAYMENT OF JUDGMENT.—The appropriate accounting officer of the*
 10 *United States or corporation may pay a judgment in an action described in*
 11 *subsection (a) on presentation of a copy of the judgment if certified by the*
 12 *clerk of the court and authenticated by—*

13 “(1) *the certificate and seal of the United States consul claiming the*
 14 *vessel or cargo, or by the consul’s successor; and*

15 “(2) *the certificate of the Secretary as to the official capacity of the*
 16 *consul.*

17 “(d) *RIGHT TO CLAIM IMMUNITY NOT AFFECTED.—This section does not*
 18 *affect the right of the United States to claim immunity of a vessel or cargo*
 19 *from foreign jurisdiction.*

20 **“§30916. Recovery by the United States for salvage services**

21 “(a) *CIVIL ACTION.—The United States, and the crew of a merchant vessel*
 22 *owned or operated by the United States, or a federally-owned corporation,*
 23 *may bring a civil action to recover for salvage services provided by the vessel*
 24 *and crew.*

25 “(b) *DEPOSIT OF AMOUNTS RECOVERED.—Any amount recovered under*
 26 *this section by the United States for its own benefit, and not for the benefit*
 27 *of the crew, shall be deposited in the Treasury to the credit of the department*
 28 *of the United States Government, or the corporation, having control of the*
 29 *possession or operation of the vessel.*

30 **“§30917. Disposition of amounts recovered by the United**
 31 **States**

32 “*Amounts recovered in a civil action brought by the United States on a*
 33 *claim arising from the ownership, possession, or operation of a merchant ves-*
 34 *sel, or the ownership, possession, or carriage of cargo, shall be deposited in*
 35 *the Treasury to the credit of the department of the United States Government,*
 36 *or the federally-owned corporation, having control of the vessel or cargo, for*
 37 *reimbursement of the appropriation, insurance fund, or other fund from*
 38 *which the compensation for which the judgment was recovered was or will be*
 39 *paid.*

1 **“§30918. Reports**

2 *“The Secretary of each department of the United States Government, and*
 3 *the board of trustees of each federally-owned corporation, shall report to Con-*
 4 *gress at each session thereof all arbitration awards and settlements agreed to*
 5 *under this chapter since the previous session, for which the time to appeal*
 6 *has expired or been waived.*

7 **“CHAPTER 311—SUITS INVOLVING PUBLIC VESSELS**

“Sec.

“31101. *Short title.*

“31102. *Waiver of immunity.*

“31103. *Applicable procedure.*

“31104. *Venue.*

“31105. *Security when counterclaim filed.*

“31106. *Exoneration and limitation.*

“31107. *Interest.*

“31108. *Arbitration, compromise, or settlement.*

“31109. *Payment of judgment or settlement.*

“31110. *Subpoenas to officers or members of crew.*

“31111. *Claims by nationals of foreign countries.*

“31112. *Lien not recognized or created.*

“31113. *Reports.*

8 **“§31101. Short title**

9 *“This chapter may be cited as the ‘Public Vessels Act’.*

10 **“§31102. Waiver of immunity**

11 *“(a) IN GENERAL.—A civil action in personam in admiralty may be*
 12 *brought, or an impleader filed, against the United States for—*

13 *“(1) damages caused by a public vessel of the United States; or*

14 *“(2) compensation for towage and salvage services, including contract*
 15 *salvage, rendered to a public vessel of the United States.*

16 *“(b) COUNTERCLAIM OR SETOFF.—If the United States brings a civil ac-*
 17 *tion in admiralty for damages caused by a privately owned vessel, the owner*
 18 *of the vessel, or the successor in interest, may file a counterclaim in personam,*
 19 *or claim a setoff, against the United States for damages arising out of the*
 20 *same subject matter.*

21 **“§31103. Applicable procedure**

22 *“A civil action under this chapter is subject to the provisions of chapter*
 23 *309 of this title except to the extent inconsistent with this chapter.*

24 **“§31104. Venue**

25 *“(a) IN GENERAL.—A civil action under this chapter shall be brought in*
 26 *the district court of the United States for the district in which the vessel or*
 27 *cargo is found within the United States.*

28 *“(b) VESSEL OR CARGO OUTSIDE TERRITORIAL WATERS.—If the vessel or*
 29 *cargo is outside the territorial waters of the United States—*

30 *“(1) the action shall be brought in the district court of the United*
 31 *States for any district in which any plaintiff resides or has an office*
 32 *for the transaction of business; or*

1 “(2) if no plaintiff resides or has an office for the transaction of busi-
2 ness in the United States, the action may be brought in the district court
3 of the United States for any district.

4 **“§31105. Security when counterclaim filed**

5 “If a counterclaim is filed for a cause of action for which the original ac-
6 tion is filed under this chapter, the respondent to the counterclaim shall give
7 security in the usual amount and form to respond to the counterclaim, unless
8 the court for cause shown orders otherwise. The proceedings in the original
9 action shall be stayed until the security is given.

10 **“§31106. Exoneration and limitation**

11 “The United States is entitled to the exemptions from and limitations of
12 liability provided by law to an owner, charterer, operator, or agent of a ves-
13 sel.

14 **“§31107. Interest**

15 “A judgment in a civil action under this chapter may not include interest
16 for the period before the judgment is issued unless the claim is based on a
17 contract providing for interest.

18 **“§31108. Arbitration, compromise, or settlement**

19 “The Attorney General may arbitrate, compromise, or settle a claim under
20 this chapter if a civil action based on the claim has been commenced.

21 **“§31109. Payment of judgment or settlement**

22 “The proper accounting officer of the United States shall pay a final judg-
23 ment, arbitration award, or settlement under this chapter on presentation of
24 an authenticated copy. Payment shall be made from any money in the Treas-
25 ury appropriated for the purpose.

26 **“§31110. Subpoenas to officers or members of crew**

27 “An officer or member of the crew of a public vessel may not be subpoenaed
28 in a civil action under this chapter without the consent of—

29 “(1) the Secretary of the department or the head of the independent
30 establishment having control of the vessel at the time the cause of action
31 arose; or

32 “(2) the master or commanding officer of the vessel at the time the
33 subpoena is issued.

34 **“§31111. Claims by nationals of foreign countries**

35 “A national of a foreign country may not maintain a civil action under
36 this chapter unless it appears to the satisfaction of the court in which the
37 action is brought that the government of that country, in similar cir-
38 cumstances, allows nationals of the United States to sue in its courts.

39 **“§31112. Lien not recognized or created**

40 “This chapter shall not be construed as recognizing the existence of or as
41 creating a lien against a public vessel of the United States.

1 **“§31113. Reports**

2 *“The Attorney General shall report to Congress at each session thereof all*
3 *claims settled under this chapter.”.*

4 **SEC. 7. SUBTITLE IV OF TITLE 46.**

5 *Title 46, United States Code, is amended by inserting after subtitle III the*
6 *following:*

7 **“Subtitle IV—Regulation of Ocean Shipping**

8 **“PART A—OCEAN SHIPPING**

<i>“Chapter</i>	<i>Sec.</i>
“401. General	40101
“403. Agreements	40301
“405. Tariffs, Service Contracts, Refunds, and Waivers	40501
“407. Controlled Carriers	40701
“409. Ocean Transportation Intermediaries	40901
“411. Prohibitions and Penalties	41101
“413. Enforcement	41301

9 **“PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES**

“421. Regulations Affecting Shipping in Foreign Trade	42101
“423. Foreign Shipping Practices	42301

10 **“PART C—MISCELLANEOUS**

“441. Evidence of Financial Responsibility for Passenger Transportation.	44101
---	--------------

11 **“PART A—OCEAN SHIPPING**

12 **“CHAPTER 401—GENERAL**

“Sec.

“40101. Purposes.

“40102. Definitions.

“40103. Administrative exemptions.

“40104. Reports filed with the Commission.

13 **“§40101. Purposes**

14 *“The purposes of this part are to—*

15 *“(1) establish a nondiscriminatory regulatory process for the common*
16 *carriage of goods by water in the foreign commerce of the United States*
17 *with a minimum of government intervention and regulatory costs;*

18 *“(2) provide an efficient and economic transportation system in the*
19 *ocean commerce of the United States that is, insofar as possible, in har-*
20 *mony with, and responsive to, international shipping practices;*

21 *“(3) encourage the development of an economically sound and efficient*
22 *liner fleet of vessels of the United States capable of meeting national se-*
23 *curity needs; and*

24 *“(4) promote the growth and development of United States exports*
25 *through competitive and efficient ocean transportation and by placing a*
26 *greater reliance on the marketplace.*

27 **“§40102. Definitions**

28 *“In this part:*

29 *“(1) AGREEMENT.—The term ‘agreement’—*

1 “(A) means a written or oral understanding, arrangement, or as-
2 sociation, and any modification or cancellation thereof; but

3 “(B) does not include a maritime labor agreement.

4 “(2) ANTITRUST LAWS.—The term ‘antitrust laws’ means—

5 “(A) the Sherman Act (15 U.S.C. 1 et seq.);

6 “(B) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8,
7 9);

8 “(C) the Clayton Act (15 U.S.C. 12 et seq.);

9 “(D) the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a);

10 “(E) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

11 “(F) the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.); and

12 “(G) Acts supplementary to those Acts.

13 “(3) ASSESSMENT AGREEMENT.—The term ‘assessment agreement’
14 means an agreement, whether part of a collective bargaining agreement
15 or negotiated separately, to the extent the agreement provides for the
16 funding of collectively bargained fringe-benefit obligations on other than
17 a uniform worker-hour basis, regardless of the cargo handled or type of
18 vessel or equipment used.

19 “(4) BULK CARGO.—The term ‘bulk cargo’ means cargo that is loaded
20 and carried in bulk without mark or count.

21 “(5) CHEMICAL PARCEL-TANKER.—The term ‘chemical parcel-tanker’
22 means a vessel that has—

23 “(A) a cargo-carrying capability consisting of individual cargo
24 tanks for bulk chemicals that—

25 “(i) are a permanent part of the vessel; and

26 “(ii) have segregation capability with piping systems to per-
27 mit simultaneous carriage of several bulk chemical cargoes with
28 minimum risk of cross-contamination; and

29 “(B) a valid certificate of fitness under the International Mari-
30 time Organization Code for the Construction and Equipment of
31 Ships Carrying Dangerous Chemicals in Bulk.

32 “(6) COMMON CARRIER.—The term ‘common carrier’—

33 “(A) means a person that—

34 “(i) holds itself out to the general public to provide transpor-
35 tation by water of passengers or cargo between the United
36 States and a foreign country for compensation;

37 “(ii) assumes responsibility for the transportation from the
38 port or point of receipt to the port or point of destination; and

39 “(iii) uses, for all or part of that transportation, a vessel op-
40 erating on the high seas or the Great Lakes between a port in
41 the United States and a port in a foreign country; but

1 “(B) does not include a carrier engaged in ocean transportation
2 by ferry boat, ocean tramp, or chemical parcel-tanker, or by vessel
3 when primarily engaged in the carriage of perishable agricultural
4 commodities—

5 “(i) if the carrier and the owner of those commodities are
6 wholly-owned, directly or indirectly, by a person primarily en-
7 gaged in the marketing and distribution of those commodities;
8 and

9 “(ii) only with respect to the carriage of those commodities.

10 “(7) CONFERENCE.—The term ‘conference’—

11 “(A) means an association of ocean common carriers permitted,
12 pursuant to an approved or effective agreement, to engage in con-
13 certed activity and to use a common tariff; but

14 “(B) does not include a joint service, consortium, pooling, sailing,
15 or transshipment agreement.

16 “(8) CONTROLLED CARRIER.—The term ‘controlled carrier’ means an
17 ocean common carrier that is, or whose operating assets are, directly or
18 indirectly, owned or controlled by a government, with ownership or con-
19 trol by a government being deemed to exist for a carrier if—

20 “(A) a majority of the interest in the carrier is owned or con-
21 trolled in any manner by that government, an agency of that gov-
22 ernment, or a public or private person controlled by that govern-
23 ment; or

24 “(B) that government has the right to appoint or disapprove the
25 appointment of a majority of the directors, the chief operating offi-
26 cer, or the chief executive officer of the carrier.

27 “(9) DEFERRED REBATE.—The term ‘deferred rebate’ means a return
28 by a common carrier of any freight money to a shipper, where the return
29 is—

30 “(A) consideration for the shipper giving all or any portion of
31 its shipments to that or any other common carrier over a fixed pe-
32 riod of time;

33 “(B) deferred beyond the completion of the service for which it
34 was paid; and

35 “(C) made only if the shipper has agreed to make a further ship-
36 ment with that or any other common carrier.

37 “(10) FOREST PRODUCTS.—The term ‘forest products’ includes lumber
38 in bundles, rough timber, ties, poles, piling, laminated beams, bundled
39 siding, bundled plywood, bundled core stock or veneers, bundled particle
40 or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in

1 *unitized bales, and paper and paper board in rolls or in pallet or skid-*
 2 *sized sheets.*

3 “(11) *INLAND DIVISION.*—*The term ‘inland division’ means the*
 4 *amount paid by a common carrier to an inland carrier for the inland*
 5 *portion of through transportation offered to the public by the common*
 6 *carrier.*

7 “(12) *INLAND PORTION.*—*The term ‘inland portion’ means the charge*
 8 *to the public by a common carrier for the non-ocean portion of through*
 9 *transportation.*

10 “(13) *LOYALTY CONTRACT.*—*The term ‘loyalty contract’ means a con-*
 11 *tract with an ocean common carrier or agreement providing for—*

12 “(A) *a shipper to obtain lower rates by committing all or a fixed*
 13 *portion of its cargo to that carrier or agreement; and*

14 “(B) *a deferred rebate arrangement.*

15 “(14) *MARINE TERMINAL OPERATOR.*—*The term ‘marine terminal op-*
 16 *erator’ means a person engaged in the United States in the business of*
 17 *providing wharfage, dock, warehouse, or other terminal facilities in con-*
 18 *nection with a common carrier, or in connection with a common carrier*
 19 *and a water carrier subject to subchapter II of chapter 135 of title 49.*

20 “(15) *MARITIME LABOR AGREEMENT.*—*The term ‘maritime labor*
 21 *agreement’—*

22 “(A) *means—*

23 “(i) *a collective bargaining agreement between an employer*
 24 *subject to this part, or a group of such employers, and a labor*
 25 *organization representing employees in the maritime or steve-*
 26 *doring industry;*

27 “(ii) *an agreement preparatory to such a collective bar-*
 28 *gaining agreement among members of a multi-employer bar-*
 29 *gaining group; or*

30 “(iii) *an agreement specifically implementing provisions of*
 31 *such a collective bargaining agreement or providing for the for-*
 32 *mation, financing, or administration of a multi-employer bar-*
 33 *gaining group; but*

34 “(B) *does not include an assessment agreement.*

35 “(16) *NON-VESSEL-OPERATING COMMON CARRIER.*—*The term ‘non-ves-*
 36 *sel-operating common carrier’ means a common carrier that—*

37 “(A) *does not operate the vessels by which the ocean transpor-*
 38 *tation is provided; and*

39 “(B) *is a shipper in its relationship with an ocean common car-*
 40 *rier.*

1 “(17) OCEAN COMMON CARRIER.—The term ‘ocean common carrier’
2 means a vessel-operating common carrier.

3 “(18) OCEAN FREIGHT FORWARDER.—The term ‘ocean freight for-
4 warder’ means a person that—

5 “(A) in the United States, dispatches shipments from the United
6 States via a common carrier and books or otherwise arranges space
7 for those shipments on behalf of shippers; and

8 “(B) processes the documentation or performs related activities
9 incident to those shipments.

10 “(19) OCEAN TRANSPORTATION INTERMEDIARY.—The term ‘ocean
11 transportation intermediary’ means an ocean freight forwarder or a non-
12 vessel-operating common carrier.

13 “(20) SERVICE CONTRACT.—The term ‘service contract’ means a writ-
14 ten contract, other than a bill of lading or receipt, between one or more
15 shippers, on the one hand, and an individual ocean common carrier or
16 an agreement between or among ocean common carriers, on the other,
17 in which—

18 “(A) the shipper or shippers commit to providing a certain vol-
19 ume or portion of cargo over a fixed time period; and

20 “(B) the ocean common carrier or the agreement commits to a
21 certain rate or rate schedule and a defined service level, such as as-
22 sured space, transit time, port rotation, or similar service features.

23 “(21) SHIPMENT.—The term ‘shipment’ means all of the cargo carried
24 under the terms of a single bill of lading.

25 “(22) SHIPPER.—The term ‘shipper’ means—

26 “(A) a cargo owner;

27 “(B) the person for whose account the ocean transportation of
28 cargo is provided;

29 “(C) the person to whom delivery is to be made;

30 “(D) a shippers’ association; or

31 “(E) a non-vessel-operating common carrier that accepts respon-
32 sibility for payment of all charges applicable under the tariff or
33 service contract.

34 “(23) SHIPPERS’ ASSOCIATION.—The term ‘shippers’ association’
35 means a group of shippers that consolidates or distributes freight on a
36 nonprofit basis for the members of the group to obtain carload, truckload,
37 or other volume rates or service contracts.

38 “(24) THROUGH RATE.—The term ‘through rate’ means the single
39 amount charged by a common carrier in connection with through trans-
40 portation.

1 “(25) *THROUGH TRANSPORTATION.*—*The term ‘through transpor-*
 2 *tation’ means continuous transportation between origin and destination*
 3 *for which a through rate is assessed and which is offered or performed*
 4 *by one or more carriers, at least one of which is a common carrier, be-*
 5 *tween a United States port or point and a foreign port or point.*

6 **“§ 40103. Administrative exemptions**

7 “(a) *IN GENERAL.*—*The Federal Maritime Commission, on application or*
 8 *its own motion, may by order or regulation exempt for the future any class*
 9 *of agreements between persons subject to this part or any specified activity*
 10 *of those persons from any requirement of this part if the Commission finds*
 11 *that the exemption will not result in substantial reduction in competition or*
 12 *be detrimental to commerce. The Commission may attach conditions to an ex-*
 13 *emption and may, by order, revoke an exemption.*

14 “(b) *OPPORTUNITY FOR HEARING.*—*An order or regulation of exemption or*
 15 *revocation of an exemption may be issued only if the Commission has pro-*
 16 *vided an opportunity for a hearing to interested persons and departments and*
 17 *agencies of the United States Government.*

18 **“§ 40104. Reports filed with the Commission**

19 “(a) *IN GENERAL.*—*The Federal Maritime Commission may require a com-*
 20 *mon carrier or an officer, receiver, trustee, lessee, agent, or employee of the*
 21 *carrier to file with the Commission a periodical or special report, an account,*
 22 *record, rate, or charge, or a memorandum of facts and transactions related*
 23 *to the business of the carrier. The report, account, record, rate, charge, or*
 24 *memorandum shall be made under oath if the Commission requires, and shall*
 25 *be filed in the form and within the time prescribed by the Commission.*

26 “(b) *CONFERENCE MINUTES.*—*Conference minutes required to be filed with*
 27 *the Commission under this section may not be released to third parties or*
 28 *published by the Commission.*

29 **“CHAPTER 403—AGREEMENTS**

“Sec.

“40301. *Application.*

“40302. *Filing requirements.*

“40303. *Content requirements.*

“40304. *Commission action.*

“40305. *Assessment agreements.*

“40306. *Nondisclosure of information.*

“40307. *Exemption from antitrust laws.*

30 **“§ 40301. Application**

31 “(a) *OCEAN COMMON CARRIER AGREEMENTS.*—*This part applies to an*
 32 *agreement between or among ocean common carriers to—*

33 “(1) *discuss, fix, or regulate transportation rates, including through*
 34 *rates, cargo space accommodations, and other conditions of service;*

35 “(2) *pool or apportion traffic, revenues, earnings, or losses;*

1 “(3) allot ports or regulate the number and character of voyages be-
2 tween ports;

3 “(4) regulate the volume or character of cargo or passenger traffic to
4 be carried;

5 “(5) engage in an exclusive, preferential, or cooperative working ar-
6 rangement between themselves or with a marine terminal operator;

7 “(6) control, regulate, or prevent competition in international ocean
8 transportation; or

9 “(7) discuss and agree on any matter related to a service contract.

10 “(b) *MARINE TERMINAL OPERATOR AGREEMENTS.*—This part applies to
11 an agreement between or among marine terminal operators, or between or
12 among one or more marine terminal operators and one or more ocean com-
13 mon carriers, to—

14 “(1) discuss, fix, or regulate rates or other conditions of service; or

15 “(2) engage in exclusive, preferential, or cooperative working arrange-
16 ments, to the extent the agreement involves ocean transportation in the
17 foreign commerce of the United States.

18 “(c) *ACQUISITIONS.*—This part does not apply to an acquisition by any
19 person, directly or indirectly, of any voting security or assets of any other
20 person.

21 “(d) *MARITIME LABOR AGREEMENTS.*—This part does not apply to a mar-
22 itime labor agreement. However, this subsection does not exempt from this
23 part any rate, charge, regulation, or practice of a common carrier that is re-
24 quired to be set forth in a tariff or is an essential term of a service contract,
25 whether or not the rate, charge, regulation, or practice arises out of, or is oth-
26 erwise related to, a maritime labor agreement.

27 “(e) *ASSESSMENT AGREEMENTS.*—This part (except sections 40305 and
28 40307(a)) does not apply to an assessment agreement.

29 **“§ 40302. Filing requirements**

30 “(a) *IN GENERAL.*—A true copy of every agreement referred to in section
31 40301(a) or (b) of this title shall be filed with the Federal Maritime Commis-
32 sion. If the agreement is oral, a complete memorandum specifying in detail
33 the substance of the agreement shall be filed.

34 “(b) *EXCEPTIONS.*—Subsection (a) does not apply to—

35 “(1) an agreement related to transportation to be performed within or
36 between foreign countries; or

37 “(2) an agreement among common carriers to establish, operate, or
38 maintain a marine terminal in the United States.

39 “(c) *REGULATIONS.*—The Commission may by regulation prescribe the
40 form and manner in which an agreement shall be filed and any additional
41 information and documents necessary to evaluate the agreement.

1 **“§ 40303. Content requirements**

2 “(a) OCEAN COMMON CARRIER AGREEMENTS.—

3 “(1) RESTRICTIONS.—An ocean common carrier agreement may not—

4 “(A) prohibit or restrict a member of the agreement from engag-
5 ing in negotiations for a service contract with a shipper;

6 “(B) require a member of the agreement to disclose a negotiation
7 on a service contract, or the terms of a service contract, other than
8 those terms required to be published under section 40502(d) of this
9 title; or

10 “(C) adopt mandatory rules or requirements affecting the right
11 of an agreement member to negotiate and enter into a service con-
12 tract.

13 “(2) VOLUNTARY GUIDELINES.—An ocean common carrier agreement
14 may provide authority to adopt voluntary guidelines relating to the
15 terms and procedures of an agreement member’s service contracts if the
16 guidelines explicitly state the right of members of the agreement not to
17 follow the guidelines. Any guidelines adopted shall be submitted confiden-
18 tially to the Federal Maritime Commission.

19 “(b) CONFERENCE AGREEMENTS.—Each conference agreement must—

20 “(1) state its purpose;

21 “(2) provide reasonable and equal terms for admission and readmis-
22 sion to conference membership for any ocean common carrier willing to
23 serve the particular trade or route;

24 “(3) permit any member to withdraw from conference membership on
25 reasonable notice without penalty;

26 “(4) at the request of any member, require an independent neutral
27 body to police fully the obligations of the conference and its members;

28 “(5) prohibit the conference from engaging in conduct prohibited by
29 section 41105(1) or (3) of this title;

30 “(6) provide for a consultation process designed to promote—

31 “(A) commercial resolution of disputes; and

32 “(B) cooperation with shippers in preventing and eliminating
33 malpractices;

34 “(7) establish procedures for promptly and fairly considering requests
35 and complaints of shippers; and

36 “(8) provide that—

37 “(A) any member of the conference may take independent action
38 on a rate or service item on not more than 5 days’ notice to the
39 conference; and

40 “(B) except for an exempt commodity not published in the con-
41 ference tariff, the conference will include the new rate or service

1 *item in its tariff for use by that member, effective no later than 5*
 2 *days after receipt of the notice, and by any other member that noti-*
 3 *fies the conference that it elects to adopt the independent rate or*
 4 *service item on or after its effective date, in lieu of the existing con-*
 5 *ference tariff provision for that rate or service item.*

6 “(c) *INTERCONFERENCE AGREEMENTS.*—*Each agreement between carriers*
 7 *not members of the same conference must provide the right of independent ac-*
 8 *tion for each carrier. Each agreement between conferences must provide the*
 9 *right of independent action for each conference.*

10 “(d) *VESSEL SHARING AGREEMENTS.*—

11 “(1) *IN GENERAL.*—*An ocean common carrier that is the owner, oper-*
 12 *ator, or bareboat, time, or slot charterer of a liner vessel documented*
 13 *under section 12103 or 12111(c) of this title may agree with an ocean*
 14 *common carrier described in paragraph (2) to which it charters or sub-*
 15 *charters the vessel or space on the vessel that the charterer or*
 16 *subcharterer may not use or make available space on the vessel for the*
 17 *carriage of cargo reserved by law for vessels of the United States.*

18 “(2) *CARRIER DESCRIBED.*—*An ocean common carrier described in*
 19 *this paragraph is one that is not the owner, operator, or bareboat*
 20 *charterer for at least one year of liner vessels of the United States that*
 21 *are eligible to be included in the Maritime Security Fleet Program and*
 22 *are enrolled in an Emergency Preparedness Program under chapter 531*
 23 *of this title.*

24 “§ 40304. **Commission action**

25 “(a) *NOTICE OF FILING.*—*Within 7 days after an agreement is filed, the*
 26 *Federal Maritime Commission shall transmit a notice of the filing to the Fed-*
 27 *eral Register for publication.*

28 “(b) *PRELIMINARY REVIEW AND REJECTION.*—*After preliminary review,*
 29 *the Commission shall reject an agreement that it finds does not meet the re-*
 30 *quirements of sections 40302 and 40303 of this title. The Commission shall*
 31 *notify in writing the person filing the agreement of the reason for rejection.*

32 “(c) *REVIEW AND EFFECTIVE DATE.*—*Unless rejected under subsection (b),*
 33 *an agreement (other than an assessment agreement) is effective—*

34 “(1) *on the 45th day after filing, or on the 30th day after notice of*
 35 *the filing is published in the Federal Register, whichever is later; or*

36 “(2) *if additional information or documents are requested under sub-*
 37 *section (d)—*

38 “(A) *on the 45th day after the Commission receives all the addi-*
 39 *tional information and documents; or*

40 “(B) *if the request is not fully complied with, on the 45th day*
 41 *after the Commission receives the information and documents sub-*

1 mitted and a statement of the reasons for noncompliance with the
2 request.

3 “(d) *REQUEST FOR ADDITIONAL INFORMATION.*—Before the expiration of
4 the period specified in subsection (c)(1), the Commission may request from
5 the person filing the agreement any additional information and documents
6 the Commission considers necessary to make the determinations required by
7 this section.

8 “(e) *MODIFICATION OF REVIEW PERIOD.*—

9 “(1) *SHORTENING.*—On request of the party filing an agreement, the
10 Commission may shorten a period specified in subsection (c), but not to
11 a date that is less than 14 days after notice of the filing of the agreement
12 is published in the Federal Register.

13 “(2) *EXTENSION.*—The period specified in subsection (c)(2) may be ex-
14 tended only by the United States District Court for the District of Co-
15 lumbia in a civil action brought by the Commission under section
16 41307(c) of this title.

17 “(f) *FIXED TERMS.*—The Commission may not limit the effectiveness of an
18 agreement to a fixed term.

19 **“§ 40305. Assessment agreements**

20 “(a) *FILING REQUIREMENT.*—An assessment agreement shall be filed with
21 the Federal Maritime Commission and is effective on filing.

22 “(b) *COMPLAINTS.*—If a complaint is filed with the Commission within 2
23 years after the date of an assessment agreement, the Commission shall dis-
24 approve, cancel, or modify the agreement, or an assessment or charge pursu-
25 ant to the agreement, that the Commission finds, after notice and opportunity
26 for a hearing, to be unjustly discriminatory or unfair as between carriers,
27 shippers, or ports. The Commission shall issue its final decision in the pro-
28 ceeding within one year after the date the complaint is filed.

29 “(c) *ADJUSTMENTS OF ASSESSMENTS AND CHARGES.*—To the extent that
30 the Commission finds under subsection (b) that an assessment or charge is
31 unjustly discriminatory or unfair as between carriers, shippers, or ports, the
32 Commission shall adjust the assessment or charge for the period between the
33 filing of the complaint and the final decision by awarding prospective credits
34 or debits to future assessments and charges. However, if the complainant has
35 ceased activities subject to the assessment or charge, the Commission may
36 award reparations.

37 **“§ 40306. Nondisclosure of information**

38 “Information and documents (other than an agreement) filed with the Fed-
39 eral Maritime Commission under this chapter are exempt from disclosure
40 under section 552 of title 5 and may not be made public except as may be
41 relevant to an administrative or judicial proceeding. This section does not

1 prevent disclosure to either House of Congress or to a duly authorized com-
 2 mittee or subcommittee of Congress.

3 **“§ 40307. Exemption from antitrust laws**

4 “(a) *IN GENERAL.*—The antitrust laws do not apply to—

5 “(1) an agreement (including an assessment agreement) that has been
 6 filed and is effective under this chapter;

7 “(2) an agreement that is exempt under section 40103 of this title
 8 from any requirement of this part;

9 “(3) an agreement or activity within the scope of this part, whether
 10 permitted under or prohibited by this part, undertaken or entered into
 11 with a reasonable basis to conclude that it is—

12 “(A) pursuant to an agreement on file with the Federal Maritime
 13 Commission and in effect when the activity takes place; or

14 “(B) exempt under section 40103 of this title from any filing or
 15 publication requirement of this part;

16 “(4) an agreement or activity relating to transportation services with-
 17 in or between foreign countries, whether or not via the United States,
 18 unless the agreement or activity has a direct, substantial, and reasonably
 19 foreseeable effect on the commerce of the United States;

20 “(5) an agreement or activity relating to the foreign inland segment
 21 of through transportation that is part of transportation provided in a
 22 United States import or export trade;

23 “(6) an agreement or activity to provide wharfage, dock, warehouse,
 24 or other terminal facilities outside the United States; or

25 “(7) an agreement, modification, or cancellation approved before June
 26 18, 1984, by the Commission under section 15 of the Shipping Act, 1916,
 27 or permitted under section 14b of that Act, and any properly published
 28 tariff, rate, fare, or charge, or classification, rule, or regulation explana-
 29 tory thereof implementing that agreement, modification, or cancellation.

30 “(b) *EXCEPTIONS.*—This part does not extend antitrust immunity to—

31 “(1) an agreement with or among air carriers, rail carriers, motor
 32 carriers, or common carriers by water not subject to this part relating
 33 to transportation within the United States;

34 “(2) a discussion or agreement among common carriers subject to this
 35 part relating to the inland divisions (as opposed to the inland portions)
 36 of through rates within the United States;

37 “(3) an agreement among common carriers subject to this part to es-
 38 tablish, operate, or maintain a marine terminal in the United States;
 39 or

40 “(4) a loyalty contract.

1 “(c) *RETROACTIVE EFFECT OF DETERMINATIONS.*—A determination by an
2 agency or court that results in the denial or removal of the immunity to the
3 antitrust laws under subsection (a) does not remove or alter the antitrust im-
4 munity for the period before the determination.

5 “(d) *RELIEF UNDER CLAYTON ACT.*—A person may not recover damages
6 under section 4 of the Clayton Act (15 U.S.C. 15), or obtain injunctive relief
7 under section 16 of that Act (15 U.S.C. 26), for conduct prohibited by this
8 part.

9 **“CHAPTER 405—TARIFFS, SERVICE CONTRACTS,
10 REFUNDS, AND WAIVERS**

“Sec.

“40501. General rate and tariff requirements.

“40502. Service contracts.

“40503. Refunds and waivers.

11 **“§ 40501. General rate and tariff requirements**

12 “(a) *AUTOMATED TARIFF SYSTEM.*—

13 “(1) *IN GENERAL.*—Each common carrier and conference shall keep
14 open to public inspection in an automated tariff system, tariffs showing
15 all its rates, charges, classifications, rules, and practices between all
16 points or ports on its own route and on any through transportation
17 route that has been established. However, a common carrier is not re-
18 quired to state separately or otherwise reveal in tariffs the inland divi-
19 sions of a through rate.

20 “(2) *EXCEPTIONS.*—Paragraph (1) does not apply with respect to bulk
21 cargo, forest products, recycled metal scrap, new assembled motor vehi-
22 cles, waste paper, or paper waste.

23 “(b) *CONTENTS OF TARIFFS.*—A tariff under subsection (a) shall—

24 “(1) state the places between which cargo will be carried;

25 “(2) list each classification of cargo in use;

26 “(3) state the level of compensation, if any, of any ocean freight for-
27 warder by a carrier or conference;

28 “(4) state separately each terminal or other charge, privilege, or facil-
29 ity under the control of the carrier or conference and any rules that in
30 any way change, affect, or determine any part or the total of the rates
31 or charges;

32 “(5) include sample copies of any bill of lading, contract of affreight-
33 ment, or other document evidencing the transportation agreement; and

34 “(6) include copies of any loyalty contract, omitting the shipper’s
35 name.

36 “(c) *ELECTRONIC ACCESS.*—A tariff under subsection (a) shall be made
37 available electronically to any person, without time, quantity, or other limita-
38 tion, through appropriate access from remote locations. A reasonable fee may

1 *be charged for such access, except that no fee may be charged for access by*
 2 *a Federal agency.*

3 *“(d) TIME-VOLUME RATES.—A rate contained in a tariff under subsection*
 4 *(a) may vary with the volume of cargo offered over a specified period of time.*

5 *“(e) EFFECTIVE DATES.—*

6 *“(1) INCREASES.—A new or initial rate or change in an existing rate*
 7 *that results in an increased cost to a shipper may not become effective*
 8 *earlier than 30 days after publication. However, for good cause, the Fed-*
 9 *eral Maritime Commission may allow the rate to become effective sooner.*

10 *“(2) DECREASES.—A change in an existing rate that results in a de-*
 11 *creased cost to a shipper may become effective on publication.*

12 *“(f) MARINE TERMINAL OPERATOR SCHEDULES.—A marine terminal oper-*
 13 *ator may make available to the public a schedule of rates, regulations, and*
 14 *practices, including limitations of liability for cargo loss or damage, per-*
 15 *taining to receiving, delivering, handling, or storing property at its marine*
 16 *terminal. Any such schedule made available to the public is enforceable by*
 17 *an appropriate court as an implied contract without proof of actual knowl-*
 18 *edge of its provisions.*

19 *“(g) REGULATIONS.—*

20 *“(1) IN GENERAL.—The Commission shall by regulation prescribe the*
 21 *requirements for the accessibility and accuracy of automated tariff sys-*
 22 *tems established under this section. The Commission, after periodic re-*
 23 *view, may prohibit the use of any automated tariff system that fails to*
 24 *meet the requirements established under this section.*

25 *“(2) REMOTE TERMINALS.—The Commission may not require a com-*
 26 *mon carrier to provide a remote terminal for electronic access under sub-*
 27 *section (c).*

28 *“(3) MARINE TERMINAL OPERATOR SCHEDULES.—The Commission*
 29 *shall by regulation prescribe the form and manner in which marine ter-*
 30 *minal operator schedules authorized by this section shall be published.*

31 **“§ 40502. Service contracts**

32 *“(a) IN GENERAL.—An individual ocean common carrier or an agreement*
 33 *between or among ocean common carriers may enter into a service contract*
 34 *with one or more shippers subject to the requirements of this part.*

35 *“(b) FILING REQUIREMENTS.—*

36 *“(1) IN GENERAL.—Each service contract entered into under this sec-*
 37 *tion by an individual ocean common carrier or an agreement shall be*
 38 *filed confidentially with the Federal Maritime Commission.*

39 *“(2) EXCEPTIONS.—Paragraph (1) does not apply to contracts regard-*
 40 *ing bulk cargo, forest products, recycled metal scrap, new assembled*
 41 *motor vehicles, waste paper, or paper waste.*

1 “(c) *ESSENTIAL TERMS.*—Each service contract shall include—

2 “(1) the origin and destination port ranges;

3 “(2) the origin and destination geographic areas in the case of through
4 intermodal movements;

5 “(3) the commodities involved;

6 “(4) the minimum volume or portion;

7 “(5) the line-haul rate;

8 “(6) the duration;

9 “(7) service commitments; and

10 “(8) the liquidated damages for nonperformance, if any.

11 “(d) *PUBLICATION OF CERTAIN TERMS.*—When a service contract is filed
12 confidentially with the Commission, a concise statement of the essential terms
13 specified in paragraphs (1), (3), (4), and (6) of subsection (c) shall be pub-
14 lished and made available to the general public in tariff format.

15 “(e) *DISCLOSURE OF CERTAIN TERMS.*—

16 “(1) *DEFINITIONS.*—In this subsection, the terms ‘dock area’ and
17 ‘within the port area’ have the same meaning and scope as in the appli-
18 cable collective bargaining agreement between the requesting labor orga-
19 nization and the carrier.

20 “(2) *DISCLOSURE.*—An ocean common carrier that is a party to or
21 is otherwise subject to a collective bargaining agreement with a labor or-
22 ganization shall, in response to a written request by the labor organiza-
23 tion, state whether it is responsible for the following work at a dock area
24 or within a port area in the United States with respect to cargo trans-
25 portation under a service contract:

26 “(A) The movement of the shipper’s cargo on a dock area or with-
27 in the port area or to or from railroad cars on a dock area or with-
28 in the port area.

29 “(B) The assignment of intraport carriage of the shipper’s cargo
30 between areas on a dock or within the port area.

31 “(C) The assignment of the carriage of the shipper’s cargo be-
32 tween a container yard on a dock area or within the port area and
33 a rail yard adjacent to the container yard.

34 “(D) The assignment of container freight station work and con-
35 tainer maintenance and repair work performed at a dock area or
36 within the port area.

37 “(3) *WITHIN REASONABLE TIME.*—The common carrier shall provide
38 the information described in paragraph (2) to the requesting labor orga-
39 nization within a reasonable period of time.

40 “(4) *EXISTENCE OF COLLECTIVE BARGAINING AGREEMENT.*—This sub-
41 section does not require the disclosure of information by an ocean com-

1 *mon carrier unless there exists an applicable and otherwise lawful collec-*
 2 *tive bargaining agreement pertaining to that carrier. A disclosure by an*
 3 *ocean common carrier may not be deemed an admission or an agreement*
 4 *that any work is covered by a collective bargaining agreement. A dispute*
 5 *about whether any work is covered by a collective bargaining agreement*
 6 *and the responsibility of an ocean common carrier under a collective bar-*
 7 *gaining agreement shall be resolved solely in accordance with the dispute*
 8 *resolution procedures contained in the collective bargaining agreement*
 9 *and the National Labor Relations Act (29 U.S.C. 151 et seq.), and with-*
 10 *out reference to this subsection.*

11 *“(5) EFFECT UNDER OTHER LAWS.—This subsection does not affect the*
 12 *lawfulness or unlawfulness under this part or any other Federal or State*
 13 *law of any collective bargaining agreement or element thereof, including*
 14 *any element that constitutes an essential term of a service contract.*

15 *“(f) REMEDY FOR BREACH.—Unless the parties agree otherwise, the exclu-*
 16 *sive remedy for a breach of a service contract is an action in an appropriate*
 17 *court. The contract dispute resolution forum may not be controlled by or in*
 18 *any way affiliated with a controlled carrier or by the government that owns*
 19 *or controls the carrier.*

20 **“§ 40503. Refunds and waivers**

21 *“The Federal Maritime Commission, on application of a carrier or shipper,*
 22 *may permit a common carrier or conference to refund a portion of the freight*
 23 *charges collected from a shipper, or to waive collection of a portion of the*
 24 *charges from a shipper, if—*

25 *“(1) there is an error in a tariff, a failure to publish a new tariff,*
 26 *or an error in quoting a tariff, and the refund or waiver will not result*
 27 *in discrimination among shippers, ports, or carriers;*

28 *“(2) the common carrier or conference, before filing an application for*
 29 *authority to refund or waive any charges for an error in a tariff or a*
 30 *failure to publish a tariff, has published a new tariff setting forth the*
 31 *rate on which the refund or waiver would be based; and*

32 *“(3) the application for the refund or waiver is filed with the Commis-*
 33 *sion within 180 days from the date of shipment.*

34 **“CHAPTER 407—CONTROLLED CARRIERS**

“Sec.

“40701. Rates.

“40702. Rate standards.

“40703. Effective date of rates.

“40704. Commission review.

“40705. Presidential review of Commission orders.

“40706. Exceptions.

35 **“§ 40701. Rates**

36 *“(a) IN GENERAL.—A controlled carrier may not—*

1 “(1) maintain a rate or charge in a tariff or service contract, or
2 charge or assess a rate, that is below a just and reasonable level; or

3 “(2) establish, maintain, or enforce in a tariff or service contract a
4 classification, rule, or regulation that results, or is likely to result, in
5 the carriage or handling of cargo at a rate or charge that is below a
6 just and reasonable level.

7 “(b) *COMMISSION PROHIBITION.*—The Federal Maritime Commission, at
8 any time after notice and opportunity for a hearing, may prohibit the publi-
9 cation or use of a rate, charge, classification, rule, or regulation that a con-
10 trolled carrier has failed to demonstrate is just and reasonable.

11 “(c) *BURDEN OF PROOF.*—In a proceeding under this section, the burden
12 of proof is on the controlled carrier to demonstrate that its rate, charge, classi-
13 fication, rule, or regulation is just and reasonable.

14 “(d) *VOIDNESS.*—A rate, charge, classification, rule, or regulation that has
15 been suspended or prohibited by the Commission is void and its use is unlaw-
16 ful.

17 **“§ 40702. Rate standards**

18 “(a) *DEFINITION.*—In this section, the term ‘constructive costs’ means the
19 costs of another carrier, other than a controlled carrier, operating similar ves-
20 sels and equipment in the same or a similar trade.

21 “(b) *STANDARDS.*—In determining whether a rate, charge, classification,
22 rule, or regulation of a controlled carrier is just and reasonable, the Federal
23 Maritime Commission—

24 “(1) shall take into account whether the rate or charge that has been
25 published or assessed, or that would result from the pertinent classifica-
26 tion, rule, or regulation, is below a level that is fully compensatory to
27 the controlled carrier based on the carrier’s actual costs or constructive
28 costs; and

29 “(2) may take into account other appropriate factors, including
30 whether the rate, charge, classification, rule, or regulation is—

31 “(A) the same as, or similar to, those published or assessed by
32 other carriers in the same trade;

33 “(B) required to ensure movement of particular cargo in the same
34 trade; or

35 “(C) required to maintain acceptable continuity, level, or quality
36 of common carrier service to or from affected ports.

37 **“§ 40703. Effective date of rates**

38 “Notwithstanding section 40501(e) of this title and except for service con-
39 tracts, a rate, charge, classification, rule, or regulation of a controlled carrier
40 may not become effective, without special permission of the Federal Maritime
41 Commission, until the 30th day after publication.

1 **“§ 40704. Commission review**

2 “(a) *REQUEST FOR JUSTIFICATION.*—On request of the Federal Maritime
3 Commission, a controlled carrier shall file with the Commission, within 20
4 days of the request, a statement of justification that sufficiently details the
5 carrier’s need and purpose for an existing or proposed rate, charge, classifica-
6 tion, rule, or regulation and upon which the Commission may reasonably
7 base a determination of its lawfulness.

8 “(b) *DETERMINATION.*—Within 120 days after receipt of information re-
9 quested under subsection (a), the Commission shall determine whether the
10 rate, charge, classification, rule, or regulation may be unjust and unreason-
11 able.

12 “(c) *SHOW CAUSE ORDER.*—Whenever the Commission is of the opinion
13 that a rate, charge, classification, rule, or regulation published or assessed by
14 a controlled carrier may be unjust and unreasonable, the Commission shall
15 issue an order to the controlled carrier to show cause why the rate, charge,
16 classification, rule, or regulation should not be prohibited.

17 “(d) *SUSPENSION PENDING DETERMINATION.*—

18 “(1) *NOT YET EFFECTIVE.*—Pending a determination of the lawfulness
19 of a rate, charge, classification, rule, or regulation in a proceeding under
20 subsection (c), the Commission may suspend the rate, charge, classifica-
21 tion, rule, or regulation at any time before its effective date.

22 “(2) *ALREADY EFFECTIVE.*—If a rate, charge, classification, rule, or
23 regulation has already become effective, the Commission, on issuance of
24 an order to show cause, may suspend the rate, charge, classification, rule,
25 or regulation on at least 30 days’ notice to the controlled carrier.

26 “(3) *MAXIMUM SUSPENSION.*—A period of suspension under this sub-
27 section may not exceed 180 days.

28 “(e) *REPLACEMENT DURING SUSPENSION.*—Whenever the Commission has
29 suspended a rate, charge, classification, rule, or regulation under this section,
30 the controlled carrier may publish a new rate, charge, classification, rule, or
31 regulation to take effect immediately during the suspension in lieu of the sus-
32 pended rate, charge, classification, rule, or regulation. However, the Commis-
33 sion may reject the new rate, charge, classification, rule, or regulation if the
34 Commission believes it is unjust and unreasonable.

35 **“§ 40705. Presidential review of Commission orders**

36 “(a) *TRANSMISSION TO PRESIDENT.*—The Federal Maritime Commission
37 shall transmit to the President, concurrently with publication thereof, each
38 order of suspension or final order of prohibition issued under section 40704
39 of this title.

40 “(b) *PRESIDENTIAL REQUEST AND COMMISSION ACTION.*—Within 10 days
41 after receipt or the effective date of a Commission order referred to in sub-

1 *section (a), the President, in writing, may request the Commission to stay*
 2 *the effect of the order if the President finds that the stay is required for rea-*
 3 *sons of national defense or foreign policy. The reasons shall be specified in*
 4 *the request. The Commission shall immediately grant the request by issuing*
 5 *an order in which the President's request shall be described. During a stay,*
 6 *the President shall, whenever practicable, attempt to resolve the matter by ne-*
 7 *gotiating with representatives of the applicable foreign governments.*

8 **“§ 40706. Exceptions**

9 *“This chapter does not apply to—*

10 *“(1) a controlled carrier of a foreign country whose vessels are entitled*
 11 *by a treaty of the United States to receive national or most-favored-na-*
 12 *tion treatment; or*

13 *“(2) a trade served only by controlled carriers.*

14 **“CHAPTER 409—OCEAN TRANSPORTATION**
 15 **INTERMEDIARIES**

“Sec.

“40901. License requirement.

“40902. Financial responsibility.

“40903. Suspension or revocation of license.

“40904. Compensation by common carriers.

16 **“§ 40901. License requirement**

17 *“(a) IN GENERAL.—A person in the United States may not act as an ocean*
 18 *transportation intermediary unless the person holds an ocean transportation*
 19 *intermediary's license issued by the Federal Maritime Commission. The Com-*
 20 *mission shall issue a license to a person that the Commission determines to*
 21 *be qualified by experience and character to act as an ocean transportation*
 22 *intermediary.*

23 *“(b) EXCEPTION.—A person whose primary business is the sale of merchan-*
 24 *dise may forward shipments of the merchandise for its own account without*
 25 *an ocean transportation intermediary's license.*

26 **“§ 40902. Financial responsibility**

27 *“(a) IN GENERAL.—A person may not act as an ocean transportation*
 28 *intermediary unless the person furnishes a bond, proof of insurance, or other*
 29 *surety—*

30 *“(1) in a form and amount determined by the Federal Maritime Com-*
 31 *mission to insure financial responsibility; and*

32 *“(2) issued by a surety company found acceptable by the Secretary of*
 33 *the Treasury.*

34 *“(b) SCOPE OF FINANCIAL RESPONSIBILITY.—A bond, insurance, or other*
 35 *surety obtained under this section—*

36 *“(1) shall be available to pay any penalty assessed under section*
 37 *41109 of this title or any order for reparation issued under section 41305*
 38 *of this title;*

1 “(2) may be available to pay any claim against an ocean transpor-
2 tation intermediary arising from its transportation-related activities—

3 “(A) with the consent of the insured ocean transportation inter-
4 mediary and subject to review by the surety company; or

5 “(B) when the claim is deemed valid by the surety company after
6 the ocean transportation intermediary has failed to respond to ade-
7 quate notice to address the validity of the claim; and

8 “(3) shall be available to pay any judgment for damages against an
9 ocean transportation intermediary arising from its transportation-re-
10 lated activities, if the claimant has first attempted to resolve the claim
11 under paragraph (2) and the claim has not been resolved within a rea-
12 sonable period of time.

13 “(c) *REGULATIONS ON COURT JUDGMENTS.*—The Commission shall pre-
14 scribe regulations for the purpose of protecting the interests of claimants,
15 ocean transportation intermediaries, and surety companies with respect to the
16 process of pursuing claims against ocean transportation intermediary bonds,
17 insurance, or sureties through court judgments. The regulations shall provide
18 that a judgment for monetary damages may not be enforced except to the ex-
19 tent that the damages claimed arise from the transportation-related activities
20 of the insured ocean transportation intermediary, as defined by the Commis-
21 sion.

22 “(d) *RESIDENT AGENT.*—An ocean transportation intermediary not domi-
23 ciled in the United States shall designate a resident agent in the United
24 States for receipt of service of judicial and administrative process, including
25 subpoenas.

26 **“§ 40903. Suspension or revocation of license**

27 “(a) *FAILURE TO MAINTAIN QUALIFICATIONS OR TO COMPLY.*—The Fed-
28 eral Maritime Commission, after notice and opportunity for a hearing, shall
29 suspend or revoke an ocean transportation intermediary’s license if the Com-
30 mission finds that the ocean transportation intermediary—

31 “(1) is not qualified to provide intermediary services; or

32 “(2) willfully failed to comply with a provision of this part or with
33 an order or regulation of the Commission.

34 “(b) *FAILURE TO MAINTAIN BOND, PROOF OF INSURANCE, OR OTHER*
35 *SURETY.*—The Commission may revoke an ocean transportation
36 intermediary’s license for failure to maintain a bond, proof of insurance, or
37 other surety as required by section 40902(a) of this title.

38 **“§ 40904. Compensation by common carriers**

39 “(a) *CERTIFICATION OF LICENSE AND SERVICES.*—A common carrier may
40 compensate an ocean freight forwarder for a shipment dispatched for others
41 only when the ocean freight forwarder has certified in writing that it holds

1 *an ocean transportation intermediary's license (if required under section*
2 *40901 of this title) and has—*

3 *“(1) engaged, booked, secured, reserved, or contracted directly with the*
4 *carrier or its agent for space aboard a vessel or confirmed the avail-*
5 *ability of the space; and*

6 *“(2) prepared and processed the ocean bill of lading, dock receipt, or*
7 *other similar document for the shipment.*

8 *“(b) DUAL COMPENSATION.—A common carrier may not pay compensation*
9 *for services described in subsection (a) more than once on the same shipment.*

10 *“(c) BENEFICIAL INTEREST SHIPMENTS.—An ocean freight forwarder may*
11 *not receive compensation from a common carrier for a shipment in which the*
12 *ocean freight forwarder has a direct or indirect beneficial interest. A common*
13 *carrier may not knowingly pay compensation on that shipment.*

14 *“(d) LIMITS ON AUTHORITY OF CONFERENCE OR GROUP.—A conference or*
15 *group of two or more ocean common carriers in the foreign commerce of the*
16 *United States that is authorized to agree on the level of compensation paid*
17 *to an ocean freight forwarder may not—*

18 *“(1) deny a member of the conference or group the right, upon notice*
19 *of not more than 5 days, to take independent action on any level of com-*
20 *penensation paid to an ocean freight forwarder; or*

21 *“(2) agree to limit the payment of compensation to an ocean freight*
22 *forwarder to less than 1.25 percent of the aggregate of all rates and*
23 *charges applicable under a tariff and assessed against the cargo on which*
24 *the services of the ocean freight forwarder are provided.*

25 **“CHAPTER 411—PROHIBITIONS AND PENALTIES**

“Sec.

“41101. Joint ventures and consortiums.

“41102. General prohibitions.

“41103. Disclosure of information.

“41104. Common carriers.

“41105. Concerted action.

“41106. Marine terminal operators.

“41107. Monetary penalties.

“41108. Additional penalties.

“41109. Assessment of penalties.

26 **“§ 41101. Joint ventures and consortiums**

27 *“In this chapter, a joint venture or consortium of two or more common*
28 *carriers operating as a single entity is deemed to be a single common carrier.*

29 **“§ 41102. General prohibitions**

30 *“(a) OBTAINING TRANSPORTATION AT LESS THAN APPLICABLE RATES.—*
31 *A person may not knowingly and willfully, directly or indirectly, by means*
32 *of false billing, false classification, false weighing, false report of weight, false*
33 *measurement, or any other unjust or unfair device or means, obtain or at-*
34 *tempt to obtain ocean transportation for property at less than the rates or*
35 *charges that would otherwise apply.*

1 “(b) *OPERATING CONTRARY TO AGREEMENT.*—A person may not operate
2 under an agreement required to be filed under section 40302 or 40305 of this
3 title if—

4 “(1) the agreement has not become effective under section 40304 of this
5 title or has been rejected, disapproved, or canceled; or

6 “(2) the operation is not in accordance with the terms of the agree-
7 ment or any modifications to the agreement made by the Federal Mari-
8 time Commission.

9 “(c) *PRACTICES IN HANDLING PROPERTY.*—A common carrier, marine ter-
10 minal operator, or ocean transportation intermediary may not fail to estab-
11 lish, observe, and enforce just and reasonable regulations and practices relat-
12 ing to or connected with receiving, handling, storing, or delivering property.

13 **“§41103. Disclosure of information**

14 “(a) *PROHIBITION.*—A common carrier, marine terminal operator, or
15 ocean freight forwarder, either alone or in conjunction with any other person,
16 directly or indirectly, may not knowingly disclose, offer, solicit, or receive any
17 information concerning the nature, kind, quantity, destination, consignee, or
18 routing of any property tendered or delivered to a common carrier, without
19 the consent of the shipper or consignee, if the information—

20 “(1) may be used to the detriment or prejudice of the shipper, the con-
21 signee, or any common carrier; or

22 “(2) may improperly disclose its business transaction to a competitor.

23 “(b) *EXCEPTIONS.*—Subsection (a) does not prevent providing the informa-
24 tion—

25 “(1) in response to legal process;

26 “(2) to the Federal Maritime Commission or an agency of the United
27 States Government; or

28 “(3) to an independent neutral body operating within the scope of its
29 authority to fulfill the policing obligations of the parties to an agreement
30 effective under this part.

31 “(c) *DISCLOSURE FOR DETERMINING BREACH OR COMPILING STATIS-
32 TICS.*—An ocean common carrier that is a party to a conference agreement
33 approved under this part, a receiver, trustee, lessee, agent, or employee of the
34 carrier, or any other person authorized by the carrier to receive informa-
35 tion—

36 “(1) may give information to the conference or any person or agency
37 designated by the conference, for the purpose of—

38 “(A) determining whether a shipper or consignee has breached an
39 agreement with the conference or its member lines;

40 “(B) determining whether a member of the conference has
41 breached the conference agreement; or

1 “(C) compiling statistics of cargo movement; and
 2 “(2) may not prevent the conference or its designee from soliciting or
 3 receiving information for any of those purposes.

4 **“§41104. Common carriers**

5 “A common carrier, either alone or in conjunction with any other person,
 6 directly or indirectly, may not—

7 “(1) allow a person to obtain transportation for property at less than
 8 the rates or charges established by the carrier in its tariff or service con-
 9 tract by means of false billing, false classification, false weighing, false
 10 measurement, or any other unjust or unfair device or means;

11 “(2) provide service in the liner trade that is—

12 “(A) not in accordance with the rates, charges, classifications,
 13 rules, and practices contained in a tariff published or a service con-
 14 tract entered into under chapter 405 of this title, unless excepted or
 15 exempted under section 40103 or 40501(a)(2) of this title; or

16 “(B) under a tariff or service contract that has been suspended
 17 or prohibited by the Federal Maritime Commission under chapter
 18 407 or 423 of this title;

19 “(3) retaliate against a shipper by refusing, or threatening to refuse,
 20 cargo space accommodations when available, or resort to other unfair or
 21 unjustly discriminatory methods because the shipper has patronized an-
 22 other carrier, or has filed a complaint, or for any other reason;

23 “(4) for service pursuant to a tariff, engage in any unfair or unjustly
 24 discriminatory practice in the matter of—

25 “(A) rates or charges;

26 “(B) cargo classifications;

27 “(C) cargo space accommodations or other facilities, with due re-
 28 gard being given to the proper loading of the vessel and the avail-
 29 able tonnage;

30 “(D) loading and landing of freight; or

31 “(E) adjustment and settlement of claims;

32 “(5) for service pursuant to a service contract, engage in any unfair
 33 or unjustly discriminatory practice in the matter of rates or charges
 34 with respect to any port;

35 “(6) use a vessel in a particular trade for the purpose of excluding,
 36 preventing, or reducing competition by driving another ocean common
 37 carrier out of that trade;

38 “(7) offer or pay any deferred rebates;

39 “(8) for service pursuant to a tariff, give any undue or unreasonable
 40 preference or advantage or impose any undue or unreasonable prejudice
 41 or disadvantage;

1 “(9) for service pursuant to a service contract, give any undue or un-
2 reasonable preference or advantage or impose any undue or unreasonable
3 prejudice or disadvantage with respect to any port;

4 “(10) unreasonably refuse to deal or negotiate;

5 “(11) knowingly and willfully accept cargo from or transport cargo
6 for the account of an ocean transportation intermediary that does not
7 have a tariff as required by section 40501 of this title and a bond, insur-
8 ance, or other surety as required by section 40902 of this title; or

9 “(12) knowingly and willfully enter into a service contract with an
10 ocean transportation intermediary that does not have a tariff as required
11 by section 40501 of this title and a bond, insurance, or other surety as
12 required by section 40902 of this title, or with an affiliate of such an
13 ocean transportation intermediary.

14 **“§41105. Concerted action**

15 “A conference or group of two or more common carriers may not—

16 “(1) boycott or take any other concerted action resulting in an unrea-
17 sonable refusal to deal;

18 “(2) engage in conduct that unreasonably restricts the use of inter-
19 modal services or technological innovations;

20 “(3) engage in any predatory practice designed to eliminate the par-
21 ticipation, or deny the entry, in a particular trade of a common carrier
22 not a member of the conference, a group of common carriers, an ocean
23 tramp, or a bulk carrier;

24 “(4) negotiate with a non-ocean carrier or group of non-ocean carriers
25 (such as truck, rail, or air operators) on any matter relating to rates
26 or services provided to ocean common carriers within the United States
27 by those non-ocean carriers, unless the negotiations and any resulting
28 agreements are not in violation of the antitrust laws and are consistent
29 with the purposes of this part, except that this paragraph does not pro-
30 hibit the setting and publishing of a joint through rate by a conference,
31 joint venture, or association of ocean common carriers;

32 “(5) deny in the export foreign commerce of the United States com-
33 pensation to an ocean freight forwarder or limit that compensation to
34 less than a reasonable amount;

35 “(6) allocate shippers among specific carriers that are parties to the
36 agreement or prohibit a carrier that is a party to the agreement from
37 soliciting cargo from a particular shipper, except as—

38 “(A) authorized by section 40303(d) of this title;

39 “(B) required by the law of the United States or the importing
40 or exporting country; or

41 “(C) agreed to by a shipper in a service contract;

1 “(7) for service pursuant to a service contract, engage in any unjustly
2 discriminatory practice in the matter of rates or charges with respect to
3 any locality, port, or person due to the person’s status as a shippers’ as-
4 sociation or ocean transportation intermediary; or

5 “(8) for service pursuant to a service contract, give any undue or un-
6 reasonable preference or advantage or impose any undue or unreasonable
7 prejudice or disadvantage with respect to any locality, port, or person
8 due to the person’s status as a shippers’ association or ocean transpor-
9 tation intermediary.

10 **“§41106. Marine terminal operators**

11 “A marine terminal operator may not—

12 “(1) agree with another marine terminal operator or with a common
13 carrier to boycott, or unreasonably discriminate in the provision of ter-
14 minal services to, a common carrier or ocean tramp;

15 “(2) give any undue or unreasonable preference or advantage or im-
16 pose any undue or unreasonable prejudice or disadvantage with respect
17 to any person; or

18 “(3) unreasonably refuse to deal or negotiate.

19 **“§41107. Monetary penalties**

20 “(a) *IN GENERAL.*—A person that violates this part or a regulation or
21 order of the Federal Maritime Commission issued under this part is liable
22 to the United States Government for a civil penalty. Unless otherwise pro-
23 vided in this part, the amount of the penalty may not exceed \$5,000 for each
24 violation or, if the violation was willfully and knowingly committed, \$25,000
25 for each violation. Each day of a continuing violation is a separate violation.

26 “(b) *LIEN ON CARRIER’S VESSELS.*—The amount of a civil penalty im-
27 posed on a common carrier under this section constitutes a lien on the vessels
28 operated by the carrier. Any such vessel is subject to an action in rem to en-
29 force the lien in the district court of the United States for the district in
30 which it is found.

31 **“§41108. Additional penalties**

32 “(a) *SUSPENSION OF TARIFFS.*—For a violation of section 41104(1), (2),
33 or (7) of this title, the Federal Maritime Commission may suspend any or
34 all tariffs of the common carrier, or that common carrier’s right to use any
35 or all tariffs of conferences of which it is a member, for a period not to exceed
36 12 months.

37 “(b) *OPERATING UNDER SUSPENDED TARIFF.*—A common carrier that ac-
38 cepts or handles cargo for carriage under a tariff that has been suspended,
39 or after its right to use that tariff has been suspended, is liable to the United
40 States Government for a civil penalty of not more than \$50,000 for each ship-
41 ment.

1 “(c) *FAILURE TO PROVIDE INFORMATION.*—

2 “(1) *PENALTIES.*—*If the Commission finds, after notice and oppor-*
 3 *tunity for a hearing, that a common carrier has failed to supply infor-*
 4 *mation ordered to be produced or compelled by subpoena under section*
 5 *41303 of this title, the Commission may—*

6 “(A) *suspend any or all tariffs of the carrier or the carrier’s right*
 7 *to use any or all tariffs of conferences of which it is a member; and*

8 “(B) *request the Secretary of Homeland Security to refuse or re-*
 9 *voke any clearance required for a vessel operated by the carrier, and*
 10 *when so requested, the Secretary shall refuse or revoke the clearance.*

11 “(2) *DEFENSE BASED ON FOREIGN LAW.*—*If, in defense of its failure*
 12 *to comply with a subpoena or discovery order, a common carrier alleges*
 13 *that information or documents located in a foreign country cannot be*
 14 *produced because of the laws of that country, the Commission shall im-*
 15 *mediately notify the Secretary of State of the failure to comply and of*
 16 *the allegation relating to foreign laws. On receiving the notification, the*
 17 *Secretary of State shall promptly consult with the government of the na-*
 18 *tion within which the information or documents are alleged to be located*
 19 *for the purpose of assisting the Commission in obtaining the information*
 20 *or documents.*

21 “(d) *IMPAIRING ACCESS TO FOREIGN TRADE.*—*If the Commission finds,*
 22 *after notice and opportunity for a hearing, that the action of a common car-*
 23 *rier, acting alone or in concert with another person, or a foreign government*
 24 *has unduly impaired access of a vessel documented under the laws of the*
 25 *United States to ocean trade between foreign ports, the Commission shall take*
 26 *action that it finds appropriate, including imposing any of the penalties au-*
 27 *thorized by this section. The Commission also may take any of the actions*
 28 *authorized by sections 42304 and 42305 of this title.*

29 “(e) *SUBMISSION OF ORDER TO PRESIDENT.*—*Before an order under this*
 30 *section becomes effective, it shall be submitted immediately to the President.*
 31 *The President, within 10 days after receiving it, may disapprove it if the*
 32 *President finds that disapproval is required for reasons of national defense*
 33 *or foreign policy.*

34 **“§ 41109. Assessment of penalties**

35 “(a) *GENERAL AUTHORITY.*—*Until a matter is referred to the Attorney*
 36 *General, the Federal Maritime Commission may, after notice and opportunity*
 37 *for a hearing, assess a civil penalty provided for in this part. The Commis-*
 38 *sion may compromise, modify, or remit, with or without conditions, a civil*
 39 *penalty.*

40 “(b) *FACTORS IN DETERMINING AMOUNT.*—*In determining the amount of*
 41 *a civil penalty, the Commission shall take into account the nature, cir-*

1 *cumstances, extent, and gravity of the violation committed and, with respect*
 2 *to the violator, the degree of culpability, history of prior offenses, ability to*
 3 *pay, and other matters justice may require.*

4 “(c) *EXCEPTION.—A civil penalty may not be imposed for conspiracy to*
 5 *violate section 41102(a) or 41104(1) or (2) of this title or to defraud the Com-*
 6 *mission by concealing such a violation.*

7 “(d) *PROHIBITED BASIS OF PENALTY.—The Commission or a court may*
 8 *not order a person to pay the difference between the amount billed and agreed*
 9 *upon in writing with a common carrier or its agent and the amount set forth*
 10 *in a tariff or service contract by that common carrier for the transportation*
 11 *service provided.*

12 “(e) *TIME LIMIT.—A proceeding to assess a civil penalty under this section*
 13 *must be commenced within 5 years after the date of the violation.*

14 “(f) *REVIEW OF CIVIL PENALTY.—A person against whom a civil penalty*
 15 *is assessed under this section may obtain review under chapter 158 of title*
 16 *28.*

17 “(g) *CIVIL ACTIONS TO COLLECT.—If a person does not pay an assessment*
 18 *of a civil penalty after it has become final or after the appropriate court has*
 19 *entered final judgment in favor of the Commission, the Attorney General at*
 20 *the request of the Commission may seek to collect the amount assessed in an*
 21 *appropriate district court of the United States. The court shall enforce the*
 22 *order of the Commission unless it finds that the order was not regularly made*
 23 *and duly issued.*

24 **“CHAPTER 413—ENFORCEMENT**

“Sec.

“41301. *Complaints.*

“41302. *Investigations.*

“41303. *Discovery and subpoenas.*

“41304. *Hearings and orders.*

“41305. *Award of reparations.*

“41306. *Injunctive relief sought by complainants.*

“41307. *Injunctive relief sought by the Commission.*

“41308. *Enforcement of subpoenas and orders.*

“41309. *Enforcement of reparation orders.*

25 **“§41301. Complaints**

26 “(a) *IN GENERAL.—A person may file with the Federal Maritime Commis-*
 27 *sion a sworn complaint alleging a violation of this part, except section*
 28 *41307(b)(1). If the complaint is filed within 3 years after the claim accrues,*
 29 *the complainant may seek reparations for an injury to the complainant*
 30 *caused by the violation.*

31 “(b) *NOTICE AND RESPONSE.—The Commission shall provide a copy of the*
 32 *complaint to the person named in the complaint. Within a reasonable time*
 33 *specified by the Commission, the person shall satisfy the complaint or answer*
 34 *it in writing.*

1 “(c) *IF COMPLAINT NOT SATISFIED.*—If the complaint is not satisfied, the
2 Commission shall investigate the complaint in an appropriate manner and
3 make an appropriate order.

4 **“§ 41302. Investigations**

5 “(a) *IN GENERAL.*—The Federal Maritime Commission, on complaint or
6 its own motion, may investigate any conduct or agreement that the Commis-
7 sion believes may be in violation of this part. The Commission may by order
8 disapprove, cancel, or modify any agreement that operates in violation of this
9 part.

10 “(b) *EFFECTIVENESS OF AGREEMENT DURING INVESTIGATION.*—Unless an
11 injunction is issued under section 41306 or 41307 of this title, an agreement
12 under investigation by the Commission remains in effect until the Commis-
13 sion issues its order.

14 “(c) *DATE FOR DECISION.*—Within 10 days after the initiation of a pro-
15 ceeding under this section or section 41301 of this title, the Commission shall
16 set a date by which it will issue its final decision. The Commission by order
17 may extend the date for good cause.

18 “(d) *SANCTIONS FOR DELAY.*—If, within the period for final decision under
19 subsection (c), the Commission determines that it is unable to issue a final
20 decision because of undue delay caused by a party to the proceeding, the Com-
21 mission may impose sanctions, including issuing a decision adverse to the de-
22 laying party.

23 “(e) *REPORT.*—The Commission shall make a written report of every inves-
24 tigation under this part in which a hearing was held, stating its conclusions,
25 decisions, findings of fact, and order. The Commission shall provide a copy
26 of the report to all parties and publish the report for public information. A
27 published report is competent evidence in a court of the United States.

28 **“§ 41303. Discovery and subpoenas**

29 “(a) *IN GENERAL.*—In an investigation or adjudicatory proceeding under
30 this part—

31 “(1) the Federal Maritime Commission may subpoena witnesses and
32 evidence; and

33 “(2) a party may use depositions, written interrogatories, and dis-
34 covery procedures under regulations prescribed by the Commission that,
35 to the extent practicable, shall conform to the Federal Rules of Civil Pro-
36 cedure (28 App. U.S.C.).

37 “(b) *WITNESS FEES.*—Unless otherwise prohibited by law, a witness is en-
38 titled to the same fees and mileage as in the courts of the United States.

“§ 41304. Hearings and orders

“(a) *OPPORTUNITY FOR HEARING.*—The Federal Maritime Commission shall provide an opportunity for a hearing before issuing an order relating to a violation of this part or a regulation prescribed under this part.

“(b) *MODIFICATION OF ORDER.*—The Commission may reverse, suspend, or modify any of its orders.

“(c) *REHEARING.*—On application of a party to a proceeding, the Commission may grant a rehearing of the same or any matter determined in the proceeding. Except by order of the Commission, a rehearing does not operate as a stay of an order.

“(d) *PERIOD OF EFFECTIVENESS.*—An order of the Commission remains in effect for the period specified in the order or until suspended, modified, or set aside by the Commission or a court of competent jurisdiction.

“§ 41305. Award of reparations

“(a) *DEFINITION.*—In this section, the term ‘actual injury’ includes the loss of interest at commercial rates compounded from the date of injury.

“(b) *BASIC AMOUNT.*—If the complaint was filed within the period specified in section 41301(a) of this title, the Federal Maritime Commission shall direct the payment of reparations to the complainant for actual injury caused by a violation of this part, plus reasonable attorney fees.

“(c) *ADDITIONAL AMOUNTS.*—On a showing that the injury was caused by an activity prohibited by section 41102(b), 41104(3) or (6), or 41105(1) or (3) of this title, the Commission may order the payment of additional amounts, but the total recovery of a complainant may not exceed twice the amount of the actual injury.

“(d) *DIFFERENCE BETWEEN RATES.*—If the injury was caused by an activity prohibited by section 41104(4)(A) or (B) of this title, the amount of the injury shall be the difference between the rate paid by the injured shipper and the most favorable rate paid by another shipper.

“§ 41306. Injunctive relief sought by complainants

“(a) *IN GENERAL.*—After filing a complaint with the Federal Maritime Commission under section 41301 of this title, the complainant may bring a civil action in a district court of the United States to enjoin conduct in violation of this part.

“(b) *VENUE.*—The action must be brought in the judicial district in which—

“(1) the Commission has brought a civil action against the defendant under section 41307(a) of this title; or

“(2) the defendant resides or transacts business, if the Commission has not brought such an action.

1 “(c) *REMEDIES BY COURT.*—After notice to the defendant, and a showing
2 that the standards for granting injunctive relief by courts of equity are met,
3 the court may grant a temporary restraining order or preliminary injunction
4 for a period not to exceed 10 days after the Commission has issued an order
5 disposing of the complaint.

6 “(d) *ATTORNEY FEES.*—A defendant prevailing in a civil action under this
7 section shall be allowed reasonable attorney fees to be assessed and collected
8 as part of the costs of the action.

9 **“§ 41307. Injunctive relief sought by the Commission**

10 “(a) *GENERAL VIOLATIONS.*—In connection with an investigation under
11 section 41301 or 41302 of this title, the Federal Maritime Commission may
12 bring a civil action to enjoin conduct in violation of this part. The action
13 must be brought in the district court of the United States for any judicial
14 district in which the defendant resides or transacts business. After notice to
15 the defendant, and a showing that the standards for granting injunctive relief
16 by courts of equity are met, the court may grant a temporary restraining
17 order or preliminary injunction for a period not to exceed 10 days after the
18 Commission has issued an order disposing of the issues under investigation.

19 “(b) *REDUCTION IN COMPETITION.*—

20 “(1) *ACTION BY COMMISSION.*—If, at any time after the filing or effec-
21 tive date of an agreement under chapter 403 of this title, the Commission
22 determines that the agreement is likely, by a reduction in competition,
23 to produce an unreasonable reduction in transportation service or an un-
24 reasonable increase in transportation cost, the Commission, after notice
25 to the person filing the agreement, may bring a civil action in the
26 United States District Court for the District of Columbia to enjoin the
27 operation of the agreement. The Commission’s sole remedy with respect
28 to an agreement likely to have such an effect is an action under this sub-
29 section.

30 “(2) *REMEDIES BY COURT.*—In an action under this subsection, the
31 court may issue—

32 “(A) a temporary restraining order or a preliminary injunction;
33 and

34 “(B) a permanent injunction after a showing that the agreement
35 is likely to have the effect described in paragraph (1).

36 “(3) *BURDEN OF PROOF AND THIRD PARTIES.*—In an action under
37 this subsection, the burden of proof is on the Commission. The court may
38 not allow a third party to intervene.

39 “(c) *FAILURE TO PROVIDE INFORMATION.*—If a person filing an agree-
40 ment, or an officer, director, partner, agent, or employee of the person, fails
41 substantially to comply with a request for the submission of additional infor-

1 *mation or documents within the period provided in section 40304(c) of this*
 2 *title, the Commission may bring a civil action in the United States District*
 3 *Court for the District of Columbia. At the request of the Commission, the*
 4 *Court—*

5 *“(1) may order compliance;*

6 *“(2) shall extend the period specified in section 40304(c)(2) of this title*
 7 *until there has been substantial compliance; and*

8 *“(3) may grant other equitable relief that the court decides is appro-*
 9 *priate.*

10 *“(d) REPRESENTATION.—The Commission may represent itself in a pro-*
 11 *ceeding under this section in—*

12 *“(1) a district court of the United States, on notice to the Attorney*
 13 *General; and*

14 *“(2) a court of appeals of the United States, with the approval of the*
 15 *Attorney General.*

16 **“§ 41308. Enforcement of subpoenas and orders**

17 *“(a) CIVIL ACTION.—If a person does not comply with a subpoena or order*
 18 *of the Federal Maritime Commission, the Attorney General, at the request of*
 19 *the Commission, or an injured party, may seek enforcement in a district*
 20 *court of the United States having jurisdiction over the parties. If, after hear-*
 21 *ing, the court determines that the subpoena or order was regularly made and*
 22 *duly issued, the court shall enforce the subpoena or order.*

23 *“(b) TIME LIMIT ON BRINGING ACTIONS.—An action under this section to*
 24 *enforce an order of the Commission must be brought within 3 years after the*
 25 *date the order was violated.*

26 **“§ 41309. Enforcement of reparation orders**

27 *“(a) CIVIL ACTION.—If a person does not comply with an order of the Fed-*
 28 *eral Maritime Commission for the payment of reparation, the person to whom*
 29 *the award was made may seek enforcement of the order in a district court*
 30 *of the United States having jurisdiction over the parties.*

31 *“(b) PARTIES AND SERVICE OF PROCESS.—All parties in whose favor the*
 32 *Commission has made an award of reparation by a single order may be*
 33 *joined as plaintiffs, and all other parties in the order may be joined as de-*
 34 *fendants, in a single action in a judicial district in which any one plaintiff*
 35 *could maintain an action against any one defendant. Service of process*
 36 *against a defendant not found in that district may be made in a district in*
 37 *which any office of that defendant is located or in which any port of call on*
 38 *a regular route operated by that defendant is located. Judgment may be en-*
 39 *tered for any plaintiff against the defendant liable to that plaintiff.*

1 “(c) *NATURE OF REVIEW.*—*In an action under this section, the findings*
 2 *and order of the Commission are prima facie evidence of the facts stated in*
 3 *the findings and order.*

4 “(d) *COSTS AND ATTORNEY FEES.*—*The plaintiff is not liable for costs of*
 5 *the action or for costs of any subsequent stage of the proceedings unless they*
 6 *accrue on the plaintiff’s appeal. A prevailing plaintiff shall be allowed rea-*
 7 *sonable attorney fees to be assessed and collected as part of the costs of the*
 8 *action.*

9 “(e) *TIME LIMIT ON BRINGING ACTIONS.*—*An action under this section to*
 10 *enforce an order of the Commission must be brought within 3 years after the*
 11 *date the order was violated.*

12 “*PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES*
 13 **“CHAPTER 421—REGULATIONS AFFECTING SHIPPING IN**
 14 **FOREIGN TRADE**

“Sec.

“42101. *Regulations of the Commission.*

“42102. *Regulations of other agencies.*

“42103. *No preference to Government-owned vessels.*

“42104. *Information, witnesses, and evidence.*

“42105. *Disclosure to public.*

“42106. *Other actions to remedy unfavorable conditions.*

“42107. *Refusal of clearance and entry.*

“42108. *Penalty for operating under suspended tariff or service contract.*

“42109. *Consultation with other agencies.*

15 **“§ 42101. Regulations of the Commission**

16 “(a) *UNFAVORABLE CONDITIONS.*—*To further the objectives and policy set*
 17 *forth in section 50101 of this title, the Federal Maritime Commission shall*
 18 *prescribe regulations affecting shipping in foreign trade, not in conflict with*
 19 *law, to adjust or meet general or special conditions unfavorable to shipping*
 20 *in foreign trade, whether in a particular trade or on a particular route or*
 21 *in commerce generally, including intermodal movements, terminal operations,*
 22 *cargo solicitation, agency services, ocean transportation intermediary services*
 23 *and operations, and other activities and services integral to transportation*
 24 *systems, and which arise out of or result from laws or regulations of a foreign*
 25 *country or competitive methods, pricing practices, or other practices employed*
 26 *by owners, operators, agents, or masters of vessels of a foreign country.*

27 “(b) *INITIATION OF REGULATION.*—*A regulation under subsection (a) may*
 28 *be initiated by the Commission on its own motion or on the petition of any*
 29 *person, including another component of the United States Government.*

30 **“§ 42102. Regulations of other agencies**

31 “(a) *REQUEST TO AGENCY.*—*To further the objectives and policy set forth*
 32 *in section 50101 of this title, the Federal Maritime Commission shall request*
 33 *the head of a department, agency, or instrumentality of the United States*
 34 *Government to suspend, modify, or annul any existing regulations, or to make*
 35 *new regulations, affecting shipping in the foreign trade, except regulations re-*

1 *lating to the Public Health Service, the Consular Service, or the inspection*
 2 *of vessels.*

3 “(b) *PRIOR REVIEW AND APPROVAL.*—*A department, agency, or instrumen-*
 4 *tality of the Government may not prescribe a regulation affecting shipping*
 5 *in the foreign trade (except a regulation affecting the Public Health Service,*
 6 *the Consular Service, or the inspection of vessels) until the regulation has been*
 7 *submitted to the Commission for its approval and final action has been taken*
 8 *by the Commission or the President.*

9 “(c) *SUBMISSION TO PRESIDENT.*—*If the head of a department, agency, or*
 10 *instrumentality of the Government refuses to comply with a request under*
 11 *subsection (a) or objects to a decision of the Commission under subsection (b),*
 12 *the Commission or the head of the department, agency, or instrumentality*
 13 *may submit the facts to the President. The President may establish, suspend,*
 14 *modify, or annul the regulation.*

15 **“§ 42103. No preference to Government-owned vessels**

16 “*A regulation may not give a vessel owned by the United States Govern-*
 17 *ment a preference over a vessel owned by citizens of the United States and*
 18 *documented under the laws of the United States.*

19 **“§ 42104. Information, witnesses, and evidence**

20 “(a) *ORDER TO SUPPLY INFORMATION.*—*In carrying out section 42101 of*
 21 *this title, the Federal Maritime Commission may order any person (including*
 22 *a common carrier, tramp operator, bulk operator, shipper, shippers’ associa-*
 23 *tion, ocean transportation intermediary, or marine terminal operator, or an*
 24 *officer, receiver, trustee, lessee, agent, or employee thereof) to file with the*
 25 *Commission a report, answers to questions, documentary material, or other*
 26 *information the Commission considers necessary or appropriate. The Commis-*
 27 *sion may require the response to any such order to be made under oath. The*
 28 *response shall be provided in the form and within the time specified by the*
 29 *Commission.*

30 “(b) *SUBPOENAS AND DISCOVERY.*—*In carrying out section 42101 of this*
 31 *title, the Commission may—*

32 “(1) *subpoena witnesses and evidence; and*

33 “(2) *authorize a party to use depositions, written interrogatories, and*
 34 *discovery procedures that, to the extent practicable, conform to the Fed-*
 35 *eral Rules of Civil Procedure (28 App. U.S.C.).*

36 “(c) *WITNESS FEES.*—*Unless otherwise prohibited by law, and subject to*
 37 *funds being appropriated, a witness in a proceeding under section 42101 of*
 38 *this title is entitled to the same fees and mileage as in the courts of the United*
 39 *States.*

40 “(d) *PENALTIES.*—*For failure to supply information ordered to be pro-*
 41 *duced or compelled by subpoena under this section, the Commission may—*

1 “(1) after notice and opportunity for a hearing, suspend tariffs and
2 service contracts of a common carrier or the common carrier’s right to
3 use tariffs of conferences and service contracts of agreements of which it
4 is a member; or

5 “(2) assess a civil penalty of not more than \$5,000 for each day that
6 the information is not provided.

7 “(e) ENFORCEMENT.—If a person does not comply with an order or sub-
8 poena of the Commission under this section, the Commission may seek en-
9 forcement in a district court of the United States having jurisdiction over the
10 parties. If, after hearing, the court determines that the order or subpoena was
11 regularly made and duly issued, the court shall enforce the order or subpoena.

12 **“§ 42105. Disclosure to public**

13 “Notwithstanding any other provision of law, the Federal Maritime Com-
14 mission may refuse to disclose to the public a response or other information
15 submitted to it under this chapter.

16 **“§ 42106. Other actions to remedy unfavorable conditions**

17 “If the Federal Maritime Commission finds that conditions unfavorable to
18 shipping in foreign trade as described in section 42101 of this title exist, the
19 Commission may—

20 “(1) limit voyages to and from United States ports or the amount or
21 type of cargo carried;

22 “(2) suspend, in whole or in part, tariffs and service contracts for car-
23 riage to or from United States ports, including a common carrier’s right
24 to use tariffs of conferences and service contracts of agreements in United
25 States trades of which it is a member for any period the Commission
26 specifies;

27 “(3) suspend, in whole or in part, an ocean common carrier’s right
28 to operate under any agreement filed with the Commission, including
29 any agreement authorizing preferential treatment at terminals, pref-
30 erential terminal leases, space chartering, or pooling of cargo or revenue
31 with other ocean common carriers;

32 “(4) impose a fee not to exceed \$1,000,000 per voyage; or

33 “(5) take any other action the Commission finds necessary and appro-
34 priate to adjust or meet any condition unfavorable to shipping in the
35 foreign trade of the United States.

36 **“§ 42107. Refusal of clearance and entry**

37 “At the request of the Federal Maritime Commission—

38 “(1) the Secretary of Homeland Security shall—

39 “(A) refuse the clearance required by section 60105 of this title
40 to a vessel of a country that is named in a regulation prescribed
41 by the Commission under section 42101 of this title; and

1 “(B) collect any fees imposed by the Commission under section
2 42106(4) of this title; and

3 “(2) the Secretary of the department in which the Coast Guard is op-
4 erating shall—

5 “(A) deny entry, for purposes of oceanborne trade, of a vessel of
6 a country that is named in a regulation prescribed by the Commis-
7 sion under section 42101 of this title, to a port or place in the
8 United States or the navigable waters of the United States; or

9 “(B) detain the vessel at the port or place in the United States
10 from which it is about to depart for another port or place in the
11 United States.

12 **“§ 42108. Penalty for operating under suspended tariff or**
13 **service contract**

14 “A common carrier that accepts or handles cargo for carriage under a tar-
15 iff or service contract that has been suspended under section 42104(d)(1) or
16 42106(2) of this title, or after its right to use another tariff or service contract
17 has been suspended under those provisions, is liable to the United States Gov-
18 ernment for a civil penalty of not more than \$50,000 for each day that it
19 is found to be operating under a suspended tariff or service contract.

20 **“§ 42109. Consultation with other agencies**

21 “The Federal Maritime Commission may consult with, seek the cooperation
22 of, or make recommendations to other appropriate agencies of the United
23 States Government prior to taking any action under this chapter.

24 **“CHAPTER 423—FOREIGN SHIPPING PRACTICES**

“Sec.

“42301. Definitions.

“42302. Investigations.

“42303. Information requests.

“42304. Action against foreign carriers.

“42305. Refusal of clearance and entry.

“42306. Submission of determinations to President.

“42307. Review of regulations and orders.

25 **“§ 42301. Definitions**

26 “(a) *DEFINED IN PART A.*—In this chapter, the terms ‘common carrier’,
27 ‘marine terminal operator’, ‘ocean common carrier’, ‘ocean transportation
28 intermediary’, ‘shipper’, and ‘shippers’ association’ have the meaning given
29 those terms in section 40102 of this title.

30 “(b) *OTHER DEFINITIONS.*—In this chapter:

31 “(1) *FOREIGN CARRIER.*—The term ‘foreign carrier’ means an ocean
32 common carrier a majority of whose vessels are documented under the
33 laws of a foreign country.

34 “(2) *MARITIME SERVICES.*—The term ‘maritime services’ means port-
35 to-port transportation of cargo by vessels operated by an ocean common
36 carrier.

1 “(3) *MARITIME-RELATED SERVICES.*—*The term ‘maritime-related serv-*
 2 *ices’ means intermodal operations, terminal operations, cargo sollicita-*
 3 *tion, agency services, ocean transportation intermediary services and op-*
 4 *erations, and all other activities and services integral to total transpor-*
 5 *tation systems of ocean common carriers and their foreign domiciled af-*
 6 *iliates for themselves and others.*

7 “(4) *UNITED STATES CARRIER.*—*The term ‘United States carrier’*
 8 *means an ocean common carrier operating vessels documented under the*
 9 *laws of the United States.*

10 “(5) *UNITED STATES OCEANBORNE TRADE.*—*The term ‘United States*
 11 *oceanborne trade’ means the carriage of cargo between the United States*
 12 *and a foreign country, whether directly or indirectly, by an ocean com-*
 13 *mon carrier.*

14 **“§ 42302. Investigations**

15 “(a) *IN GENERAL.*—*The Federal Maritime Commission shall investigate*
 16 *whether any laws, rules, regulations, policies, or practices of a foreign govern-*
 17 *ment, or any practices of a foreign carrier or other person providing mari-*
 18 *time or maritime-related services in a foreign country, result in the existence*
 19 *of conditions that—*

20 “(1) *adversely affect the operations of United States carriers in United*
 21 *States oceanborne trade; and*

22 “(2) *do not exist for foreign carriers of that country in the United*
 23 *States under the laws of the United States or as a result of acts of*
 24 *United States carriers or other persons providing maritime or maritime-*
 25 *related services in the United States.*

26 “(b) *INITIATION OF INVESTIGATION.*—*An investigation under subsection (a)*
 27 *may be initiated by the Commission on its own motion or on the petition*
 28 *of any person, including another component of the United States Government.*

29 “(c) *TIME FOR DECISION.*—*The Commission shall complete an investiga-*
 30 *tion under this section and render a decision within 120 days after it is initi-*
 31 *ated. However, the Commission may extend this 120-day period for an addi-*
 32 *tional 90 days if the Commission is unable to obtain sufficient information*
 33 *to determine whether a condition specified in subsection (a) exists. A notice*
 34 *providing an extension shall state clearly the reasons for the extension.*

35 **“§ 42303. Information requests**

36 “(a) *IN GENERAL.*—*To further the purposes of section 42302(a) of this title,*
 37 *the Federal Maritime Commission may order any person (including a com-*
 38 *mon carrier, shipper, shippers’ association, ocean transportation inter-*
 39 *mediary, or marine terminal operator, or an officer, receiver, trustee, lessee,*
 40 *agent or employee thereof) to file with the Commission any periodic or special*
 41 *report, answers to questions, documentary material, or other information the*

1 *Commission considers necessary or appropriate. The Commission may require*
 2 *the response to any such order to be made under oath. The response shall be*
 3 *provided in the form and within the time specified by the Commission.*

4 “(b) *SUBPOENAS.—In an investigation under section 42302 of this title, the*
 5 *Commission may subpoena witnesses and evidence.*

6 “(c) *NONDISCLOSURE.—Notwithstanding any other provision of law, the*
 7 *Commission may determine that any information submitted to it in response*
 8 *to a request under this section, or otherwise, shall not be disclosed to the pub-*
 9 *lic.*

10 **“§ 42304. Action against foreign carriers**

11 “(a) *IN GENERAL.—Subject to section 42306 of this title, whenever the Fed-*
 12 *eral Maritime Commission, after notice and opportunity for comment or*
 13 *hearing, determines that the conditions specified in section 42302(a) of this*
 14 *title exist, the Commission shall take such action to offset those conditions as*
 15 *it considers necessary and appropriate against any foreign carrier that is a*
 16 *contributing cause, or whose government is a contributing cause, to those con-*
 17 *ditions. The action may include—*

18 “(1) *limitations on voyages to and from United States ports or on the*
 19 *amount or type of cargo carried;*

20 “(2) *suspension, in whole or in part, of any or all tariffs and service*
 21 *contracts, including an ocean common carrier’s right to use any or all*
 22 *tariffs and service contracts of conferences in United States trades of*
 23 *which it is a member for any period the Commission specifies;*

24 “(3) *suspension, in whole or in part, of an ocean common carrier’s*
 25 *right to operate under any agreement filed with the Commission, includ-*
 26 *ing any agreement authorizing preferential treatment at terminals, pref-*
 27 *erential terminal leases, space chartering, or pooling of cargo or revenue*
 28 *with other ocean common carriers; and*

29 “(4) *a fee not to exceed \$1,000,000 per voyage.*

30 “(b) *CONSULTATION.—The Commission may consult with, seek the coopera-*
 31 *tion of, or make recommendations to other appropriate agencies of the United*
 32 *States Government prior to taking any action under subsection (a).*

33 **“§ 42305. Refusal of clearance and entry**

34 “*Subject to section 42306 of this title, whenever the Federal Maritime Com-*
 35 *mission determines that the conditions specified in section 42302(a) of this*
 36 *title exist, then at the request of the Commission—*

37 “(1) *the Secretary of Homeland Security shall refuse the clearance re-*
 38 *quired by section 60105 of this title to a vessel of a foreign carrier that*
 39 *is identified by the Commission under section 42304 of this title; and*

40 “(2) *the Secretary of the department in which the Coast Guard is op-*
 41 *erating shall—*

1 “(2) a copy of a bond or other security, in such form as the Commis-
2 sion by regulation may require.

3 “(c) *AUTHORIZED ISSUER OF BOND.*—If a bond is filed, it must be issued
4 by a bonding company authorized to do business in the United States.

5 **“§44103. Financial responsibility to pay liability for death**
6 **or injury**

7 “(a) *GENERAL REQUIREMENT.*—The owner or charterer of a vessel to which
8 this chapter applies shall establish, under regulations prescribed by the Fed-
9 eral Maritime Commission, financial responsibility to meet liability for death
10 or injury to passengers or other individuals on a voyage to or from a port
11 in the United States.

12 “(b) *AMOUNTS.*—

13 “(1) *IN GENERAL.*—The amount of financial responsibility required
14 under subsection (a) shall be based on the number of passenger accom-
15 modations as follows:

16 “(A) \$20,000 for each of the first 500 passenger accommodations.

17 “(B) \$15,000 for each additional passenger accommodation be-
18 tween 501 and 1,000.

19 “(C) \$10,000 for each additional passenger accommodation be-
20 tween 1,001 and 1,500.

21 “(D) \$5,000 for each additional passenger accommodation over
22 1,500.

23 “(2) *MULTIPLE VESSELS.*—If the owner or charterer is operating more
24 than one vessel subject to this chapter, the amount of financial responsi-
25 bility shall be based on the number of passenger accommodations on the
26 vessel with the largest number of passenger accommodations.

27 “(c) *AVAILABILITY TO PAY JUDGMENT.*—The amount determined under
28 subsection (b) shall be available to pay a judgment for damages (whether less
29 than or more than \$20,000) for death or injury to a passenger or other indi-
30 vidual on a voyage to or from a port in the United States.

31 “(d) *MEANS OF ESTABLISHING.*—Financial responsibility under this sec-
32 tion may be established by one or more of the following if acceptable to the
33 Commission:

34 “(1) *Insurance.*

35 “(2) *Surety bond issued by a bonding company authorized to do busi-*
36 *ness in the United States.*

37 “(3) *Qualification as a self-insurer.*

38 “(4) *Other evidence of financial responsibility.*

39 **“§44104. Civil penalty**

40 “A person that violates section 44102 or 44103 of this title is liable to the
41 United States Government for a civil penalty of not more than \$5,000, plus

1 §200 for each passage sold, to be assessed by the Federal Maritime Commis-
 2 sion. The Commission may remit or mitigate the penalty on terms the Com-
 3 mission considers proper.

4 **“§ 44105. Refusal of clearance**

5 “The Secretary of Homeland Security shall refuse the clearance required by
 6 section 60105 of this title, at the port or place of departure from the United
 7 States, of a vessel that is subject to this chapter and does not have evidence
 8 issued by the Federal Maritime Commission of compliance with sections
 9 44102 and 44103 of this title.

10 **“§ 44106. Conduct of proceedings**

11 “Part A of this subtitle applies to proceedings conducted by the Federal
 12 Maritime Commission under this chapter.”.

13 **SEC. 8. SUBTITLE V OF TITLE 46.**

14 (a) SUBTITLE ANALYSIS.—The analysis of subtitle V of title 46, United
 15 States Code, is amended to read as follows:

16 “PART A—GENERAL

<i>Chapter</i>	<i>Sec.</i>
“501. Policy, Studies, and Reports	50101
“503. Administrative	50301
“505. Other General Provisions	50501

17 “PART B—MERCHANT MARINE SERVICE

“511. General	51101
“513. United States Merchant Marine Academy	51301
“515. State Maritime Academy Support Program	51501
“517. Other Support for Merchant Marine Training	51701
“519. Merchant Marine Awards	51901
“521. Miscellaneous	52101

18 “PART C—FINANCIAL ASSISTANCE PROGRAMS

“531. Maritime Security Fleet	53101
“533. Construction Reserve Funds	53301
“535. Capital Construction Funds	53501
“537. Loans and Guarantees	53701
“539. War Risk Insurance	53901

19 “PART D—PROMOTIONAL PROGRAMS

“551. Coastwise Trade	55101
“553. Passenger and Cargo Preferences	55301
“555. Miscellaneous	55501

20 “PART E—CONTROL OF MERCHANT MARINE CAPABILITIES

“561. Restrictions on Transfers	56101
“563. Emergency Acquisition of Vessels	56301
“565. Essential Vessels Affected by Neutrality Act	56501

21 “PART F—GOVERNMENT-OWNED MERCHANT VESSELS

“571. General Authority	57101
“573. Vessel Trade-In Program	57301
“575. Construction, Charter, and Sale of Vessels	57501

22 “PART G—RESTRICTIONS AND PENALTIES

“581. Restrictions and Penalties	58101”.
---	----------------

1 (b) CHAPTERS PRECEDING CHAPTER 531.—Subtitle V of title 46, United
2 States Code, is amended by inserting after the subtitle analysis the following:

3 “PART A—GENERAL

4 “CHAPTER 501—POLICY, STUDIES, AND REPORTS

“Sec.

“50101. Objectives and policy.

“50102. Survey of merchant marine.

“50103. Determinations of essential services.

“50104. Studies of general maritime problems.

“50105. Studies and cooperation relating to the construction of vessels.

“50106. Studies on the operation of vessels.

“50107. Studies on marine insurance.

“50108. Studies on cargo carriage and cargo containers.

“50109. Miscellaneous studies.

“50110. Securing preference to vessels of the United States.

“50111. Reports to Congress.

“50112. National Maritime Enhancement Institutes.

“50113. Use and performance reports by operators of vessels.

5 “§ 50101. Objectives and policy

6 “(a) OBJECTIVES.—It is necessary for the national defense and the develop-
7 ment of the domestic and foreign commerce of the United States that the
8 United States have a merchant marine—

9 “(1) sufficient to carry the waterborne domestic commerce and a sub-
10 stantial part of the waterborne export and import foreign commerce of
11 the United States and to provide shipping service essential for maintain-
12 ing the flow of the waterborne domestic and foreign commerce at all
13 times;

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

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

18 “(4) composed of the best-equipped, safest, and most suitable types of
19 vessels and manned with a trained and efficient citizen personnel; and

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

22 “(b) POLICY.—It is the policy of the United States to encourage and aid
23 the development and maintenance of a merchant marine satisfying the objec-
24 tives described in subsection (a).

25 “§ 50102. Survey of merchant marine

26 “(a) IN GENERAL.—The Secretary of Transportation shall survey the mer-
27 chant marine of the United States to determine whether replacements and ad-
28 ditions are required to carry out the objectives and policy of section 50101
29 of this title. The Secretary shall study, perfect, and adopt a long-range pro-
30 gram for replacements and additions that will result, as soon as practicable,
31 in—

1 “(1) an adequate and well-balanced merchant fleet, including vessels
2 of all types, that will provide shipping service essential for maintaining
3 the flow of foreign commerce by vessels designed to be readily and quickly
4 convertible into transport and supply vessels in a time of national emer-
5 gency;

6 “(2) ownership and operation of the fleet by citizens of the United
7 States insofar as practicable;

8 “(3) vessels designed to afford the best and most complete protection
9 for passengers and crew against fire and all marine perils; and

10 “(4) an efficient capacity for building and repairing vessels in the
11 United States with an adequate number of skilled personnel to provide
12 an adequate mobilization base.

13 “(b) COOPERATION WITH SECRETARY OF NAVY.—In carrying out sub-
14 section (a)(1), the Secretary of Transportation shall cooperate closely with the
15 Secretary of the Navy as to national defense requirements.

16 **“§50103. Determinations of essential services**

17 “(a) ESSENTIAL SERVICES, ROUTES, AND LINES.—

18 “(1) IN GENERAL.—The Secretary of Transportation shall investigate,
19 determine, and keep current records of the ocean services, routes, and
20 lines from ports in the United States, or in the territories and posses-
21 sions of the United States, to foreign markets, which the Secretary deter-
22 mines to be essential for the promotion, development, expansion, and
23 maintenance of the foreign commerce of the United States. In making
24 such a determination, the Secretary shall consider and give due weight
25 to—

26 “(A) the cost of maintaining each line;

27 “(B) the probability that a line cannot be maintained except at
28 a heavy loss disproportionate to the benefit to foreign trade;

29 “(C) the number of voyages and types of vessels that should be
30 employed in a line;

31 “(D) the intangible benefit of maintaining a line to the foreign
32 commerce of the United States, the national defense, and other na-
33 tional requirements; and

34 “(E) any other facts and conditions a prudent business person
35 would consider when dealing with the person’s own business.

36 “(2) SAINT LAWRENCE SEAWAY.—For purposes of paragraph (1), the
37 Secretary shall establish services, routes, and lines that reflect the sea-
38 sonal closing of the Saint Lawrence Seaway and provide for alternate
39 routing of vessels through a different range of ports during that closing
40 to maintain continuity of service on a year-round basis.

1 “(b) *BULK CARGO CARRYING SERVICES.*—*The Secretary shall investigate,*
 2 *determine, and keep current records of the bulk cargo carrying services that*
 3 *should be provided by vessels of the United States (whether or not operating*
 4 *on particular services, routes, or lines) for the promotion, development, expansion,*
 5 *and maintenance of the foreign commerce of the United States and the*
 6 *national defense or other national requirements.*

7 “(c) *TYPES OF VESSELS.*—*The Secretary shall investigate, determine, and*
 8 *keep current records of the type, size, speed, method of propulsion, and other*
 9 *requirements of the vessels, including express-liner or super-liner vessels, that*
 10 *should be employed in—*

11 “(1) *the services, routes, or lines described in subsection (a), and the*
 12 *frequency and regularity of the voyages of the vessels, with a view to furnishing*
 13 *adequate, regular, certain, and permanent service; and*

14 “(2) *the bulk cargo carrying services described in subsection (b).*

15 **“§ 50104. Studies of general maritime problems**

16 *“The Secretary of Transportation shall study all maritime problems arising*
 17 *in carrying out the policy in section 50101 of this title.*

18 **“§ 50105. Studies and cooperation relating to the construction of vessels**

20 “(a) *RELATIVE COSTS AND NEW DESIGNS.*—*The Secretary of Transportation shall investigate, determine, and keep current records of—*

22 “(1) *the relative cost of construction of comparable vessels in the*
 23 *United States and in foreign countries; and*

24 “(2) *new designs, new methods of construction, and new types of*
 25 *equipment for vessels.*

26 “(b) *RULES, CLASSIFICATIONS, AND RATINGS.*—*The Secretary shall examine the rules under which vessels are constructed abroad and in the United*
 27 *States and the methods of classifying and rating the vessels.*

29 “(c) *COLLABORATION WITH OWNERS AND BUILDERS.*—*The Secretary shall collaborate with vessel owners and shipbuilders in developing plans for the economical construction of vessels and their propelling machinery, of most modern economical types, giving thorough consideration to all well-recognized*
 30 *means of propulsion and taking into account the benefits from standardized*
 31 *production where practicable and desirable.*

32 “(d) *EXPRESS-LINER AND SUPER-LINER VESSELS.*—*The Secretary shall study and cooperate with vessel owners in devising means by which there may*
 33 *be constructed, by or with the aid of the United States Government, express-*
 34 *liner or super-liner vessels comparable to those of other nations, especially*
 35 *with a view to their use in a national emergency, and the use of transoceanic*
 36 *aircraft service in connection with or in lieu of those vessels.*

1 **“§50106. Studies on the operation of vessels**

2 “(a) *RELATIVE COSTS.*—The Secretary of Transportation shall investigate,
3 determine, and keep current records of the relative cost of marine insurance,
4 maintenance, repairs, wages and subsistence of officers and crews, and all
5 other items of expense, in the operation of comparable vessels under the laws
6 and regulations of the United States and those of the foreign countries whose
7 vessels are substantial competitors of American vessels.

8 “(b) *SHIPYARDS.*—The Secretary shall investigate, determine, and keep cur-
9 rent records of the number, location, and efficiency of shipyards in the United
10 States.

11 “(c) *NAVIGATION LAWS.*—The Secretary shall examine the navigation laws
12 and regulations of the United States and make such recommendations to Con-
13 gress as the Secretary considers proper for the amendment, improvement, and
14 revision of those laws and for the development of the merchant marine of the
15 United States.

16 **“§50107. Studies on marine insurance**

17 “The Secretary of Transportation shall—

18 “(1) examine into the subject of marine insurance, the number of com-
19 panies in the United States, domestic and foreign, engaging in marine
20 insurance, the extent of the insurance on hulls and cargoes placed or
21 written in the United States, and the extent of reinsurance of American
22 maritime risks in foreign companies; and

23 “(2) ascertain what steps may be necessary to develop an ample ma-
24 rine insurance system as an aid in the development of the merchant ma-
25 rine of the United States.

26 **“§50108. Studies on cargo carriage and cargo containers**

27 “(a) *STUDIES.*—The Secretary of Transportation shall study—

28 “(1) the methods of encouraging the development and implementation
29 of new concepts for the carriage of cargo in the domestic and foreign
30 commerce of the United States; and

31 “(2) the economic and technological aspects of the use of cargo con-
32 tainers as a method of carrying out the policy in section 50101 of this
33 title.

34 “(b) *RESTRICTION.*—In carrying out subsection (a) and the policy in sec-
35 tion 50101 of this title, the United States Government may not give preference
36 as between carriers based on the length, height, or width of cargo containers
37 or the length, height, or width of cargo container cells. This restriction applies
38 to all existing container vessels and any container vessel to be constructed or
39 rebuilt.

“§ 50109. Miscellaneous studies

1 “(a) *FOREIGN SUBSIDIES.*—The Secretary of Transportation shall investigate, determine, and keep current records of the extent and character of the governmental aid and subsidies granted by foreign governments to their merchant marine.

2 “(b) *LAWS APPLICABLE TO AIRCRAFT.*—The Secretary shall investigate, determine, and keep current records of the provisions of law relating to shipping that should be made applicable to aircraft engaged in foreign commerce to further the policy in section 50101 of this title, and any appropriate legislation in this regard.

3 “(c) *AID FOR COTTON, COAL, LUMBER, AND CEMENT.*—The Secretary shall investigate, determine, and keep current records of the advisability of enactment of suitable legislation authorizing the Secretary, in an economic or commercial emergency, to aid farmers and producers of cotton, coal, lumber, and cement in any section of the United States in the transportation and landing of their products in any foreign port, which products can be carried in dry-cargo vessels by reducing rates, by supplying additional tonnage to any American operator, or by operation of vessels directly by the Secretary, until the Secretary considers the special rate reduction and operation unnecessary for the benefit of those farmers and producers.

4 “(d) *INTERCOASTAL AND INLAND WATER TRANSPORTATION.*—The Secretary shall investigate, determine, and keep current records of intercoastal and inland water transportation, including their relation to transportation by land and air.

5 “(e) *OBSOLETE TONNAGE AND TRAMP SERVICE.*—The Secretary shall make studies and reports to Congress on—

6 “(1) the scrapping or removal from service of old or obsolete merchant tonnage owned by the United States Government or in use in the merchant marine; and

7 “(2) tramp shipping service and the advisability of citizens of the United States participating in that service with vessels under United States registry.

8 “(f) *MORTGAGE LOANS.*—The Secretary shall investigate the legal status of mortgage loans on vessel property, with a view to the means of improving the security of those loans and of encouraging investment in American shipping.

“§ 50110. Securing preference to vessels of the United States

9 “(a) *POSSIBILITIES OF PROMOTING CARRIAGE.*—The Secretary of Transportation shall investigate, determine, and keep current records of the possibilities of promoting the carriage of United States foreign trade in vessels of the United States.

1 “(b) *INDUCEMENTS TO IMPORTERS AND EXPORTERS.*—The Secretary shall
2 study and cooperate with vessel owners in devising means by which the im-
3 porters and exporters of the United States can be induced to give preference
4 to vessels of the United States.

5 “(c) *LIAISON WITH AGENCIES AND ORGANIZATIONS.*—The Secretary shall
6 establish and maintain liaison with such other agencies of the United States
7 Government, and with such representative trade organizations throughout the
8 United States, as may be concerned, directly or indirectly, with any move-
9 ment of commodities in the waterborne export and import foreign commerce
10 of the United States, for the purpose of securing preference to vessels of the
11 United States in the shipment of those commodities.

12 **“§50111. Reports to Congress**

13 “(a) *IN GENERAL.*—Not later than April 1 of each year, the Secretary of
14 Transportation shall submit a report to Congress. The report shall include,
15 with respect to activities of the Secretary under this subtitle, the results of
16 investigations, a summary of transactions, a statement of all expenditures
17 and receipts, the purposes for which all expenditures were made, and any rec-
18 ommendations for legislation.

19 “(b) *ADMINISTERED AND OVERSIGHT FUNDS.*—The Secretary, in the report
20 under subsection (a) and in the annual budget estimate for the Maritime Ad-
21 ministration submitted to Congress, shall state separately the amount, source,
22 intended use, and nature of any funds (other than funds appropriated to the
23 Administration or to the Secretary of Transportation for use by the Adminis-
24 tration) administered, or subject to oversight, by the Administration.

25 “(c) *ADDITIONAL RECOMMENDATIONS FOR LEGISLATION.*—The Secretary,
26 from time to time, shall make recommendations to Congress for legislation the
27 Secretary considers necessary to better achieve the objectives and policy of sec-
28 tion 50101 of this title.

29 **“§50112. National Maritime Enhancement Institutes**

30 “(a) *DESIGNATION.*—The Secretary of Transportation may designate Na-
31 tional Maritime Enhancement Institutes.

32 “(b) *ACTIVITIES.*—Activities undertaken by an institute may include—

33 “(1) conducting research about methods to improve the performance of
34 maritime industries;

35 “(2) enhancing the competitiveness of domestic maritime industries in
36 international trade;

37 “(3) forecasting trends in maritime trade;

38 “(4) assessing technological advancements;

39 “(5) developing management initiatives and training;

1 “(6) *analyzing economic and operational impacts of regulatory poli-*
2 *cies and international negotiations or agreements pending before inter-*
3 *national bodies;*

4 “(7) *assessing the compatibility of domestic maritime infrastructure*
5 *systems with overseas transport systems;*

6 “(8) *fostering innovations in maritime transportation pricing; and*

7 “(9) *improving maritime economics and finance.*

8 “(c) *APPLICATION FOR DESIGNATION.—An institution seeking designation*
9 *as a National Maritime Enhancement Institute shall submit an application*
10 *under regulations prescribed by the Secretary.*

11 “(d) *CRITERIA FOR DESIGNATION.—The Secretary shall designate an insti-*
12 *tute under this section on the basis of the following criteria:*

13 “(1) *The demonstrated research and extension resources available to*
14 *the applicant for carrying out the activities specified in subsection (b).*

15 “(2) *The ability of the applicant to provide leadership in making na-*
16 *tional and regional contributions to the solution of both long-range and*
17 *immediate problems of the domestic maritime industry.*

18 “(3) *The existence of an established program of the applicant encom-*
19 *passing research and training directed to enhancing maritime industries.*

20 “(4) *The demonstrated ability of the applicant to assemble and evalu-*
21 *ate pertinent information from national and international sources and*
22 *to disseminate results of maritime industry research and educational*
23 *programs through a continuing education program.*

24 “(5) *The qualification of the applicant as a nonprofit institution of*
25 *higher learning.*

26 “(e) *FINANCIAL AWARDS.—The Secretary may make awards on an equal*
27 *matching basis to an institute designated under subsection (a) from amounts*
28 *appropriated. The aggregate annual amount of the Federal share of the*
29 *awards by the Secretary may not exceed \$500,000.*

30 “(f) *UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—The Secretary*
31 *may make a grant under section 5505 of title 49 to an institute designated*
32 *under subsection (a) for maritime and maritime intermodal research under*
33 *that section as if the institute were a university transportation center. In*
34 *making a grant, the Secretary, through the Research and Innovative Tech-*
35 *nology Administration, shall advise the Maritime Administration on the*
36 *availability of funds for the grants and consult with the Administration on*
37 *making the grants.*

38 **“§50113. Use and performance reports by operators of vessels**

39 “(a) *FILING REQUIREMENT.—The Secretary of Transportation by regula-*
40 *tion may require the operator of a vessel in the waterborne foreign commerce*
41 *of the United States to file such report, account, record, or memorandum on*

1 *the use and performance of the vessel as the Secretary considers desirable to*
 2 *assist in carrying out this subtitle. The report, account, record, or memo-*
 3 *randum shall be signed and verified, and be filed at the times and in the*
 4 *manner, as provided by regulation.*

5 “(b) *CIVIL PENALTY.*—An operator not filing a report, account, record, or
 6 memorandum required by the Secretary under this section is liable to the
 7 United States Government for a civil penalty of \$50 for each day of the viola-
 8 tion. A penalty imposed under this section on the operator of a vessel con-
 9 stitutes a lien on the vessel involved in the violation. A civil action in rem
 10 to enforce the lien may be brought in the district court of the United States
 11 for any district in which the vessel is found. The Secretary may remit or
 12 mitigate any penalty imposed under this section.

13 **“CHAPTER 503—ADMINISTRATIVE**

“Sec.

“50301. *Vessel Operations Revolving Fund.*

“50302. *Port development.*

“50303. *Operating property and extending term of notes.*

“50304. *Sale and transfer of property.*

“50305. *Appointment of trustee or receiver and operation of vessels.*

“50306. *Requiring testimony and records in investigations.*

14 **“§ 50301. Vessel Operations Revolving Fund**

15 “(a) *IN GENERAL.*—There is a ‘Vessel Operations Revolving Fund’ for use
 16 by the Secretary of Transportation in carrying out duties and powers related
 17 to vessel operations, including charter, operation, maintenance, repair, recon-
 18 ditioning, and improvement of merchant vessels under the jurisdiction of the
 19 Secretary. The Fund has a working capital of \$20,000,000, to remain avail-
 20 able until expended.

21 “(b) *RELATIONSHIP TO OTHER LAWS.*—Notwithstanding any other law,
 22 rates for shipping services provided under the Fund shall be prescribed by the
 23 Secretary and the Fund shall be credited with receipts from vessel operations
 24 conducted under the Fund. Sections 1(a) and (c), 3(c), and 4 of the Act of
 25 March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294), apply to those
 26 operations and to seamen employed through general agents as employees of
 27 the United States Government. Notwithstanding any other law on the employ-
 28 ment of persons by the Government, the seamen may be employed in accord-
 29 ance with customary commercial practices in the maritime industry.

30 “(c) *ADVANCEMENTS.*—With the approval of the Director of the Office of
 31 Management and Budget, the Secretary may advance amounts the Secretary
 32 considers necessary, but not more than 2 percent of vessel operating expenses,
 33 from the Fund to the appropriation ‘Salaries and Expenses’ in carrying out
 34 duties and powers related to vessel operations, without regard to the limita-
 35 tions on amounts stated in that appropriation.

36 “(d) *TRANSFERS.*—The unexpended balances of working funds or of alloca-
 37 tion accounts established after January 1, 1951, for the activities provided

1 *for in subsection (a), and receipts received from those activities, may be trans-*
 2 *ferred to the Fund, which shall be available for the purposes of those working*
 3 *funds or allocation accounts.*

4 *“(e) LIMITATION.—*

5 *“(1) IN GENERAL.—Amounts made available to the Secretary for mar-*
 6 *itime activities by this section or any other law may not be used to pay*
 7 *for a vessel described in paragraph (2) unless the compensation to be*
 8 *paid is computed under section 56303 of this title as that section is in-*
 9 *terpreted by the Comptroller General.*

10 *“(2) APPLICABLE VESSELS.—Paragraph (1) applies to a vessel—*

11 *“(A) the title to which is acquired by the Government by requisiti-*
 12 *tion or purchase;*

13 *“(B) the use of which is taken by requisition or agreement; or*

14 *“(C) lost while insured by the Government.*

15 *“(3) NONAPPLICABLE VESSELS.—Paragraph (1) does not apply to a*
 16 *vessel under a construction-differential subsidy contract.*

17 *“(f) AVAILABILITY FOR ADDITIONAL PURPOSES.—The Fund is available*
 18 *for—*

19 *“(1) necessary expenses incurred in the protection, preservation, main-*
 20 *tenance, acquisition, or use of vessels involved in mortgage foreclosure or*
 21 *forfeiture proceedings instituted by the Government, including payment*
 22 *of prior claims and liens, expenses of sale, or other related charges;*

23 *“(2) necessary expenses incident to the redelivery and lay-up, in the*
 24 *United States, of vessels chartered as of June 20, 1956, under agreements*
 25 *not calling for their return to the Government;*

26 *“(3) the activation, repair, and deactivation of merchant vessels char-*
 27 *tered for limited emergency purposes during fiscal year 1957 under the*
 28 *jurisdiction of the Secretary; and*

29 *“(4) payment of expenses of custody and maintenance of Government-*
 30 *owned vessels not in the National Defense Reserve Fleet.*

31 *“(g) EXPENSES AND RECEIPTS RELATED TO CHARTER OPERATIONS.—The*
 32 *Fund is available for expenses incurred in activating, repairing, and deacti-*
 33 *vating merchant vessels chartered under the jurisdiction of the Secretary. Re-*
 34 *ceipts from charter operations of Government-owned vessels under the juris-*
 35 *isdiction of the Secretary shall be credited to the Fund.*

36 **“§ 50302. Port development**

37 *“(a) GENERAL REQUIREMENTS.—With the objective of promoting, encour-*
 38 *aging, and developing ports and transportation facilities in connection with*
 39 *water commerce over which the Secretary of Transportation has jurisdiction,*
 40 *the Secretary, in cooperation with the Secretary of the Army, shall—*

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

4 “(2) investigate the causes of congestion of commerce at ports and ap-
5 plicable remedies;

6 “(3) investigate the subject of water terminals, including the necessary
7 docks, warehouses, and equipment, to devise and suggest the types most
8 appropriate for different locations and for the most expeditious and eco-
9 nomical transfer or interchange of passengers or property between water
10 carriers and rail carriers;

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

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

16 “(6) investigate any other matter that may tend to promote and en-
17 courage the use by vessels of ports adequate to care for the freight that
18 naturally would pass through those ports.

19 “(b) *SUBMISSION OF FINDINGS TO SURFACE TRANSPORTATION BOARD.*—
20 After an investigation under subsection (a), if the Secretary of Transportation
21 believes that the rates or practices of a rail carrier subject to the jurisdiction
22 of the Surface Transportation Board are detrimental to the objective specified
23 in subsection (a), or that new rates or practices, new or additional port ter-
24 minal facilities, or affirmative action by a rail carrier is necessary to pro-
25 mote that objective, the Secretary may submit findings to the Board for action
26 the Board considers appropriate under existing law.

27 **“§ 50303. Operating property and extending term of notes**

28 “(a) *GENERAL AUTHORITY.*—The Secretary of Transportation may—

29 “(1) operate or lease docks, wharves, piers, or real property under the
30 Secretary’s control; and

31 “(2) make extensions and accept renewals of—

32 “(A) promissory notes and other evidences of indebtedness on
33 property; and

34 “(B) mortgages and other contracts securing the property.

35 “(b) *TERMS OF TRANSACTIONS.*—A transaction under subsection (a) shall
36 be on terms the Secretary considers necessary to carry out the purposes of this
37 subtitle, but consistent with sound business practice.

38 “(c) *AVAILABILITY OF AMOUNTS.*—Amounts received by the Secretary from
39 a transaction under this section are available for expenditure by the Secretary
40 as provided in this subtitle.

1 **“§ 50304. Sale and transfer of property**

2 “(a) *AUTHORITY TO SELL.*—The Secretary of Transportation may sell
3 property (other than vessels transferred under section 4 of the Merchant Ma-
4 rine Act, 1920 (ch. 250, 41 Stat. 990)) on terms the Secretary considers ap-
5 propriate.

6 “(b) *TRANSFERS FROM MILITARY TO CIVILIAN CONTROL.*—When the Presi-
7 dent considers it in the interest of the United States, the President may trans-
8 fer to the Secretary of Transportation possession and control of property de-
9 scribed in the second paragraph of section 17 of the Merchant Marine Act,
10 1920 (ch. 250, 41 Stat. 994), as originally enacted, that is possessed and con-
11 trolled by the Secretary of a military department.

12 “(c) *TRANSFERS FROM CIVILIAN TO MILITARY CONTROL.*—When the Presi-
13 dent considers it necessary, the President by executive order may transfer to
14 the Secretary of a military department possession and control of property de-
15 scribed in section 17 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat.
16 994), as originally enacted, that is possessed and controlled by the Secretary
17 of Transportation. The President’s order shall state the need for the transfer
18 and the period of the need. When the President decides that the need has
19 ended, the possession and control shall revert to the Secretary of Transpor-
20 tation. The property may not be sold except as provided by law.

21 **“§ 50305. Appointment of trustee or receiver and operation of**
22 **vessels**

23 “(a) *APPOINTMENT OF TRUSTEES AND RECEIVERS.*—

24 “(1) *APPOINTMENT OF SECRETARY.*—In a proceeding in a court of the
25 United States in which a trustee or receiver may be appointed for a cor-
26 poration operating a vessel of United States registry between the United
27 States and a foreign country, on which the United States Government
28 holds a mortgage, the court may appoint the Secretary of Transportation
29 as the sole trustee or receiver (subject to the direction of the court) if—

30 “(A) the court finds that the appointment will—

31 “(i) inure to the advantage of the estate and the parties in
32 interest; and

33 “(ii) tend to carry out the purposes of this subtitle; and

34 “(B) the Secretary expressly consents to the appointment.

35 “(2) *APPOINTMENT OF OTHER PERSON.*—The appointment of another
36 person as trustee or receiver without a hearing becomes effective when
37 ratified by the Secretary, but the Secretary may demand a hearing.

38 “(b) *OPERATION OF VESSELS.*—

39 “(1) *IN GENERAL.*—If the court is unwilling to allow the trustee or
40 receiver to operate the vessel in foreign commerce without financial aid
41 from the Government pending termination of the proceeding, and the

1 *Secretary certifies to the court that the continued operation of the vessel*
 2 *is essential to the foreign commerce of the United States and is reason-*
 3 *ably calculated to carry out the purposes of this subtitle, the court may*
 4 *allow the Secretary to operate the vessel, either directly or through a*
 5 *managing agent or operator employed by the Secretary. The Secretary*
 6 *must agree to comply with terms imposed by the court sufficient to pro-*
 7 *tect the parties in interest. The Secretary also must agree to pay all op-*
 8 *erating losses resulting from the operation. The operation shall be for the*
 9 *account of the trustee or receiver.*

10 “(2) *PAYMENT OF OPERATING LOSSES AND OTHER AMOUNTS.—The*
 11 *Secretary has no claim against the corporation, its estate, or its assets*
 12 *for operating losses paid by the Secretary, but the Secretary may pay*
 13 *amounts for depreciation the Secretary considers reasonable and other*
 14 *amounts the court considers just. The payment of operating losses and*
 15 *the other amounts and compliance with terms imposed by the court shall*
 16 *be in satisfaction of any claim against the Secretary resulting from the*
 17 *operation of the vessel.*

18 “(3) *DEEMED OPERATION BY GOVERNMENT.—A vessel operated by the*
 19 *Secretary under this subsection is deemed to be a vessel operated by the*
 20 *United States under chapter 309 of this title.*

21 **“§ 50306. Requiring testimony and records in investigations**

22 “(a) *IN GENERAL.—In conducting an investigation that the Secretary of*
 23 *Transportation considers necessary and proper to carry out this subtitle, the*
 24 *Secretary may administer oaths, take evidence, and subpoena persons to tes-*
 25 *tify and produce documents relevant to the matter under investigation. Per-*
 26 *sons may be required to attend or produce documents from any place in the*
 27 *United States at any designated place of hearing.*

28 “(b) *FEEES AND MILEAGE.—Persons subpoenaed by the Secretary under sub-*
 29 *section (a) shall be paid the same fees and mileage paid to witnesses in the*
 30 *courts of the United States.*

31 “(c) *ENFORCEMENT OF SUBPOENAS.—If a person disobeys a subpoena*
 32 *issued under subsection (a), the Secretary may seek an order enforcing the*
 33 *subpoena from the district court of the United States for the district in which*
 34 *the person resides or does business. Process may be served in the judicial dis-*
 35 *trict in which the person resides or is found. The court may issue an order*
 36 *to obey the subpoena and punish a refusal to obey as a contempt of court.*

37 **“CHAPTER 505—OTHER GENERAL PROVISIONS**

“Sec.

“50501. *Entities deemed citizens of the United States.*

“50502. *Applicability to receivers, trustees, successors, and assigns.*

“50503. *Oceanographic research vessels.*

“50504. *Sailing school vessels.*

1 **“§ 50501. Entities deemed citizens of the United States**

2 “(a) *IN GENERAL.*—In this subtitle, a corporation, partnership, or associa-
3 tion is deemed to be a citizen of the United States only if the controlling in-
4 terest is owned by citizens of the United States. However, if the corporation,
5 partnership, or association is operating a vessel in the coastwise trade, at
6 least 75 percent of the interest must be owned by citizens of the United States.

7 “(b) *ADDITIONAL REQUIREMENTS FOR CORPORATIONS.*—In this subtitle, a
8 corporation is deemed to be a citizen of the United States only if, in addition
9 to satisfying the requirements in subsection (a)—

10 “(1) it is incorporated under the laws of the United States or a State;

11 “(2) its chief executive officer, by whatever title, and the chairman of
12 its board of directors are citizens of the United States; and

13 “(3) no more of its directors are noncitizens than a minority of the
14 number necessary to constitute a quorum.

15 “(c) *DETERMINATION OF CONTROLLING CORPORATE INTEREST.*—The con-
16 trolling interest in a corporation is owned by citizens of the United States
17 under subsection (a) only if—

18 “(1) title to the majority of the stock in the corporation is vested in
19 citizens of the United States free from any trust or fiduciary obligation
20 in favor of a person not a citizen of the United States;

21 “(2) the majority of the voting power in the corporation is vested in
22 citizens of the United States;

23 “(3) there is no contract or understanding by which the majority of
24 the voting power in the corporation may be exercised, directly or indi-
25 rectly, in behalf of a person not a citizen of the United States; and

26 “(4) there is no other means by which control of the corporation is
27 given to or permitted to be exercised by a person not a citizen of the
28 United States.

29 “(d) *DETERMINATION OF 75 PERCENT CORPORATE INTEREST.*—At least 75
30 percent of the interest in a corporation is owned by citizens of the United
31 States under subsection (a) only if—

32 “(1) title to at least 75 percent of the stock in the corporation is vested
33 in citizens of the United States free from any trust or fiduciary obliga-
34 tion in favor of a person not a citizen of the United States;

35 “(2) at least 75 percent of the voting power in the corporation is vest-
36 ed in citizens of the United States;

37 “(3) there is no contract or understanding by which more than 25 per-
38 cent of the voting power in the corporation may be exercised, directly
39 or indirectly, in behalf of a person not a citizen of the United States;
40 and

1 **“§51102. Definitions**

2 *“In this part:*

3 *“(1) ACADEMY.—The term ‘Academy’ means the United States Mer-*
 4 *chant Marine Academy located at Kings Point, New York, and main-*
 5 *tained under chapter 513 of this title.*

6 *“(2) COST OF EDUCATION PROVIDED.—The term ‘cost of education*
 7 *provided’ means the financial costs incurred by the United States Gov-*
 8 *ernment for providing training or financial assistance to students at the*
 9 *Academy and the State maritime academies, including direct financial*
 10 *assistance, room, board, classroom academics, and other training activi-*
 11 *ties.*

12 *“(3) MERCHANT MARINE OFFICER.—The term ‘merchant marine offi-*
 13 *cer’ means an individual issued a license by the Coast Guard author-*
 14 *izing service as—*

15 *“(A) a master, mate, or pilot on a documented vessel that—*

16 *“(i) is of at least 1,000 gross tons as measured under section*
 17 *14502 of this title or an alternate tonnage measured under sec-*
 18 *tion 14302 of this title as prescribed by the Secretary under*
 19 *section 14104 of this title; and*

20 *“(ii) operates on the oceans or the Great Lakes; or*

21 *“(B) an engineer officer on a documented vessel propelled by ma-*
 22 *chinery of at least 4,000 horsepower.*

23 *“(4) STATE MARITIME ACADEMY.—The term ‘State maritime academy’*
 24 *means—*

25 *“(A) a State maritime academy or college sponsored by a State*
 26 *and assisted under chapter 515 of this title; and*

27 *“(B) a regional maritime academy or college sponsored by a*
 28 *group of States and assisted under chapter 515 of this title.*

29 **“§51103. General authority of Secretary of Transportation**

30 *“(a) EDUCATION AND TRAINING.—The Secretary of Transportation may*
 31 *provide for the education and training of citizens of the United States for the*
 32 *safe and efficient operation of the merchant marine of the United States at*
 33 *all times, including operation as a naval and military auxiliary in time of*
 34 *war or national emergency.*

35 *“(b) SURPLUS PROPERTY FOR INSTRUCTIONAL PURPOSES.—*

36 *“(1) IN GENERAL.—The Secretary may cooperate with and assist the*
 37 *institutions named in paragraph (2) by making vessels, shipboard equip-*
 38 *ment, and other marine equipment, owned by the United States Govern-*
 39 *ment and determined to be excess or surplus, available to those institu-*
 40 *tions for instructional purposes, by gift, loan, sale, lease, or charter on*
 41 *terms the Secretary considers appropriate.*

“51311. *Midshipman status in the Naval Reserve.*

“51312. *Board of Visitors.*

“51313. *Advisory Board.*

“51314. *Limitation on charges and fees for attendance.*

1 **“§51301. Maintenance of the Academy**

2 *“The Secretary of Transportation shall maintain the United States Mer-*
3 *chant Marine Academy to provide instruction to individuals to prepare them*
4 *for service in the merchant marine of the United States.*

5 **“§51302. Nomination and competitive appointment of cadets**

6 *“(a) REQUIREMENTS.—An individual may be nominated for a competitive*
7 *appointment as a cadet at the United States Merchant Marine Academy only*
8 *if the individual—*

9 *“(1) is a citizen or national of the United States; and*

10 *“(2) meets the minimum requirements that the Secretary of Transpor-*
11 *tation shall establish.*

12 *“(b) NOMINATORS.—Nominations for competitive appointments for the po-*
13 *sitions allocated under subsection (c) may be made as follows:*

14 *“(1) A Senator may nominate residents of the State represented by*
15 *that Senator.*

16 *“(2) A Member of the House of Representatives may nominate resi-*
17 *dents of the State in which the congressional district represented by that*
18 *Member is located.*

19 *“(3) A Delegate to the House of Representatives from the District of*
20 *Columbia, the Virgin Islands, Guam, or American Samoa may nominate*
21 *residents of the jurisdiction represented by that Delegate.*

22 *“(4) The Resident Commissioner to the United States from Puerto*
23 *Rico may nominate residents of Puerto Rico.*

24 *“(5) The Governor of the Northern Mariana Islands may nominate*
25 *residents of the Northern Mariana Islands.*

26 *“(6) The Panama Canal Commission may nominate—*

27 *“(A) residents, or sons or daughters of residents, of an area or*
28 *installation in Panama and made available to the United States*
29 *under the Panama Canal Treaty of 1977, the agreements relating*
30 *to and implementing that Treaty, signed September 7, 1977, and*
31 *the Agreement Between the United States of America and the Re-*
32 *public of Panama Concerning Air Traffic Control and Related*
33 *Services, concluded January 8, 1979; and*

34 *“(B) sons or daughters of personnel of the United States Govern-*
35 *ment and the Panama Canal Commission residing in Panama.*

36 *“(c) ALLOCATION OF POSITIONS.—Positions for competitive appointments*
37 *shall be allocated each year as follows:*

1 “(1) Positions shall be allocated for residents of each State nominated
2 by the Members of Congress from that State in proportion to the rep-
3 resentation in Congress from that State.

4 “(2) Four positions shall be allocated for residents of the District of
5 Columbia nominated by the Delegate to the House of Representatives
6 from the District of Columbia.

7 “(3) One position each shall be allocated for residents of the Virgin
8 Islands, Guam, and American Samoa nominated by the Delegates to the
9 House of Representatives from the Virgin Islands, Guam, and American
10 Samoa, respectively.

11 “(4) One position shall be allocated for a resident of Puerto Rico nom-
12 inated by the Resident Commissioner to the United States from Puerto
13 Rico.

14 “(5) One position shall be allocated for a resident of the Northern
15 Mariana Islands nominated by the Governor of the Northern Mariana
16 Islands.

17 “(6) Two positions shall be allocated for individuals nominated by the
18 Panama Canal Commission.

19 “(d) COMPETITIVE SYSTEM FOR APPOINTMENT.—

20 “(1) ESTABLISHMENT OF SYSTEM.—The Secretary shall establish a
21 competitive system for selecting individuals nominated under subsection
22 (b) to fill the positions allocated under subsection (c). The system must
23 determine the relative merit of each individual based on competitive ex-
24 aminations, an assessment of the individual’s academic background, and
25 other effective indicators of motivation and probability of successful com-
26 pletion of training at the Academy.

27 “(2) APPOINTMENTS BY JURISDICTION.—The Secretary shall appoint
28 individuals to fill the positions allocated under subsection (c) for each
29 jurisdiction in the order of merit of the individuals nominated from that
30 jurisdiction.

31 “(3) REMAINING UNFILLED POSITIONS.—If positions remain unfilled
32 after the appointments are made under paragraph (2), the Secretary
33 shall appoint individuals to fill the positions in the order of merit of
34 the remaining individuals nominated from all jurisdictions.

35 **“§51303. Non-competitive appointments**

36 “The Secretary of Transportation may appoint each year without competi-
37 tion as cadets at the United States Merchant Marine Academy not more than
38 40 qualified individuals with qualities the Secretary considers to be of special
39 value to the Academy. In making these appointments, the Secretary shall try
40 to achieve a national demographic balance at the Academy.

1 **“§51304. Additional appointments from particular areas**

2 “(a) *OTHER COUNTRIES IN WESTERN HEMISPHERE.*—*The President may*
 3 *appoint individuals from countries in the Western Hemisphere other than the*
 4 *United States to receive instruction at the United States Merchant Marine*
 5 *Academy. Not more than 12 individuals may receive instruction under this*
 6 *subsection at the same time, and not more than 2 individuals from the same*
 7 *country may receive instruction under this subsection at the same time.*

8 “(b) *OTHER COUNTRIES GENERALLY.*—

9 “(1) *APPOINTMENT.*—*The Secretary of Transportation, with the ap-*
 10 *proval of the Secretary of State, may appoint individuals from countries*
 11 *other than the United States to receive instruction at the Academy. Not*
 12 *more than 30 individuals may receive instruction under this subsection*
 13 *at the same time.*

14 “(2) *REIMBURSEMENT.*—*The Secretary of Transportation shall ensure*
 15 *that the country from which an individual comes under this subsection*
 16 *will reimburse the Secretary for the cost (as determined by the Secretary)*
 17 *of the instruction and allowances received by the individual.*

18 “(c) *PANAMA.*—

19 “(1) *APPOINTMENT.*—*The Secretary of Transportation, with the ap-*
 20 *proval of the Secretary of State, may appoint individuals from Panama*
 21 *to receive instruction at the Academy. Individuals appointed under this*
 22 *subsection are in addition to those appointed under any other provision*
 23 *of this chapter.*

24 “(2) *REIMBURSEMENT.*—*The Secretary of Transportation shall be re-*
 25 *imbursed for the cost (as determined by the Secretary) of the instruction*
 26 *and allowances received by an individual appointed under this sub-*
 27 *section.*

28 “(d) *ALLOWANCES AND REGULATIONS.*—*Individuals receiving instruction*
 29 *under this section are entitled to the same allowances and are subject to the*
 30 *same regulations on admission, attendance, discipline, resignation, discharge,*
 31 *dismissal, and graduation, as cadets at the Academy appointed from the*
 32 *United States.*

33 **“§51305. Prohibited basis for appointment**

34 “*Preference may not be given to an individual for appointment as a cadet*
 35 *at the United States Merchant Marine Academy because one or more members*
 36 *of the individual’s immediate family are alumni of the Academy.*

37 **“§51306. Cadet commitment agreements**

38 “(a) *AGREEMENT REQUIREMENTS.*—*A citizen of the United States ap-*
 39 *pointed as a cadet at the United States Merchant Marine Academy must sign,*
 40 *as a condition of the appointment, an agreement to—*

41 “(1) *complete the course of instruction at the Academy;*

1 “(2) fulfill the requirements for a license as an officer in the merchant
2 marine of the United States before graduation from the Academy;

3 “(3) maintain a valid license as an officer in the merchant marine
4 of the United States for at least 6 years after graduation from the Acad-
5 emy, accompanied by the appropriate national and international en-
6 dorsements and certification required by the Coast Guard for service
7 aboard vessels on domestic and international voyages;

8 “(4) apply for, and accept if tendered, an appointment as a commis-
9 sioned officer in the Naval Reserve (including the Merchant Marine Re-
10 serve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit
11 of an armed force of the United States, and, if tendered the appointment,
12 to serve for at least 6 years after graduation from the Academy;

13 “(5) serve the foreign and domestic commerce and the national defense
14 of the United States for at least 5 years after graduation from the Acad-
15 emy—

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

19 “(B) as an employee in a United States maritime-related indus-
20 try, profession, or marine science (as determined by the Secretary
21 of Transportation), if the Secretary determines that service under
22 subparagraph (A) is not available to the individual;

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

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

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

31 “(b) FAILURE TO COMPLETE COURSE OF INSTRUCTION.—

32 “(1) ACTIVE DUTY.—If the Secretary of Transportation determines
33 that an individual who has attended the Academy for at least 2 years
34 has failed to fulfill the part of the agreement described in subsection
35 (a)(1), the individual may be ordered by the Secretary of Defense to serve
36 on active duty in one of the armed forces of the United States for a pe-
37 riod of not more than 2 years. In cases of hardship as determined by
38 the Secretary of Transportation, the Secretary of Transportation may
39 waive this paragraph in whole or in part.

40 “(2) RECOVERY OF COST.—If the Secretary of Defense is unable or un-
41 willing to order an individual to serve on active duty under paragraph

1 (1), or if the Secretary of Transportation determines that reimbursement
2 of the cost of education provided would better serve the interests of the
3 United States, the Secretary of Transportation may recover from the in-
4 dividual the cost of education provided by the Government.

5 “(c) *FAILURE TO CARRY OUT OTHER REQUIREMENTS.*—

6 “*(1) ACTIVE DUTY.*—If the Secretary of Transportation determines
7 that an individual has failed to fulfill any part of the agreement de-
8 scribed in subsection (a)(2)–(6), the individual may be ordered to serve
9 on active duty for a period of at least 3 years but not more than the
10 unexpired period (as determined by the Secretary) of the service required
11 by subsection (a)(5). The Secretary of Transportation, in consultation
12 with the Secretary of Defense, shall determine in which service the indi-
13 vidual shall serve. In cases of hardship as determined by the Secretary
14 of Transportation, the Secretary of Transportation may waive this para-
15 graph in whole or in part.

16 “*(2) RECOVERY OF COST.*—If the Secretary of Defense is unable or un-
17 willing to order an individual to serve on active duty under paragraph
18 (1), or if the Secretary of Transportation determines that reimbursement
19 of the cost of education provided would better serve the interests of the
20 United States, the Secretary of Transportation may recover from the in-
21 dividual the cost of education provided. The Secretary may reduce the
22 amount to be recovered to reflect partial performance of service obliga-
23 tions and other factors the Secretary determines merit a reduction.

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

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

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

31 **“§51307. Places of training**

32 “*The Secretary of Transportation may provide for the training of cadets*
33 *at the United States Merchant Marine Academy—*

34 “(1) on vessels owned or subsidized by the United States Government;

35 “(2) on other documented vessels, with the permission of the owner;
36 and

37 “(3) in shipyards or plants and with industrial or educational organi-
38 zations.

1 **“§51308. Uniforms, textbooks, and transportation allow-**
 2 **ances**

3 *“The Secretary of Transportation shall provide cadets at the United States*
 4 *Merchant Marine Academy—*

5 *“(1) all required uniforms and textbooks; and*

6 *“(2) allowances for transportation (including reimbursement of trav-*
 7 *eling expenses) when traveling under orders as a cadet.*

8 **“§51309. Academic degree**

9 *“(a) BACHELOR’S DEGREE.—*

10 *“(1) IN GENERAL.—The Superintendent of the United States Merchant*
 11 *Marine Academy may confer the degree of bachelor of science on an indi-*
 12 *vidual who—*

13 *“(A) has met the conditions prescribed by the Secretary of Trans-*
 14 *portation; and*

15 *“(B) if a citizen of the United States, has passed the examination*
 16 *for a merchant marine officer’s license.*

17 *“(2) EFFECT OF PHYSICAL DISQUALIFICATION.—An individual not al-*
 18 *lowed to take the examination for a merchant marine officer’s license*
 19 *only because of physical disqualification may not be denied a degree for*
 20 *not taking the examination.*

21 *“(b) MASTER’S DEGREE.—The Superintendent of the Academy may confer*
 22 *a master’s degree on an individual who has met the conditions prescribed by*
 23 *the Secretary. A master’s degree program may be funded through non-appro-*
 24 *propriated funds. To maintain the appropriate academic standards, the program*
 25 *shall be accredited by the appropriate accreditation body. The Secretary may*
 26 *prescribe regulations necessary to administer such a program.*

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

30 **“§51310. Deferment of service obligation under cadet com-**
 31 **mitment agreements**

32 *“The Secretary of Transportation may defer the service commitment of an*
 33 *individual under section 51306(a)(5) of this title (as specified in the cadet*
 34 *commitment agreement) for not more than 2 years if the individual is en-*
 35 *gaged in a graduate course of study approved by the Secretary. However,*
 36 *deferment of service as a commissioned officer under section 51306(a)(5) must*
 37 *be approved by the Secretary of the military department that has jurisdiction*
 38 *over the service or by the Secretary of Commerce for service with the National*
 39 *Oceanic and Atmospheric Administration.*

1 **“§51311. Midshipman status in the Naval Reserve**

2 “(a) *APPLICATION REQUIREMENT.*—Before being appointed as a cadet at
3 the United States Merchant Marine Academy, a citizen of the United States
4 must agree to apply for midshipman status in the Naval Reserve (including
5 the Merchant Marine Reserve, Naval Reserve).

6 “(b) *APPOINTMENT.*—

7 “(1) *IN GENERAL.*—A citizen of the United States appointed as a
8 cadet at the Academy shall be appointed by the Secretary of the Navy
9 as a midshipman in the Naval Reserve (including the Merchant Marine
10 Reserve, Naval Reserve).

11 “(2) *RIGHTS AND PRIVILEGES.*—The Secretary of the Navy shall pro-
12 vide for cadets of the Academy who are midshipmen in the United States
13 Naval Reserve to be—

14 “(A) issued an identification card (referred to as a ‘military ID
15 card’); and

16 “(B) entitled to all rights and privileges in accordance with the
17 same eligibility criteria as apply to other members of the Ready Re-
18 serve of the reserve components of the armed forces.

19 “(3) *COORDINATION.*—The Secretary of the Navy shall carry out para-
20 graphs (1) and (2) in coordination with the Secretary of Transportation.

21 **“§51312. Board of Visitors**

22 “(a) *IN GENERAL.*—A Board of Visitors to the United States Merchant Ma-
23 rine Academy shall be established, for a term of 2 years commencing at the
24 beginning of each Congress, to visit the Academy annually on a date deter-
25 mined by the Secretary of Transportation and to make recommendations on
26 the operation of the Academy.

27 “(b) *APPOINTMENT.*—

28 “(1) *IN GENERAL.*—The Board shall be composed of—

29 “(A) 2 Senators appointed by the chairman of the Committee on
30 Commerce, Science, and Transportation of the Senate;

31 “(B) 3 Members of the House of Representatives appointed by the
32 chairman of the Committee on Armed Services of the House of Rep-
33 resentatives;

34 “(C) 1 Senator appointed by the Vice President;

35 “(D) 2 Members of the House of Representatives appointed by the
36 Speaker of the House of Representatives; and

37 “(E) the chairmen of the Committee on Commerce, Science, and
38 Transportation of the Senate and the Committee on Armed Services
39 of the House of Representatives, as *ex officio* members.

40 “(2) *SUBSTITUTE APPOINTMENT.*—If an appointed member of the
41 Board is unable to visit the Academy as provided in subsection (a), an-

1 *other individual may be appointed as a substitute in the manner pro-*
 2 *vided in paragraph (1).*

3 “(c) *STAFF.*—*The chairmen of the Committee on Commerce, Science, and*
 4 *Transportation of the Senate and the Committee on Armed Services of the*
 5 *House of Representatives may designate staff members of their committees to*
 6 *serve without reimbursement as staff for the Board.*

7 “(d) *TRAVEL EXPENSES.*—*When serving away from home or regular place*
 8 *of business, a member of the Board or a staff member designated under sub-*
 9 *section (c) shall be allowed travel expenses, including per diem in lieu of sub-*
 10 *sistence, as authorized by section 5703 of title 5.*

11 **“§51313. Advisory Board**

12 “(a) *IN GENERAL.*—*An Advisory Board to the United States Merchant Ma-*
 13 *rine Academy shall be established to visit the Academy at least once during*
 14 *each academic year, for the purpose of examining the course of instruction*
 15 *and management of the Academy and advising the Maritime Administrator*
 16 *and the Superintendent of the Academy.*

17 “(b) *APPOINTMENT AND TERMS.*—*The Board shall be composed of not more*
 18 *than 7 individuals appointed by the Secretary of Transportation. The indi-*
 19 *viduals must be distinguished in education and other fields related to the*
 20 *Academy. Members of the Board shall be appointed for terms of not more than*
 21 *3 years and may be reappointed. The Secretary shall designate one of the*
 22 *members as chairman.*

23 “(c) *TRAVEL EXPENSES.*—*When serving away from home or regular place*
 24 *of business, a member of the Board shall be allowed travel expenses, including*
 25 *per diem in lieu of subsistence, as authorized by section 5703 of title 5.*

26 “(d) *RELATIONSHIP TO OTHER LAW.*—*The Federal Advisory Committee*
 27 *Act (5 App. U.S.C.) does not apply to the Board.*

28 **“§51314. Limitation on charges and fees for attendance**

29 “(a) *PROHIBITION.*—*Except as provided in subsection (b), no charge or fee*
 30 *for tuition, room, or board for attendance at the United States Merchant Ma-*
 31 *rine Academy may be imposed unless the charge or fee is specifically author-*
 32 *ized by a law enacted after October 5, 1994.*

33 “(b) *EXCEPTION.*—*The prohibition specified in subsection (a) does not*
 34 *apply with respect to any item or service provided to cadets for which a*
 35 *charge or fee is imposed as of October 5, 1994. The Secretary of Transpor-*
 36 *tation shall notify Congress of any change made by the Academy in the*
 37 *amount of a charge or fee authorized under this subsection.*

38 **“CHAPTER 515—STATE MARITIME ACADEMY SUPPORT**
 39 **PROGRAM**

“Sec.

“51501. General support program.

“51502. Detailing of personnel.

“51503. *Regional maritime academies.*

“51504. *Use of training vessels.*

“51505. *Annual payments for maintenance and support.*

“51506. *Conditions to receiving payments and use of vessels.*

“51507. *Places of training.*

“51508. *Allowances for students.*

“51509. *Student incentive payment agreements.*

“51510. *Deferment of service obligation under student incentive payment agreements.*

“51511. *Midshipman status in the Naval Reserve.*

1 **“§51501. General support program**

2 “(a) ASSISTANCE TO STATE MARITIME ACADEMIES.—The Secretary of
3 Transportation shall cooperate with and assist State maritime academies in
4 providing instruction to individuals to prepare them for service in the mer-
5 chant marine of the United States.

6 “(b) COURSE DEVELOPMENT.—The Secretary shall provide to each State
7 maritime academy guidance and assistance in developing courses on the oper-
8 ation and maintenance of new vessels, on equipment, and on innovations
9 being introduced to the merchant marine of the United States.

10 **“§51502. Detailing of personnel**

11 “*At the request of the Governor of a State, the President may detail, with-*
12 *out reimbursement, personnel of the Navy, the Coast Guard, and the Maritime*
13 *Service to a State maritime academy to serve as a superintendent, professor,*
14 *lecturer, or instructor at the academy.*

15 **“§51503. Regional maritime academies**

16 “*The Governors of the States cooperating to sponsor a regional maritime*
17 *academy shall designate in writing one of those States to conduct the affairs*
18 *of that academy. A regional maritime academy is eligible for assistance from*
19 *the United States Government on the same basis as a State maritime acad-*
20 *emy sponsored by a single State.*

21 **“§51504. Use of training vessels**

22 “(a) APPLICATIONS TO USE VESSELS.—The Governor of a State spon-
23 soring a State maritime academy (or the Governor of the State designated
24 to conduct the affairs of a regional maritime academy) may apply in writing
25 to the Secretary of Transportation to obtain the use of a training vessel for
26 the academy. A vessel provided under this section remains the property of the
27 United States Government.

28 “(b) GENERAL AUTHORITY.—Subject to subsection (c), the Secretary may
29 provide to a State maritime academy, for use as a training vessel, a suitable
30 vessel under the control of the Secretary or made available to the Secretary
31 under subsection (e). If a suitable vessel is not available, the Secretary may
32 build and provide a suitable vessel.

33 “(c) APPROVAL REQUIREMENTS.—The Secretary may provide a vessel
34 under this section only if—

35 “(1) an application has been made under subsection (a);

1 “(2) *the State maritime academy satisfies section 51506(a) of this*
2 *title; and*

3 “(3) *a suitable port will be available for the safe mooring of the vessel*
4 *while the academy is using the vessel.*

5 “(d) *PREPARATION AND MAINTENANCE.—A vessel provided under this sec-*
6 *tion shall be—*

7 “(1) *repaired, reconditioned, and equipped (with all apparel, charts,*
8 *books, and instruments of navigation) as necessary for use as a training*
9 *vessel; and*

10 “(2) *maintained in good repair by the Secretary.*

11 “(e) *AGENCY VESSELS.—An agency may provide to the Secretary, for use*
12 *by a State maritime academy, a vessel (including equipment) that—*

13 “(1) *is suitable for training purposes; and*

14 “(2) *can be provided without detriment to the service to which the ves-*
15 *sel is assigned.*

16 “(f) *FUEL COSTS.—The Secretary may pay to a State maritime academy*
17 *the costs of fuel used by a vessel provided under this section while used for*
18 *training.*

19 “(g) *REMOVING VESSELS FROM SERVICE AND VESSEL SHARING.—The Sec-*
20 *retary may not—*

21 “(1) *take a vessel, currently in use as a training vessel under this sec-*
22 *tion, out of service to implement an alternative program (including ves-*
23 *sel sharing) unless the vessel is incapable of being maintained in good*
24 *repair as required by subsection (d); or*

25 “(2) *implement a program requiring a State maritime academy to*
26 *share its training vessel with another State maritime academy, except*
27 *with the express consent of Congress.*

28 **“§51505. Annual payments for maintenance and support**

29 “(a) *PAYMENT AGREEMENTS.—The Secretary of Transportation may make*
30 *an agreement (effective for not more than 4 years) with the following acad-*
31 *emies to provide annual payments to those academies for their maintenance*
32 *and support:*

33 “(1) *One State maritime academy in each State that satisfies section*
34 *51506(a) of this title.*

35 “(2) *Each regional maritime academy that satisfies section 51506(a)*
36 *of this title.*

37 “(b) *PAYMENTS.—*

38 “(1) *IN GENERAL.—Subject to paragraph (2), an annual payment to*
39 *an academy under subsection (a) shall be at least equal to the amount*
40 *given to the academy for its maintenance and support by the State in*

1 *which it is located, or, for a regional maritime academy, by all States*
 2 *cooperating to sponsor the academy.*

3 “(2) *MAXIMUM.—The amount under paragraph (1) may not be more*
 4 *than \$25,000. However, if the academy satisfies section 51506(b) of this*
 5 *title, the amount shall be—*

6 “(A) *\$100,000 for a State maritime academy; and*

7 “(B) *\$200,000 for a regional maritime academy.*

8 **“§51506. Conditions to receiving payments and use of vessels**

9 “(a) *GENERAL CONDITIONS.—As conditions of receiving an annual pay-*
 10 *ment or the use of a vessel under this chapter, a State maritime academy*
 11 *must—*

12 “(1) *provide courses of instruction on navigation, marine engineering*
 13 *(including steam and diesel propulsion), the operation and maintenance*
 14 *of new vessels and equipment, and innovations being introduced to the*
 15 *merchant marine of the United States;*

16 “(2) *agree in writing to conform to the standards for courses, training*
 17 *facilities, admissions, and instruction that the Secretary of Transporta-*
 18 *tion may establish after consultation with the superintendents of State*
 19 *maritime academies; and*

20 “(3) *agree in writing to require, as a condition for graduation, that*
 21 *each individual who is a citizen of the United States and who is attend-*
 22 *ing the academy in a merchant marine officer preparation program pass*
 23 *the examination required for the issuance of a license under section 7101*
 24 *of this title.*

25 “(b) *ADDITIONAL CONDITION TO PAYMENTS OF MORE THAN \$25,000.—As*
 26 *a condition of receiving an annual payment of more than \$25,000 under sec-*
 27 *tion 51505 of this title, a State maritime academy also must agree to admit*
 28 *each year a number of citizens of the United States who meet its admission*
 29 *requirements and reside in a State not supporting that academy. The Sec-*
 30 *retary shall determine the number of individuals to be admitted by each acad-*
 31 *emy under this subsection. The number may not be more than one-third of*
 32 *the total number of individuals attending the academy at any time.*

33 **“§51507. Places of training**

34 “*The Secretary of Transportation may provide for the training of students*
 35 *attending a State maritime academy—*

36 “(1) *on vessels owned or subsidized by the United States Government;*

37 “(2) *on other documented vessels, with the permission of the owner;*
 38 *and*

39 “(3) *in shipyards or plants and with industrial or educational organi-*
 40 *zations.*

1 **“§ 51508. Allowances for students**

2 “Under regulations prescribed by the Secretary of Transportation, a stu-
3 dent at a State maritime academy shall receive from the Secretary allowances
4 for transportation (including reimbursement of traveling expenses) when trav-
5 eling under orders to receive training under section 51507 of this title.

6 **“§ 51509. Student incentive payment agreements**

7 “(a) GENERAL AUTHORITY.—If a State maritime academy has an agree-
8 ment with the Secretary of Transportation under section 51505 of this title,
9 the Secretary may make an agreement with a student at the academy who
10 is a citizen of the United States to make student incentive payments to the
11 individual. An agreement with a student may not be effective for more than
12 4 academic years. The Secretary shall allocate payments under this section
13 among the various State maritime academies in an equitable manner.

14 “(b) PAYMENTS.—Payments under an agreement under this section shall
15 be equal to \$4,000 each academic year and be paid, as prescribed by the Sec-
16 retary, while the individual is attending the academy. The payments shall be
17 used for uniforms, books, and subsistence.

18 “(c) MIDSHIPMAN AND ENLISTED RESERVE STATUS.—An agreement under
19 this section shall require the student to accept midshipman and enlisted re-
20 serve status in the Naval Reserve (including the Merchant Marine Reserve,
21 Naval Reserve) before receiving any payments under the agreement.

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

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

26 “(2) take the examination for a license as an officer in the merchant
27 marine of the United States before graduation from the academy and ful-
28 fill the requirements for such a license within 3 months after graduation
29 from the academy;

30 “(3) maintain a valid license as an officer in the merchant marine
31 of the United States for at least 6 years after graduation from the acad-
32 emy, accompanied by the appropriate national and international en-
33 dorsements and certification required by the Coast Guard for service
34 aboard vessels on domestic and international voyages;

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

1 “(5) *serve the foreign and domestic commerce and the national defense*
2 *of the United States for at least 3 years after graduation from the acad-*
3 *emy—*

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

7 “(B) *as an employee in a United States maritime-related indus-*
8 *try, profession, or marine science (as determined by the Secretary),*
9 *if the Secretary determines that service under subparagraph (A) is*
10 *not available to the individual;*

11 “(C) *as a commissioned officer on active duty in an armed force*
12 *of the United States, as a commissioned officer in the National Oce-*
13 *anic and Atmospheric Administration, or in other maritime-related*
14 *Federal employment which serves the national security interests of*
15 *the United States, as determined by the Secretary; or*

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

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

19 “(e) *FAILURE TO COMPLETE COURSE OF INSTRUCTION.—*

20 “(1) *ACTIVE DUTY.—If the Secretary of Transportation determines*
21 *that an individual who has accepted the payments described in sub-*
22 *section (b) for a minimum of 2 academic years has failed to fulfill the*
23 *part of the agreement described in subsection (d)(1), the individual may*
24 *be ordered by the Secretary of Defense to serve on active duty in the*
25 *armed forces of the United States for a period of not more than 2 years.*
26 *In cases of hardship as determined by the Secretary of Transportation,*
27 *the Secretary of Transportation may waive this paragraph in whole or*
28 *in part.*

29 “(2) *RECOVERY OF COST.—If the Secretary of Defense is unable or un-*
30 *willing to order an individual to serve on active duty under paragraph*
31 *(1), or if the Secretary of Transportation determines that reimbursement*
32 *of the cost of education provided would better serve the interests of the*
33 *United States, the Secretary of Transportation may recover from the in-*
34 *dividual the amount of student incentive payments, plus interest and at-*
35 *torney fees. The Secretary may reduce the amount to be recovered to re-*
36 *fect partial performance of service obligations and other factors the Sec-*
37 *retary determines merit a reduction.*

38 “(f) *FAILURE TO CARRY OUT OTHER REQUIREMENTS.—*

39 “(1) *ACTIVE DUTY.—If the Secretary of Transportation determines*
40 *that an individual has failed to fulfill any part of the agreement de-*
41 *scribed in subsection (d)(2)–(6), the individual may be ordered to serve*

1 *on active duty for a period of at least 2 years but not more than the*
 2 *unexpired period (as determined by the Secretary) of the service required*
 3 *by subsection (d)(5). The Secretary of Transportation, in consultation*
 4 *with the Secretary of Defense, shall determine in which service the indi-*
 5 *vidual shall serve. In cases of hardship as determined by the Secretary*
 6 *of Transportation, the Secretary of Transportation may waive this para-*
 7 *graph in whole or in part.*

8 *“(2) RECOVERY OF COST.—If the Secretary of Defense is unable or un-*
 9 *willing to order an individual to serve on active duty under paragraph*
 10 *(1), or if the Secretary of Transportation determines that reimbursement*
 11 *of the cost of education provided would better serve the interests of the*
 12 *United States, the Secretary of Transportation may recover from the in-*
 13 *dividual the amount of student incentive payments, plus interest and at-*
 14 *torney fees. The Secretary may reduce the amount to be recovered to re-*
 15 *flect partial performance of service obligations and other factors the Sec-*
 16 *retary determines merit a reduction.*

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

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

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

24 **“§51510. Deferment of service obligation under student in-**
 25 ***centive payment agreements***

26 *“The Secretary of Transportation may defer the service commitment of an*
 27 *individual under section 51509(d)(5) of this title (as specified in the agree-*
 28 *ment under section 51509) for not more than 2 years if the individual is en-*
 29 *gaged in a graduate course of study approved by the Secretary. However,*
 30 *deferment of service as a commissioned officer on active duty must be ap-*
 31 *proved by the Secretary of the affected military department (or the Secretary*
 32 *of Commerce, for service with the National Oceanic and Atmospheric Admin-*
 33 *istration).*

34 **“§51511. Midshipman status in the Naval Reserve**

35 *“A citizen of the United States attending a State maritime academy may*
 36 *be appointed by the Secretary of the Navy as a midshipman in the Naval*
 37 *Reserve (including the Merchant Marine Reserve, Naval Reserve).*

38 **“CHAPTER 517—OTHER SUPPORT FOR MERCHANT**
 39 ***MARINE TRAINING***

“Sec.

“51701. *United States Maritime Service.*

“51702. *Civilian nautical schools.*

“51703. *Additional training.*

“51704. *Training for maritime oil pollution prevention, response, and clean-up.*

1 **“§51701. *United States Maritime Service***

2 “(a) *GENERAL AUTHORITY.—The Secretary of Transportation may estab-*
3 *lish and maintain a voluntary organization, to be known as the United*
4 *States Maritime Service, for the training of citizens of the United States to*
5 *serve on merchant vessels of the United States.*

6 “(b) *SPECIFIC AUTHORITY.—The Secretary may—*

7 “(1) *determine the number of individuals to be enrolled for training*
8 *and reserve purposes in the Service;*

9 “(2) *fix the rates of pay and allowances of the individuals without re-*
10 *gard to chapter 51 or subchapter III of chapter 53 of title 5;*

11 “(3) *prescribe the course of study and the periods of training for the*
12 *Service; and*

13 “(4) *prescribe the uniform of the Service and the rules on providing*
14 *and wearing the uniform.*

15 “(c) *RANKS, GRADES, AND RATINGS.—The ranks, grades, and ratings for*
16 *personnel of the Service shall be the same as those prescribed for personnel*
17 *of the Coast Guard.*

18 “(d) *MEDALS AND AWARDS.—The Secretary may establish and maintain*
19 *a medals and awards program to recognize distinguished service, superior*
20 *achievement, professional performance, and other commendable achievement*
21 *by personnel of the Service.*

22 **“§51702. *Civilian nautical schools***

23 “(a) *DEFINITION.—In this section, the term ‘civilian nautical school’*
24 *means a school operated in the United States (except the United States Mer-*
25 *chant Marine Academy, a State maritime academy, or another school oper-*
26 *ated by the United States Government) that offers instruction to individuals*
27 *quartered on a vessel primarily to train them for service in the merchant ma-*
28 *rine.*

29 “(b) *INSPECTION.—Each civilian nautical school is subject to inspection by*
30 *the Secretary of Transportation.*

31 “(c) *RATING AND CERTIFICATION.—The Secretary may, under regulations*
32 *the Secretary may prescribe, provide for the rating and certification of civil-*
33 *ian nautical schools as to the adequacy of their course of instruction, the com-*
34 *petence of their instructors, and the suitability of the equipment used in their*
35 *course of instruction.*

36 **“§51703. *Additional training***

37 “(a) *GENERAL AUTHORITY.—The Secretary of Transportation may provide*
38 *additional training on maritime subjects to supplement other training oppor-*
39 *tunities and make the training available to the personnel of the merchant ma-*

1 *rine of the United States and individuals preparing for a career in the mer-*
 2 *chant marine of the United States.*

3 “(b) *EQUIPMENT, SUPPLIES, AND CONTRACTS.*—*The Secretary may—*

4 “(1) *prepare or buy equipment or supplies required for the additional*
 5 *training; and*

6 “(2) *without regard to section 3709 of the Revised Statutes (41 U.S.C.*
 7 *5), make contracts for services the Secretary considers necessary to pre-*
 8 *pare the equipment and supplies and to supervise and administer the*
 9 *additional training.*

10 **“§51704. *Training for maritime oil pollution prevention, re-***
 11 ***sponse, and clean-up***

12 “(a) *ASSISTANCE IN ESTABLISHING PROGRAM.*—*The Secretary of Trans-*
 13 *portation shall assist maritime training institutions approved by the Sec-*
 14 *retary in establishing a training program for maritime oil pollution preven-*
 15 *tion, response, and clean-up.*

16 “(b) *PROVIDING TRAINING VESSELS.*—*Subject to subsection (c), the Sec-*
 17 *retary may provide, with title free of all liens, to maritime training institu-*
 18 *tions that have a program established under subsection (a), offshore supply*
 19 *vessels and tug/supply vessels that were built in the United States and are*
 20 *in the possession of the Maritime Administration because of a default on a*
 21 *loan guaranteed under chapter 537 of this title.*

22 “(c) *REQUIREMENTS.*—*In addition to any other requirements the Secretary*
 23 *considers appropriate, the following requirements apply to vessels provided*
 24 *under this section:*

25 “(1) *The vessel shall be offered to the institution at a location selected*
 26 *by the Secretary.*

27 “(2) *The institution shall use the vessel to train students and appro-*
 28 *priate maritime industry personnel in oil spill prevention, response,*
 29 *clean-up, and related skills.*

30 “(3) *The institution shall make the vessel and qualified students avail-*
 31 *able to appropriate Federal, State, and local oil spill response authorities*
 32 *when there is a maritime oil spill.*

33 “(4) *The institution may not sell, trade, charter, donate, scrap, or in*
 34 *any way alter or dispose of the vessel without prior approval of the Sec-*
 35 *retary.*

36 “(5) *The institution may not use the vessel in competition with a pri-*
 37 *vately-owned vessel documented under chapter 121 of this title or titled*
 38 *under the law of a State, unless necessary to carry out this section.*

39 “(6) *When the institution can no longer use the vessel for its training*
 40 *program, the institution shall return the vessel to the Secretary. The Sec-*

1 retary shall take possession at the institution and thereafter may provide
2 the vessel to another institution under this section or dispose of the vessel.

3 **“CHAPTER 519—MERCHANT MARINE AWARDS**

“Sec.

“51901. Awards for individual acts or service.

“51902. Gallant Ship Award.

“51903. Multiple awards.

“51904. Presentation to representatives.

“51905. Flags and grave markers.

“51906. Special certificates for civilian service to armed forces.

“51907. Manufacture and sale of awards and replacements.

“51908. Prohibition against unauthorized manufacture, sale, possession, or display of awards.

4 **“§51901. Awards for individual acts or service**

5 “(a) GENERAL AUTHORITY.—The Secretary of Transportation may award
6 decorations and medals of appropriate design (including ribbons, ribbon bars,
7 emblems, rosettes, miniature facsimiles, plaques, citations, or other suitable
8 devices or insignia) for individual acts or service in the merchant marine of
9 the United States. The design may be similar to the design of a decoration
10 or medal authorized for members of the armed forces for similar acts or serv-
11 ice.

12 “(b) SPECIFIC AUTHORITY.—The Secretary may award—

13 “(1) a Merchant Marine Distinguished Service Medal to an individual
14 for outstanding acts, conduct, or valor beyond the line of duty;

15 “(2) a Merchant Marine Meritorious Service Medal to an individual
16 for meritorious acts, conduct, or valor in the line of duty, but not of the
17 outstanding character that would warrant the award of the Merchant
18 Marine Distinguished Service Medal;

19 “(3) a decoration or medal to an individual for service during a war,
20 national emergency proclaimed by the President or Congress, or oper-
21 ations by the armed forces outside the continental United States under
22 conditions of danger to life and property; and

23 “(4) a decoration or medal to an individual for other acts or service
24 of conspicuous gallantry, intrepidity, and extraordinary heroism under
25 conditions of danger to life and property that would warrant a similar
26 decoration or medal for a member of the armed forces.

27 **“§51902. Gallant Ship Award**

28 “(a) AWARDS TO VESSELS.—The Secretary of Transportation may award
29 a Gallant Ship Award and a citation to a vessel (including a foreign vessel)
30 participating in outstanding or gallant action in a marine disaster or other
31 emergency to save life or property at sea. The Secretary may award a plaque
32 to the vessel, and a replica of the plaque may be preserved as a permanent
33 historical record.

1 “(b) *AWARDS TO CREWS.*—*The Secretary of Transportation may award an*
 2 *appropriate citation ribbon bar to the master and each individual serving,*
 3 *at the time of the action, on a vessel issued an award under subsection (a).*

4 “(c) *CONSULTATION.*—*The Secretary of Transportation shall consult with*
 5 *the Secretary of State before awarding an award or citation to a foreign ves-*
 6 *sel or its crew under this section.*

7 **“§51903. Multiple awards**

8 *“An individual may not be awarded more than one of any type of decora-*
 9 *tion or medal under this chapter. For each succeeding act or service justifying*
 10 *the same decoration or medal, a suitable device may be awarded to be worn*
 11 *with the decoration or medal.*

12 **“§51904. Presentation to representatives**

13 *“If an individual to be issued an award under this chapter is unable to*
 14 *accept the award personally, the Secretary of Transportation may present the*
 15 *award to an appropriate representative.*

16 **“§51905. Flags and grave markers**

17 *“Except as authorized under another law, the Secretary of Transportation*
 18 *may issue, at no cost, a flag of the United States and a grave marker to the*
 19 *family or personal representative of a deceased individual who served in the*
 20 *merchant marine of the United States in support of the armed forces of the*
 21 *United States or its allies during a war or national emergency.*

22 **“§51906. Special certificates for civilian service to armed**
 23 **forces**

24 “(a) *GENERAL AUTHORITY.*—*The Maritime Administrator may issue a*
 25 *special certificate to an individual, or the personal representative of an indi-*
 26 *vidual, in recognition of service of that individual in the merchant marine*
 27 *of the United States, if the service has been determined to be active duty*
 28 *under section 401 of the GI Bill Improvement Act of 1977 (Public Law 95–*
 29 *202; 38 U.S.C. 106 note).*

30 “(b) *RELATIONSHIP TO OTHER LAWS.*—*Issuance of a certificate under sub-*
 31 *section (a) does not entitle an individual to any rights, privileges, or benefits*
 32 *under a law of the United States.*

33 **“§51907. Manufacture and sale of awards and replacements**

34 *“The Secretary of Transportation may—*

35 *“(1) authorize private persons to manufacture decorations and medals*
 36 *authorized under this chapter or a prior law; and*

37 *“(2) provide at cost, or authorize private persons to sell at reasonable*
 38 *prices, replacements for those decorations and medals.*

1 **“§51908. Prohibition against unauthorized manufacture,**
 2 **sale, possession, or display of awards**

3 “(a) *PROHIBITION.*—Except as authorized under this chapter, a person
 4 may not manufacture, sell, possess, or display a decoration or medal provided
 5 for in this chapter.

6 “(b) *CIVIL PENALTY.*—A person violating this section is liable to the
 7 United States Government for a civil penalty of not more than \$2,000.

8 **“CHAPTER 521—MISCELLANEOUS**

“Sec.

“52101. *Reemployment rights for certain merchant seamen.*

9 **“§52101. Reemployment rights for certain merchant seamen**

10 “(a) *IN GENERAL.*—An individual who is certified by the Secretary of
 11 Transportation under subsection (c) shall be entitled to reemployment rights
 12 and other benefits substantially equivalent to the rights and benefits provided
 13 for by chapter 43 of title 38 for any member of a reserve component of the
 14 armed forces of the United States who is ordered to active duty.

15 “(b) *TIME FOR APPLICATION.*—An individual may submit an application
 16 for certification under subsection (c) to the Secretary not later than 45 days
 17 after the date the individual completes a period of employment described in
 18 subsection (c)(1)(A) with respect to which the application is submitted.

19 “(c) *CERTIFICATION DETERMINATION.*—Not later than 20 days after the
 20 date the Secretary receives from an individual an application for certification
 21 under this subsection, the Secretary shall—

22 “(1) determine whether the individual—

23 “(A) was employed in the activation or operation of a vessel—

24 “(i) in the National Defense Reserve Fleet maintained under
 25 section 11 of the Merchant Ship Sales Act of 1946 (50 App.
 26 U.S.C. 1744) in a period in which the vessel was in use or
 27 being activated for use under subsection (b) of that section;

28 “(ii) requisitioned or purchased under chapter 563 of this
 29 title; or

30 “(iii) owned, chartered, or controlled by the United States
 31 Government and used by the Government for a war, armed
 32 conflict, national emergency, or maritime mobilization need
 33 (including for training purposes or testing for readiness and
 34 suitability for mission performance); and

35 “(B) during the period of that employment, possessed a valid li-
 36 cense, certificate of registry, or merchant mariner’s document issued
 37 under chapter 71 or 73 of this title; and

38 “(2) if the Secretary makes affirmative determinations under subpara-
 39 graphs (A) and (B) of paragraph (1), certify that individual under this
 40 subsection.

1 “(d) *EQUIVALENCE TO MILITARY SELECTIVE SERVICE ACT CERTIFI-*
 2 *CATE.—For purposes of reemployment rights and benefits provided by this*
 3 *section, a certification under subsection (c) shall be considered to be the equiv-*
 4 *alent of a certificate described in section 9(a) of the Military Selective Service*
 5 *Act (50 App. U.S.C. 459(a)).*

6 “**PART C—FINANCIAL ASSISTANCE PROGRAMS**”.

7 “(c) *CHAPTERS FOLLOWING CHAPTER 531.—Subtitle V of title 46, United*
 8 *States Code, is amended by adding at the end the following:*

9 “**CHAPTER 533—CONSTRUCTION RESERVE FUNDS**

“*Sec.*

“53301. *Definitions.*

“53302. *Authority for construction reserve funds.*

“53303. *Persons eligible to establish funds.*

“53304. *Vessel ownership.*

“53305. *Eligible fund deposits.*

“53306. *Recognition of gain for tax purposes.*

“53307. *Basis for determining gain or loss and for depreciating new vessels.*

“53308. *Order and proportions of deposits and withdrawals.*

“53309. *Accumulation of deposits.*

“53310. *Obligation of deposits and period for construction of certain vessels.*

“53311. *Taxation of deposits on failure of conditions.*

“53312. *Assessment and collection of deficiency tax.*

10 “**§53301. Definitions**

11 “(a) *IN GENERAL.—In this chapter:*

12 “(1) *CONSTRUCTION CONTRACT.—The term ‘construction contract’ in-*
 13 *cludes, for a taxpayer constructing a new vessel in a shipyard owned by*
 14 *that taxpayer, an agreement between the taxpayer and the Secretary of*
 15 *Transportation for that construction containing provisions the Secretary*
 16 *considers advisable to carry out this chapter.*

17 “(2) *NEW VESSEL.—The term ‘new vessel’ means—*

18 “(A) *a vessel—*

19 “(i) *constructed in the United States after December 31,*
 20 *1939, constructed with a construction-differential subsidy*
 21 *under title V of the Merchant Marine Act, 1936, or constructed*
 22 *with financing or a financing guarantee under chapter 537 or*
 23 *575 of this title;*

24 “(ii) *documented or agreed with the Secretary to be docu-*
 25 *mented under the laws of the United States; and*

26 “(iii) *(I) of a type, size, and speed that the Secretary deter-*
 27 *mines is suitable for use on the high seas or Great Lakes in*
 28 *carrying out this subtitle, but not less than 2,000 gross tons or*
 29 *less than 12 knots speed unless the Secretary certifies in each*
 30 *case that a vessel of lesser tonnage or speed is desirable for use*
 31 *by the United States Government in case of war or national*
 32 *emergency; or*

1 “(II) constructed to replace a vessel bought or requisitioned
2 by the Government; and

3 “(B) a vessel reconstructed or reconditioned for use only on the
4 Great Lakes, including the Saint Lawrence River and Gulf, if the
5 Secretary finds that the reconstruction or reconditioning will pro-
6 mote the objectives of this subtitle.

7 “(b) *ADDITIONAL TAX-RELATED TERMS.*—Other terms used in this chapter
8 have the same meaning as in chapter 1 of the Internal Revenue Code of 1986
9 (26 U.S.C. ch. 1).

10 **“§ 53302. Authority for construction reserve funds**

11 “(a) *GENERAL AUTHORITY.*—An eligible person under section 53303 of this
12 title may establish a construction reserve fund for the construction, recon-
13 struction, reconditioning, or acquisition of a new vessel or for other purposes
14 authorized by this chapter.

15 “(b) *APPLICATION OF CERTAIN LAWS AND REGULATIONS.*—The fund shall
16 be established, maintained, expended, and used as provided by this chapter
17 and regulations prescribed jointly by the Secretary of Transportation and the
18 Secretary of the Treasury.

19 **“§ 53303. Persons eligible to establish funds**

20 “A construction reserve fund may be established by a citizen of the United
21 States that—

22 “(1) is operating a vessel in the foreign or domestic commerce of the
23 United States or in the fisheries;

24 “(2) owns, in whole or in part, a vessel being operated in the foreign
25 or domestic commerce of the United States or in the fisheries;

26 “(3) was operating a vessel in the foreign or domestic commerce of the
27 United States or in the fisheries when it was bought or requisitioned by
28 the United States Government;

29 “(4) owned, in whole or in part, a vessel being operated in the foreign
30 or domestic commerce of the United States or in the fisheries when it
31 was bought or requisitioned by the Government; or

32 “(5) had acquired or was having constructed a vessel to operate in the
33 foreign or domestic commerce of the United States or in the fisheries
34 when it was bought or requisitioned by the Government.

35 **“§ 53304. Vessel ownership**

36 “In this chapter, a vessel is deemed to be constructed or acquired by a tax-
37 payer if constructed or acquired by a corporation when the taxpayer owns
38 at least 95 percent of each class of stock of the corporation.

39 **“§ 53305. Eligible fund deposits**

40 “A construction reserve fund may include deposits of—

41 “(1) the proceeds from the sale of a vessel;

1 “(2) indemnities for the loss of a vessel;

2 “(3) earnings from the operation of a documented vessel and from
3 services incident to the operation; and

4 “(4) interest or other amounts accrued on deposits in the fund.

5 **“§53306. Recognition of gain for tax purposes**

6 “(a) *DEFINITIONS.*—In this section, the terms ‘net proceeds’ and ‘net in-
7 demnity’ mean the sum of—

8 “(1) the adjusted basis of the vessel; and

9 “(2) the amount of gain the taxpayer would recognize without regard
10 to this section.

11 “(b) *RECOGNITION OF GAIN.*—In computing net income under the income
12 or excess profits tax laws of the United States, a taxpayer does not recognize
13 a gain on the sale or the actual or constructive total loss of a vessel if the
14 taxpayer—

15 “(1) deposits an amount equal to the net proceeds of the sale or the
16 net indemnity for the loss in a construction reserve fund within 60 days
17 after receiving the payment of proceeds or indemnity; and

18 “(2) elects under this section not to recognize the gain.

19 “(c) *WHEN ELECTION MUST BE MADE.*—

20 “(1) *IN GENERAL.*—Except as provided in paragraph (2), the taxpayer
21 must make the election referred to in subsection (b) in the taxpayer’s in-
22 come tax return for the taxable year in which the gain was realized.

23 “(2) *RECEIPT AFTER TAXABLE YEAR.*—If the vessel is bought or requi-
24 sitioned by the United States Government, or is lost, and the taxpayer
25 receives payment for the vessel or indemnity for the loss from the Govern-
26 ment after the end of the taxable year in which it was bought, requi-
27 sitioned, or lost, the taxpayer must make the election referred to in sub-
28 section (b) within 60 days after receiving the payment or indemnity, on
29 a form prescribed by the Secretary of the Treasury.

30 “(d) *EFFECT OF STATUTE OF LIMITATION.*—If the taxpayer makes an elec-
31 tion under subsection (c)(2), and computation or recomputation under this
32 section is otherwise allowable but is prevented by a statute of limitation on
33 the date the election is made or within 6 months thereafter, the computation
34 or recomputation nevertheless shall be made notwithstanding the statute if the
35 taxpayer files a claim for the computation or recomputation within 6 months
36 after the date of making the election.

37 **“§53307. Basis for determining gain or loss and for depre-
38 ciating new vessels**

39 “Under the income or excess profits tax laws of the United States, the basis
40 for determining a gain or loss and for depreciation of a new vessel con-
41 structed, reconstructed, reconditioned, or acquired by the taxpayer, or for

1 *which purchase-money indebtedness is liquidated as provided in section 53310*
 2 *of this title, with amounts from a construction reserve fund, shall be reduced*
 3 *by that part of the deposits in the fund expended in the construction, recon-*
 4 *struction, reconditioning, acquisition, or liquidation of purchase-money in-*
 5 *debtedness of the new vessel that represents a gain not recognized for tax pur-*
 6 *poses under section 53306 of this title.*

7 **“§53308. Order and proportions of deposits and withdrawals**

8 *“In this chapter—*

9 *“(1) if the net proceeds of a sale or the net indemnity for a loss is*
 10 *deposited in more than one deposit, the amount consisting of the gain*
 11 *shall be deemed to be deposited first;*

12 *“(2) amounts expended, obligated, or otherwise withdrawn shall be ap-*
 13 *plied against the amounts deposited in the fund in the order of deposit;*
 14 *and*

15 *“(3) if a deposit consists in part of a gain not recognized under sec-*
 16 *tion 53306 of this title, any expenditure, obligation, or withdrawal ap-*
 17 *plied against that deposit shall be deemed to be a gain in the proportion*
 18 *that the part of the deposit consisting of a gain bears to the total amount*
 19 *of the deposit.*

20 **“§53309. Accumulation of deposits**

21 *“For any taxable year, amounts on deposit in a construction reserve fund*
 22 *on the last day of the taxable year, for which the requirements of section*
 23 *53310 of this title have been satisfied (to the extent they apply on the last*
 24 *day of the taxable year), are deemed to have been retained for the reasonable*
 25 *needs of the business within the meaning of section 537(a) of the Internal*
 26 *Revenue Code of 1986 (26 U.S.C. 537(a)).*

27 **“§53310. Obligation of deposits and period for construction**
 28 ***of certain vessels***

29 *“(a) APPLICATION OF SECTIONS 53306 AND 53309.—Sections 53306 and*
 30 *53309 of this title apply to a deposit in a construction reserve fund only if,*
 31 *within 3 years after the date of the deposit (and any extension under sub-*
 32 *section (c))—*

33 *“(1)(A) a contract is made for the construction or acquisition of a new*
 34 *vessel or, with the approval of the Secretary of Transportation, for a*
 35 *part interest in a new vessel or for the reconstruction or reconditioning*
 36 *of a new vessel;*

37 *“(B) the deposit is expended or obligated for expenditure under that*
 38 *contract;*

39 *“(C) at least 12.5 percent of the construction or contract price of the*
 40 *vessel is paid or irrevocably committed for payment; and*

1 “(D) the plans and specifications for the vessel are approved by the
2 Secretary to the extent the Secretary considers necessary; or

3 “(2) the deposit is expended or obligated for expenditure for the liq-
4 uidation of existing or subsequently incurred purchase-money indebted-
5 ness to a person not a parent company of, or a company affiliated or
6 associated with, the mortgagor on a new vessel.

7 “(b) *ADDITIONAL REQUIREMENTS FOR CERTAIN VESSELS.*—In addition to
8 the requirements of subsection (a)(1), for a vessel not constructed under a con-
9 struction-differential subsidy contract or not bought from the Secretary of
10 Transportation—

11 “(1) at least 5 percent of the construction (or, if the contract covers
12 more than one vessel, at least 5 percent of the construction of the first
13 vessel) must be completed within 6 months after the date of the construc-
14 tion contract (or within the period of an extension under subsection (c)),
15 as estimated by the Secretary and certified by the Secretary to the Sec-
16 retary of the Treasury; and

17 “(2) construction under the contract must be completed with reason-
18 able dispatch thereafter.

19 “(c) *EXTENSIONS.*—The Secretary of Transportation may grant extensions
20 of the period within which the deposits must be expended or obligated or with-
21 in which the construction must have progressed to the extent of 5 percent com-
22 pletion under this section. However, the extensions may not be for a total of
23 more than 2 years for the expenditure or obligation of deposits or one year
24 for the progress of construction.

25 **“§53311. Taxation of deposits on failure of conditions**

26 “A deposited gain, if otherwise taxable income under the law applicable to
27 the taxable year in which the gain was realized, shall be included in gross
28 income for that taxable year, except for purposes of the declared value excess
29 profits tax and the capital stock tax, if—

30 “(1) the deposited gain is not expended or obligated within the appro-
31 priate period under section 53310 of this title;

32 “(2) the deposited gain is withdrawn before the end of that period;

33 “(3) the construction related to that deposited gain has not progressed
34 to the extent of 5 percent of completion within the appropriate period
35 under section 53310 of this title; or

36 “(4) the Secretary of Transportation finds and certifies to the Sec-
37 retary of the Treasury that, for causes within the control of the taxpayer,
38 the entire construction related to that deposited gain is not completed
39 with reasonable dispatch.

1 **“§ 53312. Assessment and collection of deficiency tax**

2 “Notwithstanding any other provision of law, a deficiency in tax for a tax-
3 able year resulting from the inclusion of an amount in gross income as pro-
4 vided by section 53311 of this title, and the amount to be treated as a defi-
5 ciency under section 53311 instead of as an adjustment for the declared value
6 excess profits tax, may be assessed or a civil action may be brought to collect
7 the deficiency without assessment, at any time. Interest on a deficiency or
8 amount to be treated as a deficiency does not begin until the date the depos-
9 ited gain or part of the deposited gain in question is required to be included
10 in gross income under section 51111.

11 **“CHAPTER 535—CAPITAL CONSTRUCTION FUNDS**

“Sec.

“53501. Definitions.

“53502. Regulations.

“53503. Establishing a capital construction fund.

“53504. Deposits and withdrawals.

“53505. Ceiling on deposits.

“53506. Investment and fiduciary requirements.

“53507. Nontaxation of deposits.

“53508. Separate accounts within a fund.

“53509. Qualified withdrawals.

“53510. Tax treatment of qualified withdrawals and basis of property.

“53511. Tax treatment of nonqualified withdrawals.

“53512. FIFO and LIFO withdrawals.

“53513. Corporate reorganizations and partnership changes.

“53514. Relationship of old fund to new fund.

“53515. Records and reports.

“53516. Termination of agreement after change in regulations.

“53517. Reports.

12 **“§ 53501. Definitions**

13 “In this chapter:

14 “(1) AGREEMENT VESSEL.—The term ‘agreement vessel’ means—

15 “(A) an eligible vessel or a qualified vessel that is subject to an
16 agreement under this chapter; and

17 “(B) a barge or container that is part of the complement of a
18 vessel described in subparagraph (A) if provided for in the agree-
19 ment.

20 “(2) ELIGIBLE VESSEL.—The term ‘eligible vessel’ means—

21 “(A) a vessel—

22 “(i) constructed in the United States (and, if reconstructed,
23 reconstructed in the United States), constructed outside the
24 United States but documented under the laws of the United
25 States on April 15, 1970, or constructed outside the United
26 States for use in the United States foreign trade pursuant to
27 a contract made before April 15, 1970;

28 “(ii) documented under the laws of the United States; and

29 “(iii) operated in the foreign or domestic trade of the United
30 States or in the fisheries of the United States; and

1 “(B) a commercial fishing vessel—

2 “(i) constructed in the United States and, if reconstructed,
3 reconstructed in the United States;

4 “(ii) of at least 2 net tons but less than 5 net tons;

5 “(iii) owned by a citizen of the United States;

6 “(iv) having its home port in the United States; and

7 “(v) operated in the commercial fisheries of the United
8 States.

9 “(3) JOINT REGULATIONS.—The term ‘joint regulations’ means regula-
10 tions prescribed jointly by the Secretary and the Secretary of the Treas-
11 ury under section 53502(b) of this title.

12 “(4) NONCONTIGUOUS TRADE.—The term ‘noncontiguous trade’
13 means—

14 “(A) trade between—

15 “(i) one of the contiguous 48 States; and

16 “(ii) Alaska, Hawaii, Puerto Rico, or an insular territory
17 or possession of the United States; and

18 “(B) trade between—

19 “(i) a place in Alaska, Hawaii, Puerto Rico, or an insular
20 territory or possession of the United States; and

21 “(ii) another place in Alaska, Hawaii, Puerto Rico, or an
22 insular territory or possession of the United States.

23 “(5) QUALIFIED VESSEL.—The term ‘qualified vessel’ means—

24 “(A) a vessel—

25 “(i) constructed in the United States (and, if reconstructed,
26 reconstructed in the United States), constructed outside the
27 United States but documented under the laws of the United
28 States on April 15, 1970, or constructed outside the United
29 States for use in the United States foreign trade pursuant to
30 a contract made before April 15, 1970;

31 “(ii) documented under the laws of the United States; and

32 “(iii) agreed, between the Secretary and the person main-
33 taining the capital construction fund established under section
34 53503 of this title, to be operated in the United States foreign,
35 Great Lakes, or noncontiguous domestic trade or in the fish-
36 eries of the United States; and

37 “(B) a commercial fishing vessel—

38 “(i) constructed in the United States and, if reconstructed,
39 reconstructed in the United States;

40 “(ii) of at least 2 net tons but less than 5 net tons;

41 “(iii) owned by a citizen of the United States;

1 “(iv) having its home port in the United States; and
2 “(v) operated in the commercial fisheries of the United
3 States.

4 “(6) SECRETARY.—The term ‘Secretary’ means—

5 “(A) the Secretary of Commerce with respect to an eligible vessel
6 or a qualified vessel operated or to be operated in the fisheries of
7 the United States; and

8 “(B) the Secretary of Transportation with respect to other vessels.

9 “(7) UNITED STATES FOREIGN TRADE.—The term ‘United States for-
10 eign trade’ includes those areas in domestic trade in which a vessel built
11 with a construction-differential subsidy is allowed to operate under the
12 first sentence of section 506 of the Merchant Marine Act, 1936.

13 “(8) VESSEL.—The term ‘vessel’ includes—

14 “(A) cargo handling equipment that the Secretary determines is
15 intended for use primarily on the vessel; and

16 “(B) an ocean-going towing vessel, an ocean-going barge, or a
17 comparable towing vessel or barge operated on the Great Lakes.

18 **“§ 53502. Regulations**

19 “(a) IN GENERAL.—Except as provided in subsection (b), the Secretary
20 shall prescribe regulations to carry out this chapter.

21 “(b) TAX LIABILITY.—The Secretary and the Secretary of the Treasury
22 shall prescribe joint regulations for the determination of tax liability under
23 this chapter.

24 **“§ 53503. Establishing a capital construction fund**

25 “(a) IN GENERAL.—A citizen of the United States owning or leasing an
26 eligible vessel may make an agreement with the Secretary under this chapter
27 to establish a capital construction fund for the vessel.

28 “(b) ALLOWABLE PURPOSE.—The purpose of the agreement shall be to pro-
29 vide replacement vessels, additional vessels, or reconstructed vessels, built in
30 the United States and documented under the laws of the United States, for
31 operation in the United States foreign, Great Lakes, or noncontiguous domes-
32 tic trade or in the fisheries of the United States.

33 **“§ 53504. Deposits and withdrawals**

34 “(a) REQUIRED DEPOSITS.—An agreement to establish a capital construc-
35 tion fund shall provide for the deposit in the fund of the amounts agreed to
36 be appropriate to provide for qualified withdrawals under section 53509 of
37 this title.

38 “(b) APPLICABLE REQUIREMENTS.—Deposits in and withdrawals from the
39 fund are subject to the requirements included in the agreement or prescribed
40 by the Secretary by regulation. However, the Secretary may not require a
41 person to deposit in the fund for a taxable year more than 50 percent of that

1 *portion of the person's taxable income for that year (as determined under sec-*
 2 *tion 53505(a)(1) of this title) that is attributable to the operation of an agree-*
 3 *ment vessel.*

4 **“§53505. Ceiling on deposits**

5 *“(a) MAXIMUM DEPOSITS.—The amount deposited in a capital construc-*
 6 *tion fund for a taxable year may not exceed the sum of—*

7 *“(1) that portion of the taxable income of the owner or lessee for the*
 8 *taxable year (computed under chapter 1 of the Internal Revenue Code*
 9 *of 1986 (26 U.S.C. ch. 1) but without regard to the carryback of net op-*
 10 *erating loss or net capital loss or this chapter) that is attributable to the*
 11 *operation of agreement vessels in the foreign or domestic trade of the*
 12 *United States or in the fisheries of the United States;*

13 *“(2) the amount allowable as a deduction under section 167 of such*
 14 *Code (26 U.S.C. 167) for the taxable year for agreement vessels;*

15 *“(3) if the transaction is not taken into account for purposes of para-*
 16 *graph (1), the net proceeds (as defined in joint regulations) from the dis-*
 17 *position of an agreement vessel or from insurance or indemnity attrib-*
 18 *utable to an agreement vessel; and*

19 *“(4) the receipts from the investment or reinvestment of amounts held*
 20 *in the fund.*

21 *“(b) REDUCTIONS FOR LESSEES.—For a lessee, the maximum amount that*
 22 *may be deposited for an agreement vessel under subsection (a)(2) for any pe-*
 23 *riod shall be reduced by any amount the owner is required or permitted,*
 24 *under the capital construction fund agreement, to deposit for that period for*
 25 *the vessel under subsection (a)(2).*

26 **“§53506. Investment and fiduciary requirements**

27 *“(a) IN GENERAL.—Amounts in a capital construction fund shall be kept*
 28 *in the depository specified in the agreement and shall be subject to trustee*
 29 *and other fiduciary requirements prescribed by the Secretary. Except as pro-*
 30 *vided in subsection (b), amounts in the fund may be invested only in interest-*
 31 *bearing securities approved by the Secretary.*

32 *“(b) STOCK INVESTMENTS.—*

33 *“(1) IN GENERAL.—With the approval of the Secretary, an agreed per-*
 34 *centage (but not more than 60 percent) of the assets of the fund may be*
 35 *invested in the stock of domestic corporations that—*

36 *“(A) is fully listed and registered on an exchange registered with*
 37 *the Securities and Exchange Commission as a national securities*
 38 *exchange; and*

39 *“(B) would be acquired by a prudent investor seeking a reason-*
 40 *able income and the preservation of capital.*

1 “(2) *PREFERRED STOCK.*—The preferred stock of a corporation is
2 deemed to satisfy the requirements of this subsection, even though it may
3 not be registered and listed because it is nonvoting stock, if the common
4 stock of the corporation satisfies the requirements and the preferred stock
5 otherwise would satisfy the requirements.

6 “(c) *MAINTAINING AGREED PERCENTAGE.*—If at any time the fair market
7 value of the stock in the fund is more than the agreed percentage of the assets
8 in the fund, any subsequent investment of amounts deposited in the fund, and
9 any subsequent withdrawal from the fund, shall be made in a way that tends
10 to restore the fair market value of the stock to not more than the agreed per-
11 centage.

12 **“§ 53507. Nontaxation of deposits**

13 “(a) *TAX TREATMENT.*—Subject to subsection (b), under the Internal Rev-
14 enue Code of 1986 (26 U.S.C. 1 et seq.)—

15 “(1) taxable income (determined without regard to this chapter and
16 section 7518 of such Code (26 U.S.C. 7518)) for the taxable year shall
17 be reduced by the amount deposited for the taxable year out of amounts
18 referred to in section 53505(a)(1) of this title;

19 “(2) a gain from a transaction referred to in section 53505(a)(3) of
20 this title shall not be taken into account if an amount equal to the net
21 proceeds (as defined in joint regulations) from the transaction is depos-
22 ited in the fund;

23 “(3) the earnings (including gains and losses) from the investment and
24 reinvestment of amounts held in the fund shall not be taken into account;

25 “(4) the earnings and profits of a corporation (within the meaning
26 of section 316 of such Code (26 U.S.C. 316)) shall be determined without
27 regard to this chapter and section 7518 of such Code (26 U.S.C. 7518);
28 and

29 “(5) in applying the tax imposed by section 531 of such Code (26
30 U.S.C. 531), amounts held in the fund shall not be taken into account.

31 “(b) *CONDITION.*—This section applies to an amount only if the amount
32 is deposited in the fund under the agreement within the time provided in
33 joint regulations.

34 **“§ 53508. Separate accounts within a fund**

35 “(a) *IN GENERAL.*—A capital construction fund shall have three accounts:

36 “(1) The capital account.

37 “(2) The capital gain account.

38 “(3) The ordinary income account.

39 “(b) *CAPITAL ACCOUNT.*—The capital account shall consist of—

40 “(1) amounts referred to in section 53505(a)(2) of this title;

1 “(2) amounts referred to in section 53505(a)(3) of this title, except
2 that portion representing a gain not taken into account because of sec-
3 tion 53507(a)(2) of this title;

4 “(3) the percentage applicable under section 243(a)(1) of the Internal
5 Revenue Code of 1986 (26 U.S.C. 243(a)(1)) of any dividend received by
6 the fund for which the person maintaining the fund would be allowed
7 (were it not for section 53507(a)(3) of this title) a deduction under sec-
8 tion 243 of such Code (26 U.S.C. 243); and

9 “(4) interest income exempt from taxation under section 103 of such
10 Code (26 U.S.C. 103).

11 “(c) CAPITAL GAIN ACCOUNT.—The capital gain account shall consist of—

12 “(1) amounts representing capital gains on assets held for more than
13 6 months and referred to in section 53505(a)(3) or (4) of this title;
14 minus

15 “(2) amounts representing capital losses on assets held in the fund for
16 more than 6 months.

17 “(d) ORDINARY INCOME ACCOUNT.—The ordinary income account shall
18 consist of—

19 “(1) amounts referred to in section 53505(a)(1) of this title;

20 “(2)(A) amounts representing capital gains on assets held for not more
21 than 6 months and referred to in section 53505(a)(3) or (4) of this title;
22 minus

23 “(B) amounts representing capital losses on assets held in the fund for
24 not more than 6 months;

25 “(3) interest (except tax-exempt interest referred to in subsection
26 (b)(4)) and other ordinary income (except any dividend referred to in
27 paragraph (5)) received on assets held in the fund;

28 “(4) ordinary income from a transaction described in section
29 53505(a)(3) of this title; and

30 “(5) that portion of any dividend referred to in subsection (b)(3) not
31 taken into account under subsection (b)(3).

32 “(e) WHEN LOSSES ALLOWED.—Except on termination of a fund, capital
33 losses referred to in subsection (c) or (d)(2) shall be allowed only as an offset
34 to gains referred to in subsection (c) or (d)(2), respectively.

35 **“§53509. Qualified withdrawals**

36 “(a) IN GENERAL.—Subject to subsection (b), a withdrawal from a capital
37 construction fund is a qualified withdrawal if it is made under the terms of
38 the agreement and is for—

39 “(1) the acquisition, construction, or reconstruction of a qualified ves-
40 sel or a barge or container that is part of the complement of a qualified
41 vessel; or

1 “(2) *the payment of the principal on indebtedness incurred in the ac-*
 2 *quisition, construction, or reconstruction of a qualified vessel or a barge*
 3 *or container that is part of the complement of a qualified vessel.*

4 “(b) *BARGES AND CONTAINERS.—Except as provided in regulations pre-*
 5 *scribed by the Secretary, subsection (a) applies to a barge or container only*
 6 *if it is constructed in the United States.*

7 “(c) *TREATMENT AS NONQUALIFIED WITHDRAWAL.—Under joint regula-*
 8 *tions, if the Secretary determines that a substantial obligation under an*
 9 *agreement is not being fulfilled, the Secretary, after notice and opportunity*
 10 *for a hearing to the person maintaining the fund, may treat any amount in*
 11 *the fund as an amount withdrawn from the fund in a nonqualified with-*
 12 *drawal.*

13 **“§53510. Tax treatment of qualified withdrawals and basis**
 14 **of property**

15 “(a) *ORDER OF WITHDRAWALS.—A qualified withdrawal from a capital*
 16 *construction fund shall be treated as made—*

17 “(1) *first from the capital account;*

18 “(2) *second from the capital gain account; and*

19 “(3) *third from the ordinary income account.*

20 “(b) *ORDINARY INCOME ACCOUNT WITHDRAWALS.—If a portion of a quali-*
 21 *fied withdrawal for a vessel, barge, or container is made from the ordinary*
 22 *income account, the basis of the vessel, barge, or container shall be reduced*
 23 *by an amount equal to that portion.*

24 “(c) *CAPITAL GAIN ACCOUNT WITHDRAWALS.—If a portion of a qualified*
 25 *withdrawal for a vessel, barge, or container is made from the capital gain*
 26 *account, the basis of the vessel, barge, or container shall be reduced by an*
 27 *amount equal to that portion.*

28 “(d) *WITHDRAWALS TO PAY PRINCIPAL.—If a portion of a qualified with-*
 29 *drawal to pay the principal on indebtedness is made from the ordinary in-*
 30 *come account or the capital gain account, an amount equal to the total reduc-*
 31 *tion that would be required by subsections (b) and (c) if the withdrawal were*
 32 *a qualified withdrawal for a purpose described in those subsections shall be*
 33 *applied, in the order provided in joint regulations, to reduce the basis of ves-*
 34 *sels, barges, and containers owned by the person maintaining the fund. The*
 35 *remaining amount of the withdrawal shall be treated as a nonqualified with-*
 36 *drawal.*

37 “(e) *GAIN ON PROPERTY WITH REDUCED BASIS.—If property, the basis of*
 38 *which was reduced under subsection (b), (c), or (d), is disposed of, any gain*
 39 *realized on the disposition, to the extent it does not exceed the total reduction*
 40 *in the basis of the property under those subsections, shall be treated as an*
 41 *amount referred to in section 53511(c)(1) of this title withdrawn on the date*

1 *of disposition of the property. Subject to conditions prescribed in joint regula-*
 2 *tions, this subsection does not apply to a disposition if there is a redeposit,*
 3 *in an amount determined under joint regulations, that restores the fund as*
 4 *far as practicable to the position it was in before the withdrawal.*

5 **“§53511. Tax treatment of nonqualified withdrawals**

6 *“(a) IN GENERAL.—Except as provided in section 53513 of this title, a*
 7 *withdrawal from a fund that is not a qualified withdrawal shall be treated*
 8 *as a nonqualified withdrawal.*

9 *“(b) ORDER OF WITHDRAWALS.—A nonqualified withdrawal shall be treat-*
 10 *ed as made—*

11 *“(1) first from the ordinary income account;*

12 *“(2) second from the capital gain account; and*

13 *“(3) third from the capital account.*

14 *“(c) TAX TREATMENT.—For purposes of the Internal Revenue Code of 1986*
 15 *(26 U.S.C. 1 et seq.)—*

16 *“(1) a nonqualified withdrawal from the ordinary income account*
 17 *shall be included in income as an item of ordinary income for the tax-*
 18 *able year in which the withdrawal is made;*

19 *“(2) a nonqualified withdrawal from the capital gain account shall*
 20 *be included in income for the taxable year in which the withdrawal is*
 21 *made as an item of gain realized during that year from the disposition*
 22 *of an asset held for more than 6 months; and*

23 *“(3) for the period through the last date prescribed for payment of tax*
 24 *for the taxable year in which the withdrawal is made—*

25 *“(A) no interest shall be payable under section 6601 of such Code*
 26 *(26 U.S.C. 6601) and no addition to the tax shall be payable under*
 27 *section 6651 of such Code (26 U.S.C. 6651);*

28 *“(B) interest on the amount of the additional tax attributable to*
 29 *an amount treated as a nonqualified withdrawal from the ordinary*
 30 *income account or the capital gain account shall be paid at the rate*
 31 *determined under subsection (d) from the last date prescribed for*
 32 *payment of the tax for the taxable year for which the amount was*
 33 *deposited in the fund; and*

34 *“(C) no interest shall be payable on amounts treated as with-*
 35 *drawn on a last-in-first-out basis under section 53512 of this title.*

36 *“(d) INTEREST RATE.—The rate of interest under subsection (c)(3)(B) for*
 37 *a nonqualified withdrawal made in a taxable year beginning after 1971 shall*
 38 *be determined and published jointly by the Secretary and the Secretary of the*
 39 *Treasury. The rate shall be such that its relationship to 8 percent is com-*
 40 *parable, as determined by the Secretaries under joint regulations, to the rela-*
 41 *tionship between—*

1 “(1) the money rates and investment yields for the calendar year im-
2 mediately before the beginning of the taxable year; and

3 “(2) the money rates and investment yields for the calendar year 1970.

4 “(e) **NONQUALIFIED WITHDRAWALS.**—

5 “(1) **IN GENERAL.**—The following applicable percentage of any
6 amount that remains in a capital construction fund at the close of the
7 following specified taxable year following the taxable year for which the
8 amount was deposited shall be treated as a nonqualified withdrawal:

“If the amount remains in the fund at the close of the—	The applicable percentage is—
“26th taxable year	20 percent
“27th taxable year	40 percent
“28th taxable year	60 percent
“29th taxable year	80 percent
“30th taxable year	100 percent.

9 “(2) **EARNINGS.**—The earnings of a capital construction fund for any
10 taxable year (except net gains) shall be treated under this subsection as
11 an amount deposited for the taxable year.

12 “(3) **CONTRACT FOR QUALIFIED WITHDRAWAL.**—Under paragraph (1),
13 an amount shall not be treated as remaining in a capital construction
14 fund at the close of a taxable year to the extent there is a binding con-
15 tract at the close of the taxable year for a qualified withdrawal of the
16 amount for an identified item for which the withdrawal may be made.

17 “(4) **EXCESS EARNINGS.**—If the Secretary determines that the balance
18 in a capital construction fund exceeds the amount appropriate to meet
19 the vessel construction program objectives of the person that established
20 the fund, the amount of the excess shall be treated as a nonqualified
21 withdrawal under paragraph (1) unless the person develops appropriate
22 program objectives within 3 years to dissipate the excess.

23 “(5) **AMOUNTS IN FUND ON JANUARY 1, 1987.**—Under this subsection,
24 amounts in a capital construction fund on January 1, 1987, shall be
25 treated as having been deposited in that fund on that date.

26 “(f) **TAX DETERMINATIONS.**—

27 “(1) **IN GENERAL.**—For a taxable year for which there is a non-
28 qualified withdrawal (including an amount treated as a nonqualified
29 withdrawal under subsection (e)), the tax imposed by chapter 1 of the
30 Internal Revenue Code of 1986 (26 U.S.C. ch. 1) shall be determined
31 by—

32 “(A) excluding the withdrawal from gross income; and

33 “(B) increasing the tax imposed by chapter 1 of such Code by the
34 product of the amount of the withdrawal and the highest tax rate
35 specified in section 1 (or section 11 for a corporation) of such Code
36 (26 U.S.C. 1, 11).

1 “(2) *MAXIMUM TAX RATE.*—For that portion of a nonqualified with-
 2 drawal made from the capital gain account during a taxable year to
 3 which section 1(h) or 1201(a) of such Code (26 U.S.C. 1(h), 1201(a)) ap-
 4 plies, the tax rate used under paragraph (1)(B) may not exceed 15 per-
 5 cent (or 34 percent for a corporation).

6 “(3) *TAX BENEFIT RULE.*—If any portion of a nonqualified with-
 7 drawal is properly attributable to deposits (except earnings on deposits)
 8 made by the taxpayer in a taxable year that did not reduce the tax-
 9 payer’s liability for tax under chapter 1 of such Code (26 U.S.C. ch. 1)
 10 for a taxable year before the taxable year in which the withdrawal oc-
 11 curs—

12 “(A) that portion shall not be taken into account under para-
 13 graph (1); and

14 “(B) an amount equal to that portion shall be allowed as a de-
 15 duction under section 172 of such Code (26 U.S.C. 172) for the tax-
 16 able year in which the withdrawal occurs.

17 “(4) *COORDINATION WITH DEDUCTION FOR NET OPERATING LOSSES.*—
 18 A nonqualified withdrawal excluded from gross income under paragraph
 19 (1) shall be excluded in determining taxable income under section
 20 172(b)(2) of such Code (26 U.S.C. 172(b)(2)).

21 **“§53512. FIFO and LIFO withdrawals**

22 “(a) *FIFO.*—Except as provided in subsection (b), an amount withdrawn
 23 from an account under this chapter shall be treated as withdrawn on a first-
 24 in-first-out basis.

25 “(b) *LIFO.*—An amount withdrawn from an account under this chapter
 26 shall be treated as withdrawn on a last-in-first-out basis if it is—

27 “(1) a nonqualified withdrawal for research, development, and design
 28 expenses incident to new and advanced vessel design, machinery, and
 29 equipment; or

30 “(2) an amount treated as a nonqualified withdrawal under section
 31 53510(d) of this title.

32 **“§53513. Corporate reorganizations and partnership**
 33 **changes**

34 “Under joint regulations—

35 “(1) a transfer of a capital construction fund from one person to an-
 36 other person in a transaction to which section 381 of the Internal Rev-
 37 enue Code of 1986 (26 U.S.C. 381) applies may be treated as if the
 38 transaction is not a nonqualified withdrawal; and

39 “(2) a similar rule shall be applied to a continuation of a partnership
 40 (within the meaning of subchapter K of chapter 1 of such Code (26
 41 U.S.C. 701 et seq.)).

1 **“§53514. Relationship of old fund to new fund**

2 “(a) DEFINITION.—In this section, the term ‘old fund’ means a capital con-
3 struction fund maintained before October 21, 1970.

4 “(b) ELECTION TO MAINTAIN OLD FUND.—A person maintaining an old
5 fund may elect to continue the old fund, but may not—

6 “(1) hold amounts in the old fund beyond the expiration date provided
7 in the agreement under which the old fund is maintained (determined
8 without regard to an extension or renewal made after April 14, 1970);
9 or

10 “(2) maintain simultaneously the old fund and a new fund established
11 under this chapter.

12 “(c) APPLICATION OF NEW FUND AGREEMENT TO OLD FUND AMOUNTS.—
13 If a person makes an agreement under this chapter to establish a new fund,
14 the person may agree to extend the agreement to some or all of the amounts
15 in an old fund. Each item in the old fund to be transferred shall be trans-
16 ferred in a nontaxable transaction to the appropriate account in the new
17 fund. For purposes of section 53511(c)(3) of this title, the date of the deposit
18 of an item so transferred shall be July 1, 1971, or the date of the deposit
19 in the old fund, whichever is later.

20 **“§53515. Records and reports**

21 “A person maintaining a fund under this chapter shall keep records and
22 make reports as required by the Secretary or the Secretary of the Treasury.

23 **“§53516. Termination of agreement after change in regula-
24 tions**

25 “If, after an agreement has been made under this chapter, a change is made
26 either in the joint regulations or in the regulations prescribed by the Sec-
27 retary under this chapter that could have a substantial effect on the rights
28 or duties of a person maintaining a fund under this chapter, that person may
29 terminate the agreement.

30 **“§53517. Reports**

31 “(a) IN GENERAL.—Within 120 days after the close of each calendar year,
32 the Secretary of Transportation and the Secretary of Commerce each shall
33 provide the Secretary of the Treasury a written report on the capital con-
34 struction funds under the particular Secretary’s jurisdiction for the calendar
35 year.

36 “(b) CONTENTS.—The report shall state the name and taxpayer identifica-
37 tion number of each person—

38 “(1) establishing a capital construction fund during the calendar year;

39 “(2) maintaining a capital construction fund on the last day of the
40 calendar year;

1 *of this title in connection with all obligations issued for construc-*
 2 *tion, reconstruction, or reconditioning of the vessel or equipment to*
 3 *be delivered, and all obligations issued for the delivered vessel or*
 4 *equipment.*

5 “(2) *CONSTRUCTION, RECONSTRUCTION, AND RECONDITIONING.*—*The*
 6 *terms ‘construction’, ‘reconstruction’, and ‘reconditioning’ include de-*
 7 *signing, inspecting, outfitting, and equipping.*

8 “(3) *DEPRECIATED ACTUAL COST.*—*The term ‘depreciated actual cost’*
 9 *of a vessel means—*

10 “(A) *if the vessel was not reconstructed or reconditioned, the ac-*
 11 *tual cost of the vessel depreciated on a straight line basis over the*
 12 *useful life of the vessel as determined by the Secretary, not to exceed*
 13 *25 years from the date of delivery by the builder; or*

14 “(B) *if the vessel was reconstructed or reconditioned, the sum of—*
 15 “(i) *the actual cost of the vessel depreciated on a straight*
 16 *line basis from the date of delivery by the builder to the date*
 17 *of the reconstruction or reconditioning, using the original use-*
 18 *ful life of the vessel, and from the date of the reconstruction or*
 19 *reconditioning, using a useful life of the vessel determined by*
 20 *the Secretary; and*

21 “(ii) *any amount paid or obligated to be paid for the recon-*
 22 *struction or reconditioning, depreciated on a straight line basis*
 23 *using a useful life of the vessel determined by the Secretary.*

24 “(4) *ELIGIBLE EXPORT VESSEL.*—*The term ‘eligible export vessel’*
 25 *means a vessel that—*

26 “(A) *is constructed, reconstructed, or reconditioned in the United*
 27 *States for use in world-wide trade; and*

28 “(B) *will, on delivery or redelivery, become or remain docu-*
 29 *mented under the laws of a country other than the United States.*

30 “(5) *FISHERY FACILITY.*—

31 “(A) *IN GENERAL.*—*Subject to subparagraph (B), the term ‘fish-*
 32 *ery facility’ means—*

33 “(i) *for operations on land—*

34 “(I) *a structure or appurtenance thereto designed for*
 35 *the unloading and receiving from vessels, the processing,*
 36 *the holding pending processing, the distribution after*
 37 *processing, or the holding pending distribution, of fish*
 38 *from a fishery;*

39 “(II) *the land necessary for the structure or appur-*
 40 *tenance; and*

1 “(III) equipment that is for use with the structure or
2 appurtenance and that is necessary for performing a func-
3 tion referred to in subclause (I);

4 “(ii) for operations not on land, a vessel built in the United
5 States and used for, equipped to be used for, or of a type nor-
6 mally used for, the processing of fish; or

7 “(iii) for aquaculture, including operations on land or else-
8 where—

9 “(I) a structure or appurtenance thereto designed for
10 aquaculture;

11 “(II) the land necessary for the structure or appur-
12 tenance;

13 “(III) equipment that is for use with the structure or
14 appurtenance and that is necessary for performing a func-
15 tion referred to in subclause (I); and

16 “(IV) a vessel built in the United States and used for,
17 equipped to be used for, or of a type normally used for,
18 aquaculture.

19 “(B) *REQUIRED OWNERSHIP*.—Under subparagraph (A), the
20 structure, appurtenance, land, equipment, or vessel must be owned
21 by—

22 “(i) an individual who is a citizen of the United States; or

23 “(ii) an entity that is a citizen of the United States under
24 section 50501 of this title and that is at least 75 percent owned
25 (as determined under that section) by citizens of the United
26 States.

27 “(6) *FISHING VESSEL*.—The term ‘fishing vessel’ has the meaning
28 given that term in section 3 of the Magnuson-Stevens Fishery Conserva-
29 tion and Management Act (16 U.S.C. 1802), and any reference in this
30 chapter to a vessel designed principally for commercial use in the fishing
31 trade or industry is deemed to be a reference to a fishing vessel.

32 “(7) *MORTGAGE*.—The term ‘mortgage’ includes—

33 “(A) a preferred mortgage as defined in section 31301 of this
34 title; and

35 “(B) a mortgage on a vessel that will become a preferred mort-
36 gage when filed or recorded under chapter 313 of this title.

37 “(8) *OBLIGATION*.—The term ‘obligation’ means an instrument of in-
38 debtedness issued for a purpose described in section 53706 of this title,
39 except—

40 “(A) an obligation issued by the Secretary under section 53723
41 of this title; and

1 “(B) an obligation eligible for investment of funds under section
2 53715(f) or 53717 of this title.

3 “(9) OBLIGEE.—The term ‘obligee’ means the holder of an obligation.

4 “(10) OBLIGOR.—The term ‘obligor’ means a party primarily liable
5 for payment of the principal of or interest on an obligation.

6 “(11) OCEAN THERMAL ENERGY CONVERSION FACILITY OR
7 PLANTSHIP.—The term ‘ocean thermal energy conversion facility or
8 plantship’ means an at-sea facility or vessel, whether mobile, floating
9 unmoored, moored, or standing on the seabed, that uses temperature dif-
10 ferences in ocean water to produce electricity or another form of energy
11 capable of being used directly to perform work, and includes—

12 “(A) equipment installed on the facility or vessel to use the elec-
13 tricity or other form of energy to produce, process, refine, or manu-
14 facture a product;

15 “(B) a cable or pipeline used to deliver the electricity, freshwater,
16 or product to shore; and

17 “(C) other associated equipment and appurtenances of the facility
18 or vessel to the extent they are located seaward of the high water
19 mark.

20 “(12) SECRETARY.—The term ‘Secretary’ means—

21 “(A) the Secretary of Commerce with respect to fishing vessels
22 and fishery facilities; and

23 “(B) the Secretary of Transportation with respect to other vessels
24 and general shipyard facilities (as defined in section 53733(a) of
25 this title).

26 “(13) VESSEL.—The term ‘vessel’ means any type of vessel, whether
27 in existence or under construction, including—

28 “(A) a cargo vessel;

29 “(B) a passenger vessel;

30 “(C) a combination cargo and passenger vessel;

31 “(D) a tanker;

32 “(E) a tug or towboat;

33 “(F) a barge;

34 “(G) a dredge;

35 “(H) a floating drydock with a capacity of at least 35,000 lifting
36 tons and a beam of at least 125 feet between the wing walls;

37 “(I) an oceanographic research vessel;

38 “(J) an instruction vessel;

39 “(K) a pollution treatment, abatement, or control vessel;

1 “(L) a fishing vessel whose ownership meets the citizenship re-
2 quirements under section 50501 of this title for documenting vessels
3 to operate in the coastwise trade; and

4 “(M) an ocean thermal energy conversion facility or plantship
5 that is or will be documented under the laws of the United States.

6 **“§53702. General authority**

7 “(a) *IN GENERAL.*—The Secretary, on terms the Secretary may prescribe,
8 may guarantee or make a commitment to guarantee the payment of the prin-
9 cipal of and interest on an obligation eligible to be guaranteed under this
10 chapter. A guarantee or commitment to guarantee shall cover 100 percent of
11 the principal and interest.

12 “(b) *DIRECT LOANS FOR FISHERIES.*—

13 “(1) *IN GENERAL.*—Notwithstanding any other provision of this chap-
14 ter, any obligation involving a fishing vessel, fishery facility, aquaculture
15 facility, individual fishing quota, or fishing capacity reduction program
16 issued under this chapter after October 11, 1996, shall be a direct loan
17 obligation for which the Secretary shall be the obligee, rather than an
18 obligation issued to an obligee other than the Secretary and guaranteed
19 by the Secretary. A direct loan obligation under this subsection shall be
20 treated in the same manner and to the same extent as an obligation
21 guaranteed under this chapter except with respect to provisions of this
22 chapter that by their nature can only be applied to obligations guaran-
23 teed under this chapter.

24 “(2) *INTEREST RATE.*—Notwithstanding any other provision of this
25 chapter, the annual rate of interest an obligor shall pay on a direct loan
26 obligation under this subsection is 2 percent plus the additional percent
27 the Secretary must pay as interest to borrow from the Treasury the funds
28 to make the loan.

29 **“§53703. Application procedures**

30 “(a) *TIME FOR DECISION.*—

31 “(1) *IN GENERAL.*—The Secretary shall approve or deny an applica-
32 tion for a loan guarantee under this chapter within 270 days after the
33 date on which the signed application is received by the Secretary.

34 “(2) *EXTENSION.*—On request by an applicant, the Secretary may ex-
35 tend the 270-day period in paragraph (1) to a date not later than 2
36 years after the date on which the signed application was received by the
37 Secretary.

38 “(b) *CERTIFICATION OF REVIEW.*—The Secretary may not guarantee or
39 make a commitment to guarantee an obligation under this chapter unless the
40 Secretary certifies that a full and fair consideration of all the regulatory re-
41 quirements, including economic soundness and financial requirements appli-

1 cable to the obligor and related parties, and a thorough assessment of the tech-
 2 nical, economic, and financial aspects of the loan application, has been made.

3 **“§53704. Funding limits**

4 “(a) GENERAL LIMITATIONS.—The total unpaid principal amount of obli-
 5 gations guaranteed under this chapter and outstanding at one time may not
 6 exceed \$12,000,000,000. Of that amount—

7 “(1) \$850,000,000 shall be limited to obligations related to fishing ves-
 8 sels and fishery facilities; and

9 “(2) \$3,000,000,000 shall be limited to obligations related to eligible
 10 export vessels.

11 “(b) ADDITIONAL LIMITATIONS.—Additional limitations may not be im-
 12 posed on new commitments to guarantee loans for any fiscal year, except in
 13 amounts established in advance by annual authorization laws. A vessel eligi-
 14 ble for a guarantee under this chapter may not be denied eligibility because
 15 of its type.

16 “(c) LIMITS BASED ON RISK FACTORS.—

17 “(1) DEFINITION.—In this subsection, the term ‘cost’ has the meaning
 18 given that term in section 502 of the Federal Credit Reform Act of 1990
 19 (2 U.S.C. 661a).

20 “(2) SYSTEM OF RISK CATEGORIES.—The Secretary shall—

21 “(A) establish, and update annually, a system of risk categories
 22 for obligations guaranteed under this chapter that categorizes the
 23 relative risk of guarantees based on the risk factors set forth in
 24 paragraph (4);

25 “(B) determine annually for each risk category a subsidy rate
 26 equivalent to the cost of obligations in the category, expressed as a
 27 percentage of the amount guaranteed for obligations in the category;
 28 and

29 “(C) ensure that each risk category is comprised of loans that are
 30 relatively homogeneous in cost and share characteristics predictive
 31 of defaults and other costs, given the facts known at the time of obli-
 32 gation or commitment, using a risk category system that is based
 33 on historical analysis of program data and statistical evidence con-
 34 cerning the likely costs of defaults or other costs that are expected
 35 to be associated with the loans in the category.

36 “(3) USE OF SYSTEM.—

37 “(A) PLACING OBLIGATION IN CATEGORY.—Before making a
 38 guarantee under this chapter for an obligation, and annually for
 39 projects subject to a guarantee, the Secretary shall apply the risk
 40 factors specified in paragraph (4) to place the obligation in a risk
 41 category established under paragraph (2).

1 “(B) *REDUCTION OF AVAILABLE AMOUNT.*—*The Secretary shall*
 2 *consider the total amount available to the Secretary for making*
 3 *guarantees under this chapter to be reduced by the amount deter-*
 4 *mined by multiplying—*

5 “(i) *the amount guaranteed under this chapter for an obliga-*
 6 *tion; by*

7 “(ii) *the subsidy rate for the category in which the obligation*
 8 *is placed under subparagraph (A).*

9 “(C) *ESTIMATED COST.*—*The estimated cost to the United States*
 10 *Government of a guarantee under this chapter for an obligation is*
 11 *deemed to be the amount determined under subparagraph (B) for*
 12 *the obligation.*

13 “(D) *RESTRICTION ON FURTHER GUARANTEES.*—*The Secretary*
 14 *may not guarantee obligations under this chapter after the total*
 15 *amount available to the Secretary under appropriations laws for the*
 16 *cost of loan guarantees is considered to be reduced to zero under sub-*
 17 *paragraph (B).*

18 “(4) *RISK FACTORS.*—*The risk factors referred to in this subsection*
 19 *are—*

20 “(A) *if applicable, the country risk for each eligible export vessel*
 21 *financed or to be financed by an obligation;*

22 “(B) *the period for which an obligation is guaranteed or to be*
 23 *guaranteed;*

24 “(C) *the amount of an obligation guaranteed or to be guaranteed*
 25 *in relation to the total cost of the project financed or to be financed*
 26 *by the obligation;*

27 “(D) *the financial condition of an obligor or applicant for a*
 28 *guarantee;*

29 “(E) *if applicable, other guarantees related to the project;*

30 “(F) *if applicable, the projected employment of each vessel or*
 31 *equipment to be financed with an obligation;*

32 “(G) *if applicable, the projected market that will be served by*
 33 *each vessel or equipment to be financed with an obligation;*

34 “(H) *the collateral provided for a guarantee for an obligation;*

35 “(I) *the management and operating experience of an obligor or*
 36 *applicant for a guarantee;*

37 “(J) *whether a guarantee under this chapter is or will be in effect*
 38 *during the construction period of the project; and*

39 “(K) *the concentration risk presented by an unduly large percent-*
 40 *age of loans outstanding by any one borrower or group of affiliated*
 41 *borrowers.*

1 **“§53705. Pledge of United States Government**

2 “(a) *FULL FAITH AND CREDIT.*—*The full faith and credit of the United*
 3 *States Government is pledged to the payment of a guarantee made under this*
 4 *chapter, for both principal and interest, including interest (as may be pro-*
 5 *vided for in the guarantee) accruing between the date of default under a guar-*
 6 *anteed obligation and the date of payment in full of the guarantee.*

7 “(b) *INCONTESTABILITY.*—*A guarantee or commitment to guarantee made*
 8 *under this chapter is conclusive evidence of the eligibility of the obligation for*
 9 *the guarantee. The validity of a guarantee or commitment to guarantee made*
 10 *under this chapter is incontestable.*

11 **“§53706. Eligible purposes of obligations**

12 “(a) *IN GENERAL.*—*To be eligible for a guarantee under this chapter, an*
 13 *obligation must aid in any of the following:*

14 “(1)(A) *Financing (including reimbursement of an obligor for expend-*
 15 *itures previously made for) the construction, reconstruction, or recondi-*
 16 *tioning of a vessel (including an eligible export vessel) designed prin-*
 17 *cipally for research, or for commercial use—*

18 “(i) *in the coastwise or intercoastal trade;*

19 “(ii) *on the Great Lakes, or on bays, sounds, rivers, harbors, or*
 20 *inland lakes of the United States;*

21 “(iii) *in foreign trade as defined in section 109(b) of this title;*

22 “(iv) *as an ocean thermal energy conversion facility or plantship;*

23 “(v) *as a floating drydock in the construction, reconstruction, re-*
 24 *conditioning, or repair of vessels; or*

25 “(vi) *as an eligible export vessel in worldwide trade.*

26 “(B) *A guarantee under subparagraph (A) may not be made more*
 27 *than one year after delivery of the vessel (or redelivery if the vessel was*
 28 *reconstructed or reconditioned) unless the proceeds of the obligation are*
 29 *used to finance the construction, reconstruction, or reconditioning of a*
 30 *vessel or of facilities or equipment related to marine operations.*

31 “(2) *Financing (including reimbursement of an obligor for expend-*
 32 *itures previously made for) the construction, reconstruction, recondi-*
 33 *tioning, or purchase of a vessel owned by citizens of the United States*
 34 *and designed principally for research, or for commercial use in the fish-*
 35 *ing industry.*

36 “(3) *Financing the purchase, reconstruction, or reconditioning of a*
 37 *vessel or fishery facility—*

38 “(A) *for which an obligation was guaranteed under this chapter;*

39 *and*

40 “(B) *that, under subchapter II of this chapter—*

1 “(i) is a vessel or fishery facility for which an obligation
2 was accelerated and paid;

3 “(ii) was acquired by the Federal Ship Financing Fund or
4 successor account under section 53717 of this title; or

5 “(iii) was sold at foreclosure begun or intervened in by the
6 Secretary.

7 “(4) Financing any part of the repayment to the United States Gov-
8 ernment of any amount of a construction-differential subsidy paid for
9 a vessel.

10 “(5) Refinancing an existing obligation (regardless of whether guaran-
11 teed under this chapter) issued for a purpose described in paragraphs
12 (1)–(4), including a short-term obligation incurred to obtain temporary
13 funds with the intention of refinancing.

14 “(6) Financing or refinancing (including reimbursement of an obligor
15 for expenditures previously made for) the construction, reconstruction, re-
16 conditioning, or purchase of a fishery facility.

17 “(7) Financing or refinancing (including reimbursement of an obligor
18 for expenditures previously made for) the purchase of an individual fish-
19 ing quota in accordance with section 303(d)(4) of the Magnuson-Stevens
20 Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)).

21 “(b) *NON-VESSELS TREATED AS VESSELS.*—An obligation guaranteed
22 under subsection (a)(6) or (7) shall be treated, for purposes of this chapter,
23 in the same manner and to the same extent as an obligation that aids in
24 financing the construction, reconstruction, reconditioning, or purchase of a
25 vessel, except with respect to provisions that by their nature can only be ap-
26 plied to vessels.

27 “(c) *PRIORITIES FOR CERTAIN VESSELS.*—In guaranteeing or making a
28 commitment to guarantee an obligation under this chapter, the Secretary
29 shall give priority to—

30 “(1) a vessel that is otherwise eligible for a guarantee and is con-
31 structed with assistance under subtitle D of the Maritime Security Act
32 of 2003 (46 U.S.C. 53101 note); and

33 “(2) after applying paragraph (1), a vessel that is otherwise eligible
34 for a guarantee and that the Secretary of Defense determines—

35 “(A) is suitable for service as a naval auxiliary in time of war
36 or national emergency; and

37 “(B) meets a shortfall in sealift capacity or capability.

38 **“§53707. Findings related to obligors and operators**

39 “(a) *RESPONSIBLE OBLIGOR.*—The Secretary may not guarantee or make
40 a commitment to guarantee an obligation under this chapter unless the Sec-
41 retary finds that the obligor is responsible and has the ability, experience, fi-

1 *nancial resources, and other qualifications necessary for the adequate oper-*
 2 *ation and maintenance of each vessel that will serve as security for the guar-*
 3 *antee.*

4 “(b) *OPERATORS OF LINER VESSELS.—The Secretary of Transportation*
 5 *may not guarantee or make a commitment to guarantee a loan for the con-*
 6 *struction, reconstruction, or reconditioning of a liner vessel under this chapter*
 7 *unless the Chairman of the Federal Maritime Commission certifies that the*
 8 *operator of the vessel has not been found by the Commission to have com-*
 9 *mitted, within the previous 5 years—*

10 “(1) *a violation of part A of subtitle IV of this title that involves un-*
 11 *just or unfair discriminatory treatment or undue or unreasonable preju-*
 12 *dice or disadvantage with respect to a United States shipper, ocean*
 13 *transportation intermediary, ocean common carrier, or port; or*

14 “(2) *a violation of part B of subtitle IV of this title.*

15 “(c) *OPERATORS OF FISHING VESSELS.—The Secretary of Commerce may*
 16 *not guarantee or make a commitment to guarantee a loan for the construc-*
 17 *tion, reconstruction, or reconditioning of a fishing vessel under this chapter*
 18 *if the operator of the vessel has been—*

19 “(1) *held liable, or the vessel has been held liable in rem, for a civil*
 20 *penalty under section 308 of the Magnuson-Stevens Fishery Conservation*
 21 *and Management Act (16 U.S.C. 1858) and the operator has not paid*
 22 *the penalty;*

23 “(2) *found guilty of an offense under section 309 of the Magnuson-Ste-*
 24 *vens Fishery Conservation and Management Act (16 U.S.C. 1859) and*
 25 *not paid the assessed fine or served the assessed sentence;*

26 “(3) *held liable for a civil or criminal penalty under section 105 of*
 27 *the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375) and not*
 28 *paid the assessed fine or served the assessed sentence; or*

29 “(4) *held liable for a civil penalty by the Coast Guard under this title*
 30 *or title 33 and not paid the assessed fine.*

31 “(d) *WAIVERS CONCERNING FINANCIAL CONDITION.—The Secretary shall*
 32 *prescribe regulations concerning circumstances under which waivers of, or ex-*
 33 *ceptions to, otherwise applicable regulatory requirements concerning financial*
 34 *condition can be made. The regulations shall require that—*

35 “(1) *the economic soundness requirements in section 53708(a) of this*
 36 *title are met after the waiver of the financial condition requirement; and*

37 “(2) *the waiver shall provide for the imposition of other requirements*
 38 *on the obligor designed to compensate for the increased risk associated*
 39 *with the obligor’s failure to meet regulatory requirements applicable to*
 40 *financial condition.*

1 **“§ 53708. Findings related to economic soundness**

2 “(a) *BY SECRETARY OF TRANSPORTATION.—The Secretary of Transporta-*
 3 *tion may not guarantee or make a commitment to guarantee an obligation*
 4 *under this chapter unless the Secretary finds that the property or project for*
 5 *which the obligation will be executed will be economically sound. In making*
 6 *that finding, the Secretary shall consider—*

7 “(1) *the need in the particular segment of the maritime industry for*
 8 *new or additional capacity, including any impact on existing equipment*
 9 *for which a guarantee under this chapter is in effect;*

10 “(2) *the market potential for employment of the vessel over the life of*
 11 *the guarantee;*

12 “(3) *projected revenues and expenses associated with employment of*
 13 *the vessel;*

14 “(4) *any charter, contract of affreightment, transportation agreement,*
 15 *or similar agreement or undertaking relevant to the employment of the*
 16 *vessel;*

17 “(5) *other relevant criteria; and*

18 “(6) *for inland waterways, the need for technical improvements, in-*
 19 *cluding increased fuel efficiency or improved safety.*

20 “(b) *BY SECRETARY OF COMMERCE.—The Secretary of Commerce may not*
 21 *guarantee or make a commitment to guarantee an obligation under this chap-*
 22 *ter unless the Secretary finds, at or prior to the time the commitment is made*
 23 *or the guarantee becomes effective, that—*

24 “(1) *the property or project for which the obligation will be executed*
 25 *will be economically sound; and*

26 “(2) *for a fishing vessel, the purpose of the financing or refinancing*
 27 *is consistent with—*

28 “(A) *the wise use of the fisheries resources and the development,*
 29 *advancement, management, conservation, and protection of the fish-*
 30 *eries resources; or*

31 “(B) *the need for technical improvements, including increased*
 32 *fuel efficiency or improved safety.*

33 “(c) *USED FISHING VESSELS AND FACILITIES.—The Secretary of Com-*
 34 *merce may not guarantee or make a commitment to guarantee an obligation*
 35 *under this chapter for the purchase of a used fishing vessel or used fishery*
 36 *facility unless the vessel or facility will be—*

37 “(1) *reconstructed or reconditioned in the United States and will con-*
 38 *tribute to the development of the United States fishing industry; or*

39 “(2) *used—*

40 “(A) *in the harvesting of fish from an underused fishery; or*

1 “(B) for a purpose described in the definition of ‘fishery facility’
2 in section 53701 of this title with respect to an underused fishery.

3 “(d) *INDEPENDENT ANALYSIS.*—The Secretary may make a determination
4 that aspects of an application under this chapter require independent anal-
5 ysis to be conducted by third party experts due to risk factors associated with
6 markets, technology, financial structures, or other risk factors identified by the
7 Secretary. Any independent analysis conducted under this subsection shall be
8 performed by a party chosen by the Secretary.

9 “(e) *ADDITIONAL EQUITY BECAUSE OF INCREASED RISKS.*—Notwith-
10 standing any other provision of this chapter, the Secretary may make a deter-
11 mination that an application under this title requires additional equity be-
12 cause of increased risk factors associated with markets, technology, financial
13 structures, or other risk factors identified by the Secretary.

14 **“§53709. Amount of obligations**

15 “(a) *IN GENERAL.*—The principal of an obligation may not be guaranteed
16 in an amount greater than the amount determined by multiplying the per-
17 centage applicable under subsection (b) by—

18 “(1) the amount paid by or for the account of the obligor (as deter-
19 mined by the Secretary, which determination shall be conclusive) for the
20 construction, reconstruction, or reconditioning of the vessel used as secu-
21 rity for the guarantee; or

22 “(2) if the obligor creates an escrow fund under section 53715 of this
23 title, the actual cost of the vessel.

24 “(b) *LIMITATIONS ON AMOUNT BORROWED.*—

25 “(1) *IN GENERAL.*—Except as otherwise provided, the principal
26 amount of an obligation guaranteed under this chapter may not exceed
27 75 percent of the actual cost or depreciated actual cost, as determined
28 by the Secretary, of the vessel used as security for the guarantee.

29 “(2) *CERTAIN APPROVED VESSELS.*—The principal amount may not
30 exceed 87.5 percent of the actual cost or depreciated actual cost if—

31 “(A) the size and speed of the vessel are approved by the Sec-
32 retary;

33 “(B) the vessel is or would have been eligible for mortgage aid
34 for construction under section 509 of the Merchant Marine Act,
35 1936, or would have been eligible except that the vessel was built
36 with a construction-differential subsidy and the subsidy has been re-
37 paid; and

38 “(C) the vessel is of a type described in that section for which
39 the minimum down payment required by that section is 12.5 per-
40 cent of the cost of the vessel.

1 “(3) *BARGES*.—For a barge constructed without a construction-dif-
2 ferential subsidy or for which the subsidy has been repaid, the principal
3 amount may not exceed 87.5 percent of the actual cost or depreciated ac-
4 tual cost.

5 “(4) *FISHING VESSELS AND FISHERY FACILITIES*.—For a fishing vessel
6 or fishery facility, the principal amount may not exceed 80 percent of
7 the actual cost or depreciated actual cost. However, debt for the vessel
8 or facility may not be placed through the Federal Financing Bank.

9 “(5) *OTEC*.—For an ocean thermal energy conversion facility or
10 plantship constructed without a construction-differential subsidy, the
11 principal amount may not exceed 87.5 percent of the actual cost or de-
12 preciated actual cost of the facility or plantship.

13 “(6) *ELIGIBLE EXPORT VESSELS*.—For an eligible export vessel, the
14 principal amount may not exceed 87.5 percent of the actual cost or de-
15 preciated actual cost.

16 “(c) *SECURITY INVOLVING MULTIPLE VESSELS*.—The principal amount of
17 an obligation having more than one vessel as security for the guarantee may
18 not exceed the sum of the principal amounts allowable for all the vessels.

19 “(d) *PROHIBITION ON UNIFORM PERCENTAGE LIMITATIONS*.—The Sec-
20 retary may not establish a percentage under any provision of subsection (b)
21 that is to be applied uniformly to all guarantees or commitments to guarantee
22 made under that provision.

23 “(e) *PROHIBITION ON MINIMUM PRINCIPAL AMOUNT*.—The Secretary may
24 not establish, as a condition of eligibility for a guarantee under this chapter,
25 a minimum principal amount for an obligation covering the reconstruction
26 or reconditioning of a fishing vessel or fishery facility. For purposes of this
27 chapter, the reconstruction or reconditioning of a fishing vessel or fishery fa-
28 cility does not include the routine minor repair or maintenance of the vessel
29 or facility.

30 **“§53710. Contents of obligations**

31 “(a) *IN GENERAL*.—An obligation guaranteed under this chapter must—

32 “(1) provide for payments by the obligor satisfactory to the Secretary;

33 “(2) provide for interest (exclusive of guarantee fees and other fees) at
34 a rate not more than the annual rate on the unpaid principal that the
35 Secretary determines is reasonable, considering the range of interest rates
36 prevailing in the private market for similar loans and the risks assumed
37 by the Secretary;

38 “(3) have a maturity date satisfactory to the Secretary, but—

39 “(A) not more than 25 years after the date of delivery of the ves-
40 sel used as security for the guarantee; or

1 “(B) if the vessel has been reconstructed or reconditioned, not
2 more than the later of—

3 “(i) 25 years after the date of delivery of the vessel; or

4 “(ii) the remaining years of useful life of the vessel as deter-
5 mined by the Secretary; and

6 “(4) provide, or a related agreement must provide, that if the vessel
7 used as security for the guarantee is a delivered vessel, the vessel shall
8 be—

9 “(A) in class A-1, American Bureau of Shipping, or meet other
10 standards acceptable to the Secretary, with all required certificates,
11 including marine inspection certificates of the Coast Guard or, in
12 the case of an eligible export vessel, of the appropriate foreign au-
13 thorities under a treaty, convention, or other international agree-
14 ment to which the United States is a party, and with all out-
15 standing requirements and recommendations necessary for class re-
16 tention accomplished, unless the Secretary permits a deferment of
17 repairs necessary to meet these requirements; and

18 “(B) well equipped, in good repair, and in every respect sea-
19 worthy and fit for service.

20 “(b) PROVISIONS FOR CERTAIN PASSENGER VESSELS.—

21 “(1) IN GENERAL.—With the Secretary’s approval, if the vessel used
22 as security for the guarantee is a passenger vessel having the tonnage,
23 speed, passenger accommodations, and other characteristics described in
24 section 503 of the Merchant Marine Act, 1936, an obligation guaranteed
25 under this chapter or a related agreement may provide that—

26 “(A) the only recourse by the United States Government against
27 the obligor for payments under the guarantee will be repossession
28 of the vessel and assignment of insurance claims; and

29 “(B) the obligor’s liability for payments under the guarantee will
30 be satisfied and discharged by the surrender of the vessel and all
31 interest in the vessel to the Government in the condition described
32 in paragraph (2).

33 “(2) SURRENDER OF VESSEL.—

34 “(A) IN GENERAL.—On surrender, the vessel must be—

35 “(i) free and clear of all liens and encumbrances except the
36 security interest conveyed to the Secretary under this chapter;

37 “(ii) in class; and

38 “(iii) in as good order and condition (ordinary wear and
39 tear excepted) as when acquired by the obligor.

40 “(B) COVERING DEFICIENCIES BY INSURANCE.—To the extent cov-
41 ered by insurance, a deficiency related to a requirement in subpara-

1 *quirements for additional collateral or greater equity contributions that are*
 2 *effective upon the occurrence of verifiable conditions relating to the obligor's*
 3 *financial condition or the status of the vessel or shipyard project.*

4 **“§53713. Administrative fees**

5 *“(a) IN GENERAL.—The Secretary shall charge and collect from the obligor*
 6 *fees the Secretary considers reasonable for—*

7 *“(1) investigating an application for a guarantee;*

8 *“(2) appraising property offered as security for a guarantee;*

9 *“(3) issuing a commitment;*

10 *“(4) providing services related to an escrow fund under section 53715*
 11 *of this title; and*

12 *“(5) inspecting property during construction, reconstruction, or recon-*
 13 *ditioning.*

14 *“(b) TOTAL FEE LIMITATION.—The total fees under subsection (a) may not*
 15 *exceed 0.5 percent of the original principal amount of the obligations to be*
 16 *guaranteed.*

17 *“(c) FEES FOR INDEPENDENT ANALYSIS.—The Secretary may charge and*
 18 *collect fees to cover the costs of independent analysis under section 53708(d)*
 19 *of this title. Notwithstanding section 3302 of title 31, any fee collected under*
 20 *this subsection shall—*

21 *“(1) be credited as an offsetting collection to the account that finances*
 22 *the administration of the loan guarantee program;*

23 *“(2) be available for expenditure only to pay the costs of activities and*
 24 *services for which the fee is imposed; and*

25 *“(3) remain available until expended.*

26 **“§53714. Guarantee fees**

27 *“(a) REGULATIONS.—Subject to this section, the Secretary shall prescribe*
 28 *regulations to assess a fee for guaranteeing an obligation under this chapter.*

29 *“(b) COMPUTATION OF FEE.—*

30 *“(1) IN GENERAL.—The amount of the fee for a guarantee under this*
 31 *chapter shall be equal to the sum of the amounts determined under para-*
 32 *graph (2) for the years in which the guarantee is in effect.*

33 *“(2) PRESENT VALUE FOR EACH YEAR.—The amount referred to in*
 34 *paragraph (1) for a year in which the guarantee is in effect is the*
 35 *present value of the amount calculated under paragraph (3). To deter-*
 36 *mine the present value, the Secretary shall apply a discount rate deter-*
 37 *mined by the Secretary of the Treasury, considering current market*
 38 *yields on outstanding obligations of the United States Government hav-*
 39 *ing periods to maturity comparable to the period to maturity for the*
 40 *guaranteed obligation.*

1 “(3) *CALCULATION OF AMOUNT.*—*The amount referred to in para-*
2 *graph (2) shall be calculated by multiplying—*

3 “(A) *the estimated average unpaid principal amount of the obli-*
4 *gation that will be outstanding during the year (excluding the aver-*
5 *age amount, other than interest, on deposit during the year in an*
6 *escrow fund under section 53715 of this title); by*

7 “(B) *the fee rate set under paragraph (4).*

8 “(4) *SETTING FEE RATES.*—*To set the fee rate referred to in para-*
9 *graph (3)(B), the Secretary shall establish a formula that—*

10 “(A) *takes into account the security provided for the guaranteed*
11 *obligation; and*

12 “(B) *is a sliding scale based on the creditworthiness of the obli-*
13 *gor, using—*

14 “(i) *the lowest allowable rate under paragraph (5) for the*
15 *most creditworthy obligors; and*

16 “(ii) *the highest allowable rate under paragraph (5) for the*
17 *least creditworthy obligors.*

18 “(5) *PERMISSIBLE RANGE OF RATES.*—*The fee rate set under para-*
19 *graph (4) shall be—*

20 “(A) *for a delivered vessel or equipment, at least 0.5 percent and*
21 *not more than 1 percent; and*

22 “(B) *for a vessel to be constructed, reconstructed, or reconditioned*
23 *or equipment to be delivered, at least 0.25 percent and not more*
24 *than 0.5 percent.*

25 “(c) *WHEN FEE COLLECTED.*—*A fee for the guarantee of an obligation*
26 *under this chapter shall be collected not later than the date on which an*
27 *amount is first paid on the obligation.*

28 “(d) *FINANCING THE FEE.*—*A fee paid under this section is eligible to be*
29 *financed under this chapter and shall be included in the actual cost of the*
30 *obligation guaranteed.*

31 “(e) *NOT REFUNDABLE.*—*A fee paid under this section is not refundable.*
32 *However, an obligor shall receive credit for the amount paid for the remain-*
33 *ing term of the obligation if the obligation is refinanced and guaranteed*
34 *under this chapter after the refinancing.*

35 **“§53715. Escrow fund**

36 “(a) *IN GENERAL.*—*If the proceeds of an obligation guaranteed under this*
37 *chapter are to be used to finance the construction, reconstruction, or recondi-*
38 *tioning of a vessel that will serve as security for a guarantee under this chap-*
39 *ter, the Secretary may accept and hold in escrow, under an escrow agreement*
40 *with the obligor, a portion of the proceeds of all obligations guaranteed under*
41 *this chapter whose proceeds are to be so used which is equal to—*

1 “(1) *the excess of—*

2 “(A) *the principal amount of all obligations whose proceeds are*
3 *to be so used; over*

4 “(B) *75 percent or 87.5 percent, whichever is applicable under*
5 *section 53709(b) of this title, of the amount paid by or for the ac-*
6 *count of the obligor for the construction, reconstruction, or recondi-*
7 *tioning of the vessel; plus*

8 “(2) *any interest the Secretary may require on the amount described*
9 *in paragraph (1).*

10 “(b) *SECURITY INVOLVING BOTH UNCOMPLETED AND DELIVERED VES-*
11 *SELS.—If the security for the guarantee of an obligation relates both to a ves-*
12 *sel to be constructed, reconstructed, or reconditioned and to a delivered vessel,*
13 *the principal amount of the obligation shall be prorated for purposes of sub-*
14 *section (a) under regulations prescribed by the Secretary.*

15 “(c) *DISBURSEMENT BEFORE TERMINATION OF AGREEMENT.—*

16 “(1) *PURPOSES.—The Secretary shall disburse amounts in the escrow*
17 *fund, as specified in the escrow agreement, to—*

18 “(A) *pay amounts the obligor is obligated to pay for—*

19 “(i) *the construction, reconstruction, or reconditioning of a*
20 *vessel used as security for the guarantee; and*

21 “(ii) *interest on the obligations;*

22 “(B) *redeem the obligations under a refinancing guaranteed*
23 *under this chapter; and*

24 “(C) *pay any excess interest deposits to the obligor at times pro-*
25 *vided for in the escrow agreement.*

26 “(2) *MANNER OF PAYMENT.—If a payment becomes due under the*
27 *guarantee before the termination of the escrow agreement, the amount in*
28 *the escrow fund at the time the payment becomes due, including realized*
29 *income not yet paid to the obligor, shall be paid into the appropriate*
30 *account under section 53717 of this title. The amount shall be credited*
31 *against amounts due or to become due from the obligor to the Secretary*
32 *on the guaranteed obligations or, to the extent not so required, be paid*
33 *to the obligor.*

34 “(d) *PAYMENTS REQUIRED BEFORE DISBURSEMENT.—*

35 “(1) *IN GENERAL.—No disbursement shall be made under subsection*
36 *(c) to any person until the total amount paid by or for the account of*
37 *the obligor from sources other than the proceeds of the obligation equals*
38 *at least 25 percent or 12.5 percent, whichever is applicable under section*
39 *53709(b) of this title, of the aggregate actual cost of the vessel, as pre-*
40 *viously approved by the Secretary. If the aggregate actual cost of the ves-*
41 *sel has increased since the Secretary’s initial approval or if it increases*

1 after the first disbursement is permitted under this subsection, then no
 2 further disbursements shall be made under subsection (c) until the total
 3 amount paid by or for the account of the obligor from sources other than
 4 the proceeds of the obligation equals at least 25 percent or 12.5 percent,
 5 as applicable, of the increase, as determined by the Secretary, in the ag-
 6 gregate actual cost of the vessel. This paragraph does not require the Sec-
 7 retary to consent to finance any increase in actual cost unless the Sec-
 8 retary determines that such an increase in the obligation meets all the
 9 terms and conditions of this chapter or other applicable law.

10 “(2) DOCUMENTED PROOF OF PROGRESS REQUIREMENT.—The Sec-
 11 retary shall, by regulation, establish a transparent, independent, and
 12 risk-based process for verifying and documenting the progress of projects
 13 under construction before disbursing guaranteed loan funds. At a min-
 14 imum, the process shall require documented proof of progress in connec-
 15 tion with the construction, reconstruction, or reconditioning of a vessel
 16 or vessels before disbursements are made from the escrow fund. The Sec-
 17 retary may require that the obligor provide a certificate from an inde-
 18 pendent party certifying that the requisite progress in construction, re-
 19 construction, or reconditioning has taken place.

20 “(e) DISBURSEMENT ON TERMINATION OF AGREEMENT.—

21 “(1) IN GENERAL.—If a payment has not become due under the guar-
 22 antee before the termination of the escrow agreement, the balance of the
 23 escrow fund at the time of termination shall be disbursed to—

24 “(A) prepay the excess of—

25 “(i) the principal amount of all obligations whose proceeds
 26 are to be used to finance the construction, reconstruction, or re-
 27 conditioning of the vessel used or to be used as security for the
 28 guarantee; over

29 “(ii) 75 percent or 87.5 percent, whichever is applicable
 30 under section 53709(b) of this title, of the actual cost of the ves-
 31 sel to the extent paid; and

32 “(B) pay interest on that prepaid amount of principal.

33 “(2) REMAINING BALANCE.—Any remaining balance of the escrow
 34 fund shall be paid to the obligor.

35 “(f) INVESTMENT.—The Secretary may invest and reinvest any part of an
 36 escrow fund in obligations of the United States Government with maturities
 37 such that the escrow fund will be available as required for purposes of the
 38 escrow agreement. Investment income shall be paid to the obligor when re-
 39 ceived.

1 “(g) *TERMS TO PROTECT GOVERNMENT.*—*The escrow agreement shall con-*
 2 *tain other terms the Secretary considers necessary to protect fully the interests*
 3 *of the Government.*

4 **“§53716. Deposit fund**

5 “(a) *IN GENERAL.*—*There is a deposit fund in the Treasury for purposes*
 6 *of this section. The Secretary, in accordance with an agreement under sub-*
 7 *section (b), may deposit into and hold in the fund cash belonging to an obli-*
 8 *gor to serve as collateral for a guarantee made under this chapter with respect*
 9 *to the obligor.*

10 “(b) *AGREEMENT.*—*The Secretary and an obligor shall make a reserve fund*
 11 *or other collateral account agreement to govern the deposit, withdrawal, reten-*
 12 *tion, use, and reinvestment of cash of the obligor held in the fund. The agree-*
 13 *ment shall contain—*

14 “(1) *terms and conditions required by this section;*

15 “(2) *terms that grant to the United States Government a security in-*
 16 *terest in all amounts deposited into the fund; and*

17 “(3) *any additional terms considered by the Secretary to be necessary*
 18 *to protect fully the interests of the Government.*

19 “(c) *INVESTMENT.*—*The Secretary may invest and reinvest any part of the*
 20 *amounts in the fund in obligations of the Government with maturities such*
 21 *that amounts in the fund will be available as required for purposes of the*
 22 *agreement under subsection (b). Cash balances in the fund in excess of current*
 23 *requirements shall be maintained in a form of uninvested funds, and the Sec-*
 24 *retary of the Treasury shall pay interest on these funds.*

25 “(d) *WITHDRAWALS.*—

26 “(1) *IN GENERAL.*—*Cash deposited into the fund may not be with-*
 27 *drawn without the consent of the Secretary.*

28 “(2) *USE OF INCOME.*—*Subject to paragraph (3), the Secretary may*
 29 *pay any income earned on cash of an obligor deposited into the fund*
 30 *in accordance with the agreement with the obligor under subsection (b).*

31 “(3) *RETENTION AGAINST DEFAULT.*—*The Secretary may retain and*
 32 *offset any or all of the cash of an obligor in the fund, and any income*
 33 *realized thereon, as part of the Secretary’s recovery against the obligor*
 34 *in case of a default by the obligor on an obligation.*

35 **“§53717. Management of funds in the Treasury**

36 “(a) *DEFINITION.*—*In this section, the term ‘FCRA’ means the Federal*
 37 *Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).*

38 “(b) *LOAN GUARANTEES BY SECRETARY OF TRANSPORTATION.*—

39 “(1) *WHEN NOT SUBJECT TO FCRA.*—*The Secretary of Transportation*
 40 *shall account for payments and disbursements involving obligations*
 41 *guaranteed under this chapter and not subject to FCRA in an account*

1 *in the Treasury entitled the Federal Ship Financing Fund Liquidating*
 2 *Account (a liquidating account as defined in FCRA).*

3 “(2) *WHEN SUBJECT TO FCRA.—The Secretary of Transportation shall*
 4 *account for payments and disbursements involving obligations guaran-*
 5 *teed under this chapter and subject to FCRA in a separate account in*
 6 *the Treasury entitled the Federal Ship Financing Guaranteed Loan Fi-*
 7 *nancing Account (a financing account as defined in FCRA).*

8 “(c) *LOAN GUARANTEES BY SECRETARY OF COMMERCE.—*

9 “(1) *WHEN NOT SUBJECT TO FCRA.—The Secretary of Commerce shall*
 10 *account for payments and disbursements involving obligations guaran-*
 11 *teed under this chapter and not subject to FCRA in a separate account*
 12 *in the Treasury established for this purpose.*

13 “(2) *WHEN SUBJECT TO FCRA.—The Secretary of Commerce shall ac-*
 14 *count for payments and disbursements involving obligations guaranteed*
 15 *under this chapter and subject to FCRA in a separate account in the*
 16 *Treasury established for this purpose.*

17 “(d) *DIRECT LOANS BY SECRETARY OF COMMERCE.—The Secretary of*
 18 *Commerce shall account for payments and disbursements involving direct*
 19 *loans made under this chapter in a separate account in the Treasury estab-*
 20 *lished for this purpose.*

21 **“§ 53718. Annual report to Congress**

22 “*The Secretary of Transportation shall report to Congress annually on the*
 23 *loan guarantee program under this chapter. Each report shall include—*

24 “(1) *the size, in dollars, of the portfolio of loans guaranteed;*

25 “(2) *the size, in dollars, of projects in the portfolio facing financial*
 26 *difficulties;*

27 “(3) *the number and type of projects covered;*

28 “(4) *a profile of pending loan applications;*

29 “(5) *the amount of appropriations available for new guarantees;*

30 “(6) *a profile of each project approved since the last report; and*

31 “(7) *a profile of any defaults since the last report.*

32 “*SUBCHAPTER II—DEFAULT PROVISIONS*

33 **“§ 53721. Rights of obligee**

34 “(a) *DEMANDS BY OBLIGEEES.—Except as provided in subsection (c), if an*
 35 *obligor has continued in default for 30 days in the payment of principal or*
 36 *interest on an obligation guaranteed under this chapter, the obligee or the*
 37 *obligee’s agent may demand that the Secretary pay the unpaid principal*
 38 *amount of the obligation and the unpaid interest on the obligation to the date*
 39 *of payment. The demand must be made within the earlier of—*

40 “(1) *a period that may be specified in the guarantee or a related*
 41 *agreement; or*

1 “(2) 90 days from the date of the default.

2 “(b) PAYMENTS BY SECRETARY.—

3 “(1) IN GENERAL.—If a demand is made under subsection (a), the
4 Secretary shall pay to the obligee or the obligee’s agent the unpaid prin-
5 cipal amount of the obligation and the unpaid interest on the obligation
6 to the date of payment. Payment shall be made within the earlier of—

7 “(A) a period that may be specified in the guarantee or a related
8 agreement; or

9 “(B) 30 days from the date of the demand.

10 “(2) IF NO EXISTING DEFAULT.—The Secretary is not required to
11 make payment under this subsection if, within the appropriate period
12 under paragraph (1), the Secretary finds that the obligor was not in de-
13 fault or that the default was remedied before the demand.

14 “(c) ASSUMPTION OF RIGHTS AND OBLIGATIONS BEFORE DEMAND.—An
15 obligee or the obligee’s agent may not demand payment under this section if
16 the Secretary, before the demand and on terms that may be provided in the
17 obligation or a related agreement, has assumed the obligor’s rights and duties
18 under the obligation and any related agreement and made any payment in
19 default. However, the guarantee of the obligation remains in effect after the
20 Secretary’s assumption.

21 **“§ 53722. Actions by Secretary**

22 “(a) GENERAL AUTHORITY.—On default under an obligation or related
23 agreement between the Secretary and the obligor, the Secretary, on terms that
24 may be provided in the obligation or agreement, may—

25 “(1) assume the obligor’s rights and duties under the obligation or
26 agreement, make any payment in default, and notify the obligee or the
27 obligee’s agent of the default and the Secretary’s assumption; or

28 “(2) notify the obligee or the obligee’s agent of the default.

29 “(b) DEMANDS BY OBLIGEEES.—

30 “(1) DEMAND.—If the Secretary proceeds under subsection (a)(2), the
31 obligee or the obligee’s agent may demand that the Secretary pay the un-
32 paid principal amount of the obligation and the unpaid interest on the
33 obligation. The demand must be made within the earlier of—

34 “(A) a period that may be specified in the guarantee or a related
35 agreement; or

36 “(B) 60 days from the date of the Secretary’s notice.

37 “(2) PAYMENT.—If a demand is made under paragraph (1), the Sec-
38 retary shall pay to the obligee or the obligee’s agent the unpaid principal
39 amount of the obligation and the unpaid interest on the obligation to
40 the date of payment. Payment shall be made within the earlier of—

1 “(A) a period that may be specified in the guarantee or a related
2 agreement; or

3 “(B) 30 days from the date of the demand.

4 “(c) *CONTINUED EFFECT OF GUARANTEE.*—A guarantee of an obligation
5 remains in effect after an assumption of the obligation by the Secretary.

6 “(d) *ADDITIONAL RESPONSES.*—If there is a default on an obligation, the
7 Secretary shall conduct operations under this chapter in a manner that—

8 “(1) maximizes the net present value return from the sale or disposi-
9 tion of assets associated with the obligation, including prompt referral
10 to the Attorney General for collection as appropriate;

11 “(2) minimizes the amount of any loss realized in the resolution of
12 the guarantee;

13 “(3) ensures adequate competition and fair and consistent treatment
14 of offerors; and

15 “(4) requires appraisal of assets by an independent appraiser.

16 **“§53723. Payments by Secretary and issuance of obligations**

17 “(a) *CASH PAYMENT.*—Amounts required to be paid by the Secretary under
18 section 53721 or 53722 of this title shall be paid in cash.

19 “(b) *ISSUANCE OF OBLIGATIONS.*—If amounts in the appropriate account
20 under section 53717 of this title are not sufficient to make a payment re-
21 quired under section 53721 or 53722 of this title, the Secretary may issue
22 obligations to the Secretary of the Treasury. The Secretary, with the approval
23 of the Secretary of the Treasury, shall prescribe the form, denomination, ma-
24 turity, and other terms (except the interest rate) of the obligations. The Sec-
25 retary of the Treasury shall set the interest rate for the obligations, consid-
26 ering the current average market yield on outstanding marketable obligations
27 of the United States Government of comparable maturities during the month
28 before the obligations are issued.

29 “(c) *PURCHASE OF OBLIGATIONS.*—The Secretary of the Treasury shall
30 purchase the obligations issued under this section. To purchase the obliga-
31 tions, the Secretary of the Treasury may use as a public debt transaction the
32 proceeds from the sale of securities issued under chapter 31 of title 31. The
33 purposes for which securities may be issued under that chapter are extended
34 to include the purchase of obligations under this subsection. The Secretary of
35 the Treasury may sell obligations purchased under this section. A redemption,
36 purchase, or sale of the obligations by the Secretary of the Treasury is a pub-
37 lic debt transaction of the Government.

38 “(d) *DEPOSITS AND REDEMPTIONS.*—The Secretary shall deposit amounts
39 borrowed under this section in the appropriate account under section 53717
40 of this title and make redemptions of the obligations from that account.

1 **“§53724. Rights to secured property**

2 “(a) ACQUISITION OF SECURITY RIGHTS.—When the Secretary makes a
3 payment on, or assumes, an obligation under section 53721 or 53722 of this
4 title, the Secretary acquires the rights under the security agreement with the
5 obligor in the security held by the Secretary to guarantee the obligation.

6 “(b) USE AND DISPOSITION OF SECURED PROPERTY.—Notwithstanding
7 any other law relating to the acquisition, handling, or disposal of property
8 by the United States Government, the Secretary has the right, in the Sec-
9 retary’s discretion, to complete, reconstruct, recondition, renovate, repair,
10 maintain, operate, charter, or sell any property acquired under a security
11 agreement with an obligor, or to place a vessel so acquired in the National
12 Defense Reserve Fleet. The terms of a sale under this subsection shall be as
13 approved by the Secretary.

14 **“§53725. Actions against obligor**

15 “(a) IN GENERAL.—For a default under a guaranteed obligation or related
16 agreement, the Secretary may take any action against the obligor or another
17 liable party that the Secretary considers necessary to protect the interests of
18 the United States Government. A civil action may be brought in the name
19 of the United States or the obligee. The obligee shall make available to the
20 Government all records and evidence necessary to prosecute the action.

21 “(b) TITLE, POSSESSION, AND PURCHASE.—

22 “(1) IN GENERAL.—The Secretary may—

23 “(A) accept a conveyance of title to and possession of property
24 from the obligor or another party liable to the Secretary; and

25 “(B) purchase the property for an amount not greater than the
26 unpaid principal amount of the obligation and interest thereon.

27 “(2) PAYMENT OF EXCESS.—If, through the sale of property, the Sec-
28 retary receives an amount of cash greater than the unpaid principal
29 amount of the obligation, the unpaid interest on the obligation, and the
30 expenses of collecting those amounts, the Secretary shall pay the excess
31 to the obligor.

32 “SUBCHAPTER III—PARTICULAR PROJECTS

33 **“§53731. Commercial demonstration ocean thermal energy**
34 **conversion facilities and plantships**

35 “(a) IN GENERAL.—Under subchapter I of this chapter, the Secretary may
36 guarantee or make a commitment to guarantee the payment of the principal
37 of and interest on an obligation that aids in financing (including reimburse-
38 ment of an obligor for expenditures previously made for) the construction, re-
39 construction, or reconditioning of a commercial demonstration ocean thermal
40 energy conversion facility or plantship. This section may be used to guarantee

1 obligations for a total of not more than 5 separate facilities and plantships
2 or a demonstrated 400 megawatt capacity, whichever comes first.

3 “(b) *APPLICABILITY OF OTHER PROVISIONS.*—Except as otherwise provided
4 in this section, a guarantee or commitment to guarantee under this section
5 is subject to all the provisions applicable to a guarantee or commitment to
6 guarantee under subchapter I of this chapter.

7 “(c) *ECONOMIC SOUNDNESS.*—The required determination of economic
8 soundness under section 53708 of this title applies to a guarantee or commit-
9 ment to guarantee for that portion of a facility or plantship not to be sup-
10 ported with appropriated Federal funds.

11 “(d) *REASONABLENESS OF RISK.*—A guarantee or commitment to guar-
12 antee may not be made under this section unless the Secretary of Energy, in
13 consultation with the Secretary, certifies to the Secretary that, for the facility
14 or plantship for which the guarantee or commitment to guarantee is sought,
15 there is sufficient guarantee of performance and payment to lower the risk
16 to the United States Government to a reasonable level. In deciding whether
17 to issue such a certification, the Secretary of Energy shall consider—

18 “(1) the successful demonstration of the technology to be used in the
19 facility at a scale sufficient to establish the likelihood of technical and
20 economic viability in the proposed market; and

21 “(2) the need of the United States to develop new and renewable
22 sources of energy and the benefits to be realized from the construction
23 and successful operation of the facility or plantship.

24 “(e) *AMOUNT OF OBLIGATION.*—The total principal amount of an obliga-
25 tion guaranteed under this section may not exceed 87.5 percent of—

26 “(1) the actual cost or depreciated actual cost of the facility or
27 plantship; or

28 “(2) if the facility or plantship is supported with appropriated Fed-
29 eral funds, the total principal amount of that portion of the actual cost
30 or depreciated actual cost for which the obligor is obligated to secure fi-
31 nancing under the agreement between the obligor and the Department of
32 Energy or other Federal agency.

33 “(f) *OTEC DEMONSTRATION FUND.*—

34 “(1) *IN GENERAL.*—There is a special subaccount, known as the *OTEC*
35 *Demonstration Fund*, in the account established under section
36 53717(b)(1) of this title.

37 “(2) *USE AND OPERATION.*—The *OTEC Demonstration Fund* shall be
38 used for obligation guarantees authorized under this section that do not
39 qualify under subchapter I of this chapter. Except as otherwise provided
40 in this section, the *OTEC Demonstration Fund* shall be operated in the
41 same manner as the parent account. However—

1 “(A) amounts received by the Secretary under subchapter I of this
2 chapter related to guarantees or commitments to guarantee made
3 under this section shall be deposited only in the OTEC Demonstra-
4 tion Fund; and

5 “(B) when obligations issued by the Secretary under section
6 53723 of this title related to the OTEC Demonstration Fund are
7 outstanding, any amount received by the Secretary under sub-
8 chapter I of this chapter related to ocean thermal energy conversion
9 facilities or plantships shall be deposited in the OTEC Demonstra-
10 tion Fund.

11 “(3) TRANSFERS.—Assets in the OTEC Demonstration Fund may be
12 transferred to the parent account when and to the extent the balance in
13 the OTEC Demonstration Fund exceeds the total guarantees or commit-
14 ments to guarantee made under this section then outstanding, plus obli-
15 gations issued by the Secretary under section 53723 of this title related
16 to the OTEC Demonstration Fund.

17 “(4) LIABILITY.—The parent account is not liable for a guarantee or
18 commitment to guarantee made under this section.

19 “(5) MAXIMUM UNPAID PRINCIPAL AMOUNT.—The total unpaid prin-
20 cipal amount of the obligations guaranteed with the backing of the
21 OTEC Demonstration Fund and outstanding at any one time may not
22 exceed \$1,650,000,000.

23 “(g) ISSUANCE AND PAYMENT OF OBLIGATIONS.—Section 53723 of this title
24 applies to the OTEC Demonstration Fund. However, obligations issued by the
25 Secretary under that section related to the OTEC Demonstration Fund shall
26 be payable only from proceeds realized by the OTEC Demonstration Fund.

27 “(h) TAXATION OF INTEREST.—Interest on an obligation guaranteed under
28 this section shall be included in gross income under chapter 1 of the Internal
29 Revenue Code of 1986 (26 U.S.C. ch. 1).

30 **“§ 53732. Eligible export vessels**

31 “(a) APPLICABLE TERMS.—The Secretary may guarantee an obligation for
32 an eligible export vessel in accordance with—

33 “(1) the terms applicable under this chapter for vessels documented
34 under the laws of the United States; or

35 “(2) other terms the Secretary determines are more favorable than
36 those terms and compatible with export credit terms offered by foreign
37 governments for the sale of vessels built in foreign shipyards.

38 “(b) INTERAGENCY COUNCIL.—

39 “(1) ESTABLISHMENT.—There is an interagency council to carry out
40 this section.

1 “(2) *COMPOSITION.*—*The council is composed of the following individuals or their designees:*

2 “(A) *The Secretary of Transportation, who is the chairman of the*
3 *council.*

4 “(B) *The Secretary of the Treasury.*

5 “(C) *The Secretary of State.*

6 “(D) *The Assistant to the President for Economic Policy.*

7 “(E) *The United States Trade Representative.*

8 “(F) *The President and Chairman of the Export-Import Bank of*
9 *the United States.*

10 “(3) *FUNCTIONS.*—*The council shall—*

11 “(A) *obtain information on shipbuilding loan guarantees, direct*
12 *and indirect subsidies, and other favorable treatment of shipyards*
13 *provided by foreign governments to shipyards in competition with*
14 *United States shipyards;*

15 “(B) *consult regularly with United States shipbuilders to obtain*
16 *the essential information about international shipbuilding competi-*
17 *tion on which to set terms for loan guarantees under subsection*
18 *(a)(2); and*

19 “(C) *provide guidance to the Secretary in establishing terms for*
20 *loan guarantees under subsection (a)(2).*

21 “(4) *ANNUAL REPORT.*—*Not later than January 31 of each year, the*
22 *Secretary shall submit to Congress a report on activities of the Secretary*
23 *under this section during the preceding year. The report shall include—*

24 “(A) *documentation of sources of information about assistance by*
25 *governments of other countries to shipyards in those countries; and*

26 “(B) *a summary of recommendations made to the Secretary dur-*
27 *ing the preceding year about applications submitted to the Sec-*
28 *retary during that year for loan guarantees to construct eligible ex-*
29 *port vessels.*

30 “(c) *REQUIRED FINDINGS.*—

31 “(1) *BENEFIT TO SHIPBUILDING INDUSTRY.*—*The Secretary may not*
32 *guarantee or make a commitment to guarantee an obligation for an eli-*
33 *gible export vessel unless the Secretary finds that the construction, recon-*
34 *struction, or reconditioning of the vessel will aid in the transition of*
35 *United States shipyards to commercial activities or will preserve ship-*
36 *building assets that would be essential in time of war or national emer-*
37 *gency.*

38 “(2) *PRIORITY OF DOCUMENTED VESSELS.*—*The Secretary may not*
39 *make a commitment to guarantee an obligation for an eligible export ves-*
40 *sel unless the Secretary determines that making the commitment will not*
41

1 result in denial of an economically sound application for a commitment
 2 to guarantee an obligation for a vessel documented under the laws of the
 3 United States and operating in the domestic or foreign commerce of the
 4 United States. The Secretary has sole discretion in making the deter-
 5 mination. In making the determination, the Secretary shall consider—

6 “(A) the status and economic soundness of pending applications
 7 for commitments to guarantee obligations for vessels documented
 8 under the laws of the United States that are operating or will be
 9 operating in the domestic or foreign commerce of the United States;
 10 and

11 “(B) the amount of guarantee authority available.

12 “(d) *RESTRICTION ON TRANSFER OF VESSEL.*—The Secretary may not
 13 guarantee or make a commitment to guarantee an obligation for an eligible
 14 export vessel unless the owner of the vessel agrees with the Secretary that the
 15 vessel will not be transferred to a country designated by the Secretary of De-
 16 fense as a country whose interests are hostile to the interests of the United
 17 States.

18 “(e) *REVIEW BY SECRETARY OF DEFENSE.*—

19 “(1) *NOTIFICATION.*—The Secretary shall promptly notify the Sec-
 20 retary of Defense of the receipt of an application for a loan guarantee
 21 for an eligible export vessel.

22 “(2) *DISAPPROVAL.*—The Secretary of Defense, within 30 days after
 23 receiving the notice, may disapprove the guarantee based on an assess-
 24 ment of the potential use of the vessel in a manner that may harm the
 25 national security interests of the United States. The Secretary may not
 26 disapprove a guarantee solely because of the type of vessel to be con-
 27 structed.

28 “(3) *DELEGATION.*—The authority of the Secretary of Defense to dis-
 29 approve a guarantee under this subsection may be delegated only to a
 30 civilian officer of the Department of Defense appointed by the President
 31 by and with the advice and consent of the Senate.

32 “(4) *PROHIBITION.*—The Secretary may not make a loan guarantee
 33 disapproved by the Secretary of Defense under this subsection.

34 “(f) *EXPIRATION OF AUTHORITY.*—The Secretary may not issue a commit-
 35 ment to guarantee an obligation for an eligible export vessel under this chap-
 36 ter after the last date on which such a commitment may be issued under any
 37 treaty or convention entered into after November 30, 1993, that prohibits
 38 guarantee of such an obligation.

39 **“§ 53733. Shipyard modernization and improvement**

40 “(a) *DEFINITIONS.*—In this section:

1 “(1) *ADVANCED SHIPBUILDING TECHNOLOGY.*—*The term ‘advanced*
2 *shipbuilding technology’ includes—*

3 “(A) *numerically controlled machine tools, robots, automated*
4 *process control equipment, computerized flexible manufacturing sys-*
5 *tems, associated computer software, and other technology for im-*
6 *proving shipbuilding and related industrial production that ad-*
7 *vance the state-of-the-art; and*

8 “(B) *novel techniques and processes designed to improve ship-*
9 *building quality, productivity, and practice, and to promote sus-*
10 *tainable development, including engineering design, quality assur-*
11 *ance, concurrent engineering, continuous process production tech-*
12 *nology, energy efficiency, waste minimization, design for*
13 *recyclability or parts reuse, inventory management, upgraded work-*
14 *er skills, and communications with customers and suppliers.*

15 “(2) *GENERAL SHIPYARD FACILITY.*—*The term ‘general shipyard facil-*
16 *ity’ means—*

17 “(A) *for operations on land—*

18 “(i) *a structure or appurtenance thereto designed for the*
19 *construction, reconstruction, repair, rehabilitation, or refur-*
20 *bishment of a vessel, including a graving dock, building way,*
21 *ship lift, wharf, or pier crane;*

22 “(ii) *the land necessary for the structure or appurtenance;*
23 *and*

24 “(iii) *equipment that is for use with the structure or appur-*
25 *tenance and that is necessary for performing a function re-*
26 *ferred to in clause (i); and*

27 “(B) *for operations not on land, a vessel, floating drydock, or*
28 *barge built in the United States and used for, equipped to be used*
29 *for, or of a type normally used for, performing a function referred*
30 *to in subparagraph (A)(i).*

31 “(3) *MODERN SHIPBUILDING TECHNOLOGY.*—*The term ‘modern ship-*
32 *building technology’ means the best available proven technology, tech-*
33 *niques, and processes appropriate to enhancing the productivity of ship-*
34 *yards.*

35 “(b) *GENERAL AUTHORITY.*—*Under subchapter I of this chapter, the Sec-*
36 *retary may guarantee or make a commitment to guarantee the payment of*
37 *the principal of and interest on an obligation for advanced shipbuilding tech-*
38 *nology and modern shipbuilding technology of a general shipyard facility in*
39 *the United States. Only a private shipyard is eligible to receive a guarantee.*

40 “(c) *APPLICABILITY OF OTHER PROVISIONS.*—*Except as otherwise provided*
41 *in this section, a guarantee or commitment to guarantee under this section*

1 *is subject to all the provisions applicable to a guarantee or commitment to*
2 *guarantee under subchapter I of this chapter.*

3 “(d) *AMOUNT OF OBLIGATION.*—*The principal amount of an obligation*
4 *guaranteed under this chapter may not exceed 87.5 percent of the actual cost*
5 *of the advanced shipbuilding technology or modern shipbuilding technology.*

6 “(e) *TRANSFER OF AMOUNTS.*—*The Secretary may accept the transfer of*
7 *amounts from a department, agency, or instrumentality of the United States*
8 *Government and may use those amounts to cover the cost (as defined in sec-*
9 *tion 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of making*
10 *guarantees or commitments to guarantee under this section.*

11 **“§53734. Replacement of vessels because of changes in oper-**
12 **ating standards**

13 “(a) *GENERAL AUTHORITY.*—*Notwithstanding any other provision of this*
14 *chapter, the Secretary, on terms the Secretary may prescribe, may guarantee*
15 *or make a commitment to guarantee the payment of the principal of and in-*
16 *terest on an obligation that aids in financing or refinancing (including reim-*
17 *bursement of an obligor for expenditures previously made for) a contract for*
18 *the construction or reconstruction of a vessel if—*

19 “(1) *the vessel is designed and to be used for commercial use in coast-*
20 *wise, intercoastal, or foreign trade;*

21 “(2) *the construction or reconstruction is necessary to replace a vessel*
22 *that cannot continue to be operated because of a change required by law*
23 *in the standards for the operation of vessels, and the applicant for the*
24 *guarantee or commitment would not otherwise legally be able to continue*
25 *operating vessels in the trades in which the applicant operated vessels*
26 *before the change;*

27 “(3) *the applicant is presently engaged in transporting cargoes in ves-*
28 *sels of the type and class that will be constructed or reconstructed under*
29 *this section and agrees to employ vessels constructed or reconstructed*
30 *under this section as replacements only for vessels made obsolete by the*
31 *change in operating standards;*

32 “(4) *the capacity of the vessels to be constructed or reconstructed under*
33 *this section will not increase the cargo carrying capacity of the vessels*
34 *being replaced;*

35 “(5) *the Secretary has not determined that the market demand for the*
36 *vessel over its useful life will diminish so as to make granting the guar-*
37 *antee fiduciarily imprudent;*

38 “(6) *the vessel, if to be reconstructed, will have a useful life of at least*
39 *15 years after the reconstruction; and*

40 “(7) *the Secretary has considered the criteria specified in section*
41 *53708(a)(3)–(5) of this title.*

1 “(b) *TERM AND AMOUNT OF OBLIGATION.*—

2 “(1) *TERM.*—*The term of an obligation guaranteed under this section*
3 *may not exceed 25 years.*

4 “(2) *AMOUNT.*—*The amount of an obligation guaranteed under this*
5 *section may not exceed 87.5 percent of the actual cost or depreciated ac-*
6 *tual cost to the applicant for the construction or reconstruction of the*
7 *vessel. The Secretary may not establish a percentage under this para-*
8 *graph that is to be applied uniformly to all guarantees or commitments*
9 *to guarantee made under this section.*

10 “(c) *APPLICABILITY OF OTHER PROVISIONS.*—*A guarantee or commitment*
11 *to guarantee under this section is also subject to sections 53701, 53702(a),*
12 *53704, 53705, 53707(a), 53708(d) and (e), 53709(a), 53710(a)(1), (2), and*
13 *(4) and (c), 53711(a), 53713, 53714, 53717, and 53721–53725 of this title.*

14 “(d) *SECURITY AGAINST DEFAULT.*—*The Secretary shall require by regula-*
15 *tion that an applicant under this section provide adequate security against*
16 *default.*

17 “(e) *GUARANTEE FEES.*—*The Secretary may establish a fee for the guar-*
18 *antee of an obligation under this section that is in addition to the fee estab-*
19 *lished under section 53714 of this title. The fee may be—*

20 “(1) *an annual fee of not more than an additional 1 percent added*
21 *to the fee established under section 53714 of this title; or*

22 “(2) *a fee based on the amount of the obligation versus the percentage*
23 *of the obligor’s fleet being replaced by vessels constructed or reconstructed*
24 *under this section.*

25 **“§53735. Fisheries financing and capacity reduction**

26 “(a) *DEFINITION.*—*In this section, the term ‘program’ means a fishing ca-*
27 *capacity reduction program established under section 312 of the Magnuson-Ste-*
28 *vens Fishery Conservation and Management Act (16 U.S.C. 1861a).*

29 “(b) *GUARANTEE AUTHORITY.*—*The Secretary may guarantee the repay-*
30 *ment of debt obligations issued by entities under this section. Debt obligations*
31 *to be guaranteed may be issued by any entity that has been approved by the*
32 *Secretary and has agreed with the Secretary to conditions the Secretary con-*
33 *siders necessary for this section to achieve the objective of the program and*
34 *to protect the interest of the United States.*

35 “(c) *REQUIREMENTS OF OBLIGATIONS.*—*A debt obligation guaranteed*
36 *under this section shall—*

37 “(1) *be treated in the same manner and to the same extent as other*
38 *obligations guaranteed under this chapter, except with respect to provi-*
39 *sions of this chapter that by their nature cannot be applied to obligations*
40 *guaranteed under this section;*

1 “(2) *have the fishing fees established under the program paid into a*
 2 *separate subaccount of the fishing capacity reduction fund established*
 3 *under this section;*

4 “(3) *not exceed \$100,000,000 in an unpaid principal amount out-*
 5 *standing at any one time for a program;*

6 “(4) *have such maturity (not to exceed 20 years), take such form, and*
 7 *contain such conditions as the Secretary determines necessary for the*
 8 *program to which they relate;*

9 “(5) *have as the exclusive source of repayment (subject to the second*
 10 *sentence of subsection (d)(2)) and as the exclusive payment security, the*
 11 *fishing fees established under the program; and*

12 “(6) *at the discretion of the Secretary be issued in the public market*
 13 *or sold to the Federal Financing Bank.*

14 “(d) **FISHING CAPACITY REDUCTION FUND.**—

15 “(1) **IN GENERAL.**—*There is a separate account in the Treasury,*
 16 *known as the Fishing Capacity Reduction Fund. Within the Fund, at*
 17 *least one subaccount shall be established for each program into which*
 18 *shall be paid all fishing fees established under the program and other*
 19 *amounts authorized for the program.*

20 “(2) **AVAILABILITY OF AMOUNTS.**—*Amounts in the Fund shall be*
 21 *available, without appropriation or fiscal year limitation, to the Sec-*
 22 *retary to pay the cost of the program, including payments to financial*
 23 *institutions to pay debt obligations incurred by entities under this sec-*
 24 *tion. Funds available for this purpose from other amounts available for*
 25 *the program may also be used to pay those debt obligations.*

26 “(3) **INVESTMENT.**—*Amounts in the Fund that are not currently need-*
 27 *ed for the purpose of this section shall be kept on deposit or invested in*
 28 *obligations of the United States Government.*

29 “(e) **REGULATIONS.**—*The Secretary shall prescribe regulations the Sec-*
 30 *retary considers necessary to carry out this section.*

31 **“CHAPTER 539—WAR RISK INSURANCE**

“Sec.

“53901. *Definitions.*

“53902. *Authority to provide insurance.*

“53903. *Insurable interests.*

“53904. *Liability insurance for persons involved in war or defense efforts.*

“53905. *Agency insurance.*

“53906. *Hull insurance valuation.*

“53907. *Reinsurance.*

“53908. *Additional insurance privately obtained.*

“53909. *War risk insurance revolving fund.*

“53910. *Administrative.*

“53911. *Civil actions for losses.*

“53912. *Expiration date.*

32 **“§ 53901. Definitions**

33 *“In this chapter:*

1 “(1) *AMERICAN VESSEL.*—*The term ‘American vessel’ includes—*

2 “(A) *a documented vessel with a registry or coastwise endorse-*
3 *ment under chapter 121 of this title;*

4 “(B) *an undocumented vessel owned or chartered by or made*
5 *available to the United States Government; and*

6 “(C) *a tug, barge, or other watercraft (whether or not docu-*
7 *mented) owned by a citizen of the United States and used in essen-*
8 *tial water transportation or in the fisheries, except only for sport*
9 *fishing.*

10 “(2) *CARGO.*—*The term ‘cargo’ includes a loaded or empty container*
11 *on a vessel.*

12 “(3) *TRANSPORTATION IN THE WATERBORNE COMMERCE OF THE*
13 *UNITED STATES.*—*The term ‘transportation in the waterborne commerce*
14 *of the United States’ includes the operation of a vessel in the fisheries,*
15 *except only for sport fishing.*

16 “(4) *WAR RISKS.*—*The term ‘war risks’ includes, to the extent the Sec-*
17 *retary of Transportation determines—*

18 “(A) *any part of a loss excluded from marine insurance coverage*
19 *under a ‘free of capture or seizure’ clause or analogous clause; and*

20 “(B) *any other loss from a hostile act, including confiscation, ex-*
21 *propriation, nationalization, or deprivation.*

22 **“§ 53902. Authority to provide insurance**

23 “(a) *IN GENERAL.*—*With the approval of the President, and after such con-*
24 *sultation with interested agencies of United States Government as the Presi-*
25 *dent may require, the Secretary of Transportation may provide insurance*
26 *and reinsurance against loss or damage from war risks as provided by this*
27 *chapter whenever it appears to the Secretary that insurance adequate for the*
28 *needs of the waterborne commerce of the United States cannot be obtained on*
29 *reasonable terms and conditions from companies authorized to do insurance*
30 *business in a State of the United States.*

31 “(b) *CONSIDERATION OF RISK.*—*Insurance or reinsurance under this chap-*
32 *ter shall be based, insofar as practicable, on consideration of the risk involved.*

33 “(c) *AVAILABILITY OF VESSEL DURING WAR OR NATIONAL EMERGENCY.*—
34 *Insurance or reinsurance for a vessel may be provided under this chapter only*
35 *on the condition that the vessel will be available to the Government in time*
36 *of war or national emergency.*

37 **“§ 53903. Insurable interests**

38 “(a) *IN GENERAL.*—*The Secretary of Transportation may provide insur-*
39 *ance and reinsurance under this chapter for—*

40 “(1) *an American vessel, including a vessel under construction;*

41 “(2) *a foreign vessel—*

- 1 “(A) owned by a citizen of the United States; or
 2 “(B) engaged in transportation in the waterborne commerce of
 3 the United States or in such other transportation by water or such
 4 other services as the Secretary considers to be in the interest of the
 5 national defense or national economy of the United States, when so
 6 engaged;
 7 “(3) cargo—
 8 “(A) shipped or to be shipped on a vessel insurable under this
 9 section, including by express or registered mail;
 10 “(B) owned by a citizen or resident of the United States;
 11 “(C) imported to or exported from the United States, or sold or
 12 purchased by a citizen or resident of the United States, under a con-
 13 tract of sale or purchase the terms of which provide that the risk
 14 of loss by war risks or the obligation to provide insurance against
 15 war risks is on a citizen or resident of the United States; or
 16 “(D) shipped between ports in the United States;
 17 “(4) disbursements, including advances to masters and general average
 18 disbursements, and freight and passage money of a vessel insurable under
 19 this section;
 20 “(5) personal effects of an individual on a vessel insurable under this
 21 section;
 22 “(6) loss of life, injury, or detention by an enemy of the United States
 23 after capture, with respect to an individual on a vessel insurable under
 24 this section; and
 25 “(7) statutory or contractual obligations or other liabilities of a vessel
 26 insurable under this section or of the owner or charterer of such a vessel,
 27 of a nature customarily covered by insurance.
 28 “(b) **CONSIDERATIONS FOR FOREIGN VESSELS.**—In determining whether to
 29 provide insurance or reinsurance for a foreign vessel, the Secretary shall con-
 30 sider the characteristics, employment, and general management of the vessel
 31 by the owner or charterer.
 32 “(c) **NON-WAR RISKS.**—Insurance of a risk under subsection (a)(5)–(7), in-
 33 sofar as it involves a liability related to an individual on the vessel, may in-
 34 clude risks other than war risks to the extent the Secretary considers advis-
 35 able.
 36 **“§53904. Liability insurance for persons involved in war or**
 37 **defense efforts**
 38 “(a) **IN GENERAL.**—The Secretary of Transportation may provide insur-
 39 ance under this chapter against legal liability that a person may incur in
 40 providing services or facilities for a vessel if, in the opinion of the Secretary,
 41 the insurance—

1 “(1) is required in prosecuting a war or for national defense; and

2 “(2) cannot be obtained at reasonable rates or on reasonable terms and
3 conditions from approved companies authorized to do insurance business
4 in a State of the United States.

5 “(b) *LIMITATIONS.*—Employer liability insurance and worker compensa-
6 tion insurance against legal liability to employees may not be provided under
7 this section.

8 **“§53905. Agency insurance**

9 “(a) *IN GENERAL.*—With the approval of the President, an agency of the
10 United States Government may obtain insurance provided for by this chapter
11 from the Secretary of Transportation, except as provided in sections 17302
12 and 17303 of title 40.

13 “(b) *PREMIUM WAIVERS.*—With the approval of the President, the Sec-
14 retary of Transportation may provide insurance under this chapter at the re-
15 quest of the Secretary of Defense and other agencies the President may pre-
16 scribe, without payment of an insurance premium if the Secretary of Defense
17 or agency agrees to indemnify the Secretary of Transportation against loss
18 covered by the insurance. The Secretary of Defense and agencies may make
19 such an indemnity agreement.

20 “(c) *PRESIDENTIAL APPROVAL.*—The signature of the President (or an offi-
21 cial designated by the President) on the agreement shall be treated as the ap-
22 proval required by section 53902(a) of this title.

23 **“§53906. Hull insurance valuation**

24 “(a) *STATED VALUATION.*—The valuation in a hull insurance policy for ac-
25 tual or constructive total loss of the insured vessel shall be a stated valuation
26 determined by the Secretary of Transportation. The stated valuation—

27 “(1) shall exclude national defense features paid for by the United
28 States Government; and

29 “(2) may not exceed the amount that would be payable if the owner-
30 ship of the vessel had been requisitioned under chapter 563 of this title
31 at the time the insurance attached under the policy.

32 “(b) *REJECTING STATED VALUATION.*—Within 60 days after the insurance
33 attaches under a policy referred to in subsection (a) or within 60 days after
34 the Secretary determines the valuation, whichever is later, the insured may
35 reject the valuation and pay, at the rate provided in the policy, premiums
36 based on the asserted valuation the insured specifies at the time of rejection.
37 However, the asserted valuation is not binding on the Government in any
38 subsequent action on the policy.

39 “(c) *AMOUNT OF CLAIM.*—If a vessel is actually or constructively totally
40 lost and the insured under a policy referred to in subsection (a) has not re-
41 jected the stated valuation determined by the Secretary, the amount of a claim

1 *adjusted, compromised, settled, adjudged, or paid may not exceed the stated*
2 *valuation. However, if the insured has rejected the valuation, the insured—*

3 *“(1) shall be paid, as a tentative advance only, 75 percent of the stated*
4 *valuation; and*

5 *“(2) may bring a civil action against the United States in a court*
6 *having jurisdiction of the claim to recover a valuation equal to the just*
7 *compensation the court determines would have been payable if the owner-*
8 *ship of the vessel had been requisitioned under chapter 563 of this title*
9 *at the time the insurance attached under the policy.*

10 *“(d) ADJUSTING PREMIUMS.—If a court makes a determination as pro-*
11 *vided under subsection (c)(2), premiums paid under the policy shall be ad-*
12 *justed based on the court’s determination and the rates provided for in the*
13 *policy.*

14 **“§53907. Reinsurance**

15 *“(a) IN GENERAL.—To the extent the Secretary of Transportation is au-*
16 *thorized to provide insurance under this chapter, the Secretary may provide*
17 *reinsurance to a company authorized to do insurance business in a State of*
18 *the United States. The Secretary may obtain reinsurance from such a com-*
19 *pany for any insurance provided by the Secretary under this chapter.*

20 *“(b) RATES.—The Secretary may not provide reinsurance at rates less*
21 *than, nor obtain reinsurance at rates more than, the rates established by the*
22 *Secretary on the same or similar risks or the rates charged by the insurance*
23 *company for the insurance reinsured, whichever is more advantageous to the*
24 *Secretary. However, the Secretary may provide an allowance to the insurance*
25 *company for the costs of services and facilities the company provides, in an*
26 *amount the Secretary considers reasonable according to good business prac-*
27 *tice. The allowance to the company may not include any amount for solici-*
28 *ting or stimulating insurance business.*

29 **“§53908. Additional insurance privately obtained**

30 *“With the approval of the Secretary of Transportation, a person having an*
31 *insurable interest in a vessel may obtain insurance on the vessel with other*
32 *underwriting agents in addition to the insurance with the Secretary. The Sec-*
33 *retary is not entitled to the benefit of the additional insurance.*

34 **“§53909. War risk insurance revolving fund**

35 *“(a) IN GENERAL.—There is a war risk insurance revolving fund in the*
36 *Treasury.*

37 *“(b) DEPOSITS.—There shall be deposited in the fund amounts appro-*
38 *propriated to carry out this chapter and amounts received in carrying out this*
39 *chapter.*

1 “(c) *PAYMENTS.*—*There shall be paid from the fund amounts for return*
2 *premiums, losses, settlements, judgments, and all liabilities incurred by the*
3 *United States Government under this chapter.*

4 “(d) *INVESTMENT.*—*The Secretary of Transportation may request the Sec-*
5 *retary of the Treasury to invest such portion of the fund as is not, in the*
6 *judgment of the Secretary of Transportation, required to meet the current*
7 *needs of the fund. These investments shall be made by the Secretary of the*
8 *Treasury in public debt securities of the Government, with maturities suitable*
9 *to the needs of the fund, and bearing interest rates determined by the Sec-*
10 *retary of the Treasury, taking into consideration current market yields on*
11 *outstanding marketable obligations of the Government of comparable matu-*
12 *rity. Interest and benefits from the securities shall be deposited in the fund.*

13 **“§53910. Administrative**

14 “(a) *ACCORDANCE WITH COMMERCIAL PRACTICE.*—*In carrying out this*
15 *chapter, the Secretary of Transportation may act in accordance with commer-*
16 *cial practice in the marine insurance business.*

17 “(b) *REGULATIONS.*—*The Secretary may prescribe regulations the Sec-*
18 *retary considers appropriate to carry out this chapter.*

19 “(c) *POLICIES, RATES, AND ANNUAL FEES.*—*The Secretary may prescribe*
20 *and change forms and policies, and fix and change the amounts insured and*
21 *rates of premium, under this chapter.*

22 “(d) *ANNUAL FEES.*—*The Secretary may charge and collect an annual fee*
23 *in an amount calculated to cover the expenses of processing applications for*
24 *insurance, employing underwriting agents, and appointing experts under this*
25 *chapter.*

26 “(e) *PAYMENT OF CLAIMS AND JUDGMENTS.*—*The Secretary may settle and*
27 *pay claims, and pay judgments against the United States, related to insur-*
28 *ance under this chapter.*

29 “(f) *UNDERWRITING AGENTS.*—

30 “(1) *IN GENERAL.*—*The Secretary may, and when the Secretary finds*
31 *it practical to do so shall, employ a domestic company or group of do-*
32 *mestic companies, authorized to do marine insurance business in a State*
33 *of the United States, to act as underwriting agent for the Secretary. The*
34 *services of an underwriting agent may be used in adjusting claims, but*
35 *a claim may not be paid until approved by the Secretary.*

36 “(2) *COMPENSATION.*—*The Secretary may allow the company or*
37 *group of companies reasonable compensation for services as the under-*
38 *writing agent. The compensation may include an allowance for expenses*
39 *reasonably incurred by the agent, but may not include any amount for*
40 *soliciting or stimulating business.*

1 “(g) *FEEES FOR ARRANGING INSURANCE.*—*Except as provided in subsection*
2 *(f)(2), the Secretary may not pay an insurance broker or other person acting*
3 *in a similar intermediary capacity a fee or other consideration for partici-*
4 *parting in arranging insurance when the Secretary directly insures any of the*
5 *risk.*

6 “(h) *EMPLOYMENT OF MARINE INSURANCE EXPERTS.*—*The Secretary,*
7 *without regard to the laws and regulations on the employment of Federal em-*
8 *ployees, may appoint and prescribe the duties of experts in marine insurance*
9 *as the Secretary considers necessary to carry out this chapter.*

10 “(i) *SERVICES OF OTHER GOVERNMENT AGENCIES.*—*With the consent of*
11 *another agency of the United States Government, the Secretary may use infor-*
12 *mation, services, facilities, officers, and employees of the agency in carrying*
13 *out this chapter.*

14 “(j) *VESSEL LOCATION REPORTING.*—*The Secretary may prescribe by regu-*
15 *lation vessel location reporting requirements for a vessel insured under this*
16 *chapter.*

17 **“§53911. Civil actions for losses**

18 “(a) *IN GENERAL.*—*If there is a disagreement about a loss insured under*
19 *this chapter, a civil action in admiralty may be brought against the United*
20 *States in the district court of the United States for the district in which the*
21 *plaintiff or the plaintiff’s agent resides. If the plaintiff has no residence in*
22 *the United States, the action may be brought in the United States District*
23 *Court for the District of Columbia or in the district court for any district*
24 *in which the Attorney General agrees to accept service. Any person who may*
25 *have an interest in the insurance may be made a party, either initially or*
26 *on the motion of either party.*

27 “(b) *EXCLUSIVE REMEDY.*—*A civil action against the United States under*
28 *this section is exclusive of any other action by reason of the same subject mat-*
29 *ter against an officer, employee, or agent employed or retained by the Govern-*
30 *ment under this chapter.*

31 “(c) *PROCEDURE.*—*A civil action under this section shall be heard and de-*
32 *termined under chapter 309 of this title.*

33 “(d) *TOLLING OF LIMITATIONS PERIOD.*—*If a claim is filed with the Sec-*
34 *retary of Transportation, the running of the limitations period for bringing*
35 *a civil action is suspended until the Secretary denies the claim, and for 60*
36 *days thereafter. The Secretary is deemed to have denied the claim if the Sec-*
37 *retary does not act on the claim within 6 months after the claim is filed, un-*
38 *less the Secretary for good cause shown agrees with the claimant on a dif-*
39 *ferent period for the Secretary to act on the claim.*

40 “(e) *INTERPLEADER.*—*If the Secretary acknowledges the indebtedness of the*
41 *Government under the insurance and there is a dispute about the persons en-*

1 *titled to receive payment, the Government may bring a civil action inter-*
 2 *pleading those persons. The action shall be brought in the United States Dis-*
 3 *trict Court for the District of Columbia or in the district court for the district*
 4 *in which any of those persons resides. A person not residing or found in the*
 5 *district may be made a party by service in any reasonable manner the court*
 6 *directs. If the court is satisfied that unknown persons might make a claim*
 7 *under the insurance, the court may direct service on those unknown persons*
 8 *by publication in the Federal Register. Judgment after service by publication*
 9 *in the Federal Register discharges the Government from further liability to*
 10 *all persons.*

11 **“§53912. Expiration date**

12 *“The authority of the Secretary of Transportation to provide insurance and*
 13 *reinsurance under this chapter expires on December 31, 2010.*

14 **“PART D—PROMOTIONAL PROGRAMS**

15 **“CHAPTER 551—COASTWISE TRADE**

“Sec.

“55101. Application of coastwise laws.

“55102. Transportation of merchandise.

“55103. Transportation of passengers.

“55104. Transportation of passengers between Puerto Rico and other ports in the United States.

“55105. Transportation of hazardous waste.

“55106. Merchandise transferred between barges.

“55107. Empty cargo containers and barges.

“55108. Platform jackets.

“55109. Dredging.

“55110. Transportation of dredged material.

“55111. Towing.

“55112. Vessel escort operations and towing assistance.

“55113. Use of foreign documented oil spill response vessels.

“55114. Unloading fish from foreign vessels.

“55115. Supplies on fish processing vessels.

“55116. Canadian rail lines.

“55117. Great Lakes rail route.

“55118. Foreign railroads whose road enters by ferry, tugboat, or towboat.

“55119. Yukon River.

“55120. Transshipment of imported merchandise intended for immediate exportation.

“55121. Transportation of merchandise and passengers on Canadian vessels.

16 **“§55101. Application of coastwise laws**

17 *“(a) IN GENERAL.—Except as provided in subsection (b), the coastwise*
 18 *laws apply to the United States, including the island territories and posses-*
 19 *sions of the United States.*

20 *“(b) EXCEPTIONS.—The coastwise laws do not apply to—*

21 *“(1) American Samoa;*

22 *“(2) the Northern Mariana Islands, except as provided in section*
 23 *502(b) of the Covenant To Establish a Commonwealth of the Northern*
 24 *Mariana Islands in Political Union With the United States of America*
 25 *(48 U.S.C. 1801 note);*

26 *“(3) Canton Island until the President declares by proclamation that*
 27 *the coastwise laws apply to Canton Island; or*

1 “(4) the Virgin Islands until the President declares by proclamation
2 that the coastwise laws apply to the Virgin Islands.

3 **“§ 55102. Transportation of merchandise**

4 “(a) DEFINITION.—In this section, the term ‘merchandise’ includes—

5 “(1) merchandise owned by the United States Government, a State, or
6 a subdivision of a State; and

7 “(2) valueless material.

8 “(b) REQUIREMENTS.—Except as otherwise provided in this chapter or
9 chapter 121 of this title, a vessel may not provide any part of the transpor-
10 tation of merchandise by water, or by land and water, between points in the
11 United States to which the coastwise laws apply, either directly or via a for-
12 eign port, unless the vessel—

13 “(1) is wholly owned by citizens of the United States for purposes of
14 engaging in the coastwise trade; and

15 “(2) has been issued a certificate of documentation with a coastwise
16 endorsement under chapter 121 or is exempt from documentation but
17 would otherwise be eligible for such a certificate and endorsement.

18 “(c) PENALTY.—Merchandise transported in violation of subsection (b) is
19 liable to seizure by and forfeiture to the Government. Alternatively, an
20 amount equal to the value of the merchandise (as determined by the Secretary
21 of Homeland Security) or the actual cost of the transportation, whichever is
22 greater, may be recovered from any person transporting the merchandise or
23 causing the merchandise to be transported.

24 **“§ 55103. Transportation of passengers**

25 “(a) IN GENERAL.—Except as otherwise provided in this chapter or chap-
26 ter 121 of this title, a vessel may not transport passengers between ports or
27 places in the United States to which the coastwise laws apply, either directly
28 or via a foreign port, unless the vessel—

29 “(1) is wholly owned by citizens of the United States for purposes of
30 engaging in the coastwise trade; and

31 “(2) has been issued a certificate of documentation with a coastwise
32 endorsement under chapter 121 or is exempt from documentation but
33 would otherwise be eligible for such a certificate and endorsement.

34 “(b) PENALTY.—The penalty for violating subsection (a) is \$300 for each
35 passenger transported and landed.

36 **“§ 55104. Transportation of passengers between Puerto Rico**
37 **and other ports in the United States**

38 “(a) DEFINITIONS.—In this section:

39 “(1) CERTIFICATE.—The term ‘certificate’ means a certificate of finan-
40 cial responsibility for indemnification of passengers for nonperformance

1 *of transportation issued by the Federal Maritime Commission under sec-*
 2 *tion 44102 of this title.*

3 “(2) *PASSENGER VESSEL.*—*The term ‘passenger vessel’ means a vessel*
 4 *of similar size, or offering similar service, as any other vessel trans-*
 5 *porting passengers under subsection (b).*

6 “(b) *EXEMPTION.*—*Except as otherwise provided in this section, a vessel*
 7 *not qualified to engage in the coastwise trade may transport passengers be-*
 8 *tween a port in Puerto Rico and another port in the United States.*

9 “(c) *EXPIRATION OF EXEMPTION.*—

10 “(1) *WHEN COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.*—*On a*
 11 *showing to the Secretary of the department in which the Coast Guard*
 12 *is operating, by the vessel owner or charterer, that a United States pas-*
 13 *senger vessel qualified to engage in the coastwise trade is offering or ad-*
 14 *vertising passenger service between a port in Puerto Rico and another*
 15 *port in the United States pursuant to a certificate, the Secretary shall*
 16 *notify the owner or operator of each vessel transporting passengers under*
 17 *subsection (b) to terminate that transportation within 270 days after the*
 18 *Secretary’s notification. Except as provided in subsection (d), the author-*
 19 *ity to transport passengers under subsection (b) expires at the end of that*
 20 *270-day period.*

21 “(2) *WHEN NON-COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.*—
 22 *On a showing to the Secretary, by the vessel owner or charterer, that a*
 23 *United States passenger vessel not qualified to engage in the coastwise*
 24 *trade is offering or advertising passenger service between a port in Puer-*
 25 *to Rico and another port in the United States pursuant to a certificate,*
 26 *the Secretary shall notify the owner or operator of each foreign vessel*
 27 *transporting passengers under subsection (b) to terminate that transpor-*
 28 *tation within 270 days after the Secretary’s notification. Except as pro-*
 29 *vided in subsection (d), the authority of a foreign vessel to transport pas-*
 30 *sengers under subsection (b) expires at the end of that 270-day period.*

31 “(d) *DELAYING EXPIRATION.*—*If the vessel offering or advertising the serv-*
 32 *ice described in subsection (c) has not begun that service within 270 days*
 33 *after the Secretary’s notification, the expiration provided by subsection (c) is*
 34 *delayed until 90 days after the vessel offering or advertising the service begins*
 35 *that service.*

36 “(e) *REINSTATEMENT OF EXEMPTION.*—*If the Secretary finds that the serv-*
 37 *ice on which an expiration was based is no longer available, the expired au-*
 38 *thority to transport passengers is reinstated.*

39 **“§ 55105. Transportation of hazardous waste**

40 “(a) *IN GENERAL.*—*The transportation of hazardous waste, as defined in*
 41 *section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42*

1 *U.S.C. 6903(5)), from a point in the United States to sea for incineration*
 2 *is deemed to be transportation of merchandise under section 55102 of this*
 3 *title.*

4 “(b) *NONAPPLICATION TO CERTAIN FOREIGN VESSELS.*—

5 “(1) *IN GENERAL.*—*Subsection (a) does not apply to transportation*
 6 *performed by a foreign ocean incineration vessel owned by or under con-*
 7 *struction on May 1, 1982, for a corporation wholly owned by citizens*
 8 *of the United States under section 50501(a)–(c) of this title.*

9 “(2) *STANDARDS FOR INCINERATION EQUIPMENT.*—*Incineration equip-*
 10 *ment on a vessel described in paragraph (1) must meet standards of the*
 11 *Coast Guard and the Environmental Protection Agency.*

12 “(3) *INSPECTION.*—*A vessel described in paragraph (1) shall be in-*
 13 *spected by the Coast Guard, regardless of whether inspected by the nation*
 14 *in which it is registered. The inspection shall be the same as would be*
 15 *required of a vessel of the United States, including drydock inspection*
 16 *and internal examination of tanks and void spaces. The inspection may*
 17 *be made concurrently with an inspection by that nation or within one*
 18 *year after the initial issuance or next scheduled issuance of the Safety*
 19 *of Life at Sea Safety Construction Certificate. In making the inspection,*
 20 *the Coast Guard shall refer to the condition of the hull and super-*
 21 *structure established by the initial foreign certification as the basis for*
 22 *evaluating the current condition of the hull and superstructure. The*
 23 *Coast Guard shall allow the substitution of fittings, material, apparatus,*
 24 *equipment, and appliances different from those required for vessels of the*
 25 *United States if satisfied they are equivalent and at least as effective as*
 26 *those required for vessels of the United States. A satisfactory inspection*
 27 *under this paragraph shall be certified in writing by the Secretary of*
 28 *the department in which the Coast Guard is operating.*

29 “(c) *EFFECTIVE DATE.*—*Subsection (a) is not effective until an appro-*
 30 *priate vessel has been built and documented under chapter 121 of this title.*

31 **“§ 55106. *Merchandise transferred between barges***

32 “(a) *IN GENERAL.*—*On terms and conditions the Secretary of Homeland*
 33 *Security may prescribe by regulation, the Secretary may suspend the applica-*
 34 *tion of section 55102 of this title to the transportation of merchandise that*
 35 *is transferred, when moving in the foreign trade of the United States, from*
 36 *a barge certified by the owner or operator as designed specifically for carriage*
 37 *on a vessel and carried regularly on a vessel in foreign trade, to another such*
 38 *barge owned or leased by the same owner or operator. However, this sub-*
 39 *section does not apply to transportation between the continental United States*
 40 *and noncontiguous States, territories, or possessions to which the coastwise*
 41 *laws apply.*

1 “(b) *RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.*—*This section*
 2 *applies to a vessel of foreign registry only if the Secretary of Homeland Secu-*
 3 *rity finds, based on information from the Secretary of State, that the govern-*
 4 *ment of the nation of registry extends reciprocal privileges to vessels of the*
 5 *United States.*

6 **“§55107. Empty cargo containers and barges**

7 “(a) *IN GENERAL.*—*Subject to subsections (b) and (c), and on terms and*
 8 *conditions the Secretary of Homeland Security may prescribe by regulation,*
 9 *section 55102 of this title does not apply to the transportation of—*

10 “(1) *empty cargo vans, empty lift vans, or empty shipping tanks;*

11 “(2) *equipment for use with cargo vans, lift vans, or shipping tanks;*

12 “(3) *empty barges specifically designed for carriage aboard a vessel*
 13 *and equipment (except propulsion equipment) for use with those barges;*

14 “(4) *empty instruments for international traffic exempted from the*
 15 *customs laws under section 322(a) of the Tariff Act of 1930 (19 U.S.C.*
 16 *1322(a)); or*

17 “(5) *stevedoring equipment and material.*

18 “(b) *CONDITIONS.*—

19 “(1) *PARAGRAPHS (1)–(4).*—*Paragraphs (1)–(4) of subsection (a) apply*
 20 *only if the items named are owned or leased by the owner or operator*
 21 *of the vessel and transported for its use in handling its cargo in foreign*
 22 *trade.*

23 “(2) *PARAGRAPH (5).*—*Paragraph (5) of subsection (a) applies only if*
 24 *the items named are—*

25 “(A) *owned or leased by the owner or operator of the vessel or*
 26 *by the stevedoring company having the contract for the loading or*
 27 *unloading of the vessel; and*

28 “(B) *transported without charge for use in the handling of cargo*
 29 *in foreign trade.*

30 “(c) *RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.*—*This section*
 31 *applies to a vessel of foreign registry only if the Secretary of Homeland Secu-*
 32 *rity finds, based on information from the Secretary of State, that the govern-*
 33 *ment of the nation of registry extends reciprocal privileges to vessels of the*
 34 *United States.*

35 **“§55108. Platform jackets**

36 “(a) *DEFINITIONS.*—*In this section:*

37 “(1) *COASTWISE QUALIFIED VESSEL.*—*The term ‘coastwise qualified*
 38 *vessel’ means a vessel that has been issued a certificate of documentation*
 39 *with a coastwise endorsement under chapter 121 of this title.*

1 “(2) *PLATFORM JACKET*.—The term ‘platform jacket’ refers to a single
2 physical component and includes any type of offshore exploration, devel-
3 opment, or production structure or component thereof, including—

4 “(A) platform jackets;

5 “(B) tension leg or SPAR platform superstructures (including the
6 deck, drilling rig and support utilities, and supporting structure);

7 “(C) hull (including vertical legs and connecting pontoons or
8 vertical cylinder);

9 “(D) tower and base sections of a platform jacket;

10 “(E) jacket structures; and

11 “(F) deck modules (known as ‘topsides’).

12 “(b) *AUTHORIZED TRANSPORTATION*.—Section 55102 of this title does not
13 apply to the transportation of a platform jacket in or on a non-coastwise
14 qualified launch barge between two points in the United States, at one of
15 which there is an installation or other device within the meaning of section
16 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), if—

17 “(1) the launch barge was built before December 31, 2000, and has a
18 launch capacity of at least 12,000 long tons; and

19 “(2) the Secretary of Transportation makes a determination, in ac-
20 cordance with procedures established under subsection (c), that a suitable
21 coastwise qualified vessel is not available for use in the transportation
22 and, if needed, launch or installation of a platform jacket.

23 “(c) *PROCEDURES TO MAXIMIZE USE OF COASTWISE QUALIFIED VES-*
24 *SELS*.—The Secretary of Transportation shall adopt procedures implementing
25 this section that are reasonably designed to provide timely information so as
26 to maximize the use of coastwise qualified vessels. The procedures shall, among
27 other things, establish that for purposes of this section, a coastwise qualified
28 vessel shall be deemed to be not available only if—

29 “(1) on application by an owner or operator for the use of a non-
30 coastwise qualified launch barge for transportation of a platform jacket
31 under this section (which application shall include all relevant informa-
32 tion, including engineering details and timing requirements), the Sec-
33 retary promptly publishes a notice in the Federal Register—

34 “(A) describing the project and the platform jacket involved;

35 “(B) advising that all relevant information reasonably needed to
36 assess the transportation requirements for the platform jacket will
37 be made available to interested parties on request; and

38 “(C) requesting that information on the availability of coastwise
39 qualified vessels be submitted within 30 days after publication of
40 that notice; and

1 “(2)(A) no information is submitted to the Secretary within that 30
2 day period; or

3 “(B) the owner or operator of a coastwise qualified vessel submits in-
4 formation to the Secretary asserting that the owner or operator has a
5 suitable coastwise qualified vessel available for the transportation, but
6 the Secretary determines, within 90 days after the notice is first pub-
7 lished, that the coastwise qualified vessel is not suitable or reasonably
8 available for the transportation.

9 **“§55109. Dredging**

10 “(a) *IN GENERAL.*—Except as provided in subsection (b), a vessel may en-
11 gage in dredging in the navigable waters of the United States only if—

12 “(1) the vessel is wholly owned by citizens of the United States for
13 purposes of engaging in the coastwise trade;

14 “(2) the charterer, if any, is a citizen of the United States for purposes
15 of engaging in the coastwise trade; and

16 “(3) the vessel has been issued a certificate of documentation with a
17 coastwise endorsement under chapter 121 of this title or is exempt from
18 documentation but would otherwise be eligible for such a certificate and
19 endorsement.

20 “(b) *DREDGING OF GOLD IN ALASKA.*—A documented vessel with a registry
21 endorsement may engage in the dredging of gold in Alaska.

22 “(c) *PENALTY.*—If a vessel is operated in knowing violation of this section,
23 the vessel and its equipment are liable to seizure by and forfeiture to the
24 United States Government.

25 **“§55110. Transportation of dredged material**

26 “Section 55102 of this title applies to the transportation of valueless mate-
27 rial or dredged material, regardless of whether it has commercial value, from
28 a point in the United States or on the high seas within the exclusive economic
29 zone, to another point in the United States or on the high seas within the
30 exclusive economic zone.

31 **“§55111. Towing**

32 “(a) *IN GENERAL.*—Except when towing a vessel in distress, a vessel may
33 not do any part of any towing described in subsection (b) unless the towing
34 vessel—

35 “(1) is wholly owned by citizens of the United States for purposes of
36 engaging in the coastwise trade; and

37 “(2) has been issued a certificate of documentation with a coastwise
38 endorsement under chapter 121 of this title or is exempt from docu-
39 mentation but would otherwise be eligible for such a certificate and en-
40 dorsement.

41 “(b) *APPLICABLE TOWING.*—Subsection (a) applies to the towing of—

1 “(1) a vessel between ports or places in the United States to which
2 the coastwise laws apply, either directly or via a foreign port or place;

3 “(2) a vessel from point to point within the harbors of ports or places
4 to which the coastwise laws apply; or

5 “(3) a vessel transporting valueless material or dredged material, re-
6 gardless of whether it has commercial value, from a point in the United
7 States or on the high seas within the exclusive economic zone, to another
8 point in the United States or on the high seas within the exclusive eco-
9 nomic zone.

10 “(c) *PENALTIES*.—

11 “(1) *OWNER AND MASTER*.—The owner and master of a vessel towing
12 another vessel in violation of this section are each liable for a penalty
13 of at least \$350 but not more than \$1,100. A penalty under this para-
14 graph constitutes a lien on the vessel. The lien is enforceable in a district
15 court of the United States for any district in which the vessel is found.
16 Clearance may not be granted to the vessel until the penalties have been
17 paid.

18 “(2) *VESSEL*.—In addition to the penalties under paragraph (1), the
19 towing vessel is liable for a penalty of \$60 per ton based on the tonnage
20 of each towed vessel.

21 “**§55112. Vessel escort operations and towing assistance**

22 “(a) *IN GENERAL*.—Except in the case of a vessel in distress, only a vessel
23 of the United States may perform the following escort vessel operations within
24 the navigable waters of the United States:

25 “(1) Operations that commence or terminate at a port or place in the
26 United States.

27 “(2) Operations required by United States law or regulation.

28 “(3) Operations provided in whole or in part within or through navi-
29 gation facilities owned, maintained, or operated by the United States
30 Government or the approaches to those facilities, other than facilities op-
31 erated by the St. Lawrence Seaway Development Corporation on the St.
32 Lawrence River portion of the Seaway.

33 “(b) *ESCORT VESSELS*.—For purposes of this section, an escort vessel is—

34 “(1) any vessel that is assigned and dedicated to assist another vessel,
35 whether or not tethered to that vessel, solely as a safety precaution to
36 assist in controlling the speed or course of the assisted vessel in the event
37 of a steering or propulsion equipment failure, or any other similar emer-
38 gency circumstance, or in restricted waters where additional assistance
39 in maneuvering the vessel is required to ensure its safe operation; and

1 “(2) *in the case of a vessel being towed under section 55111 of this*
 2 *title, any vessel that is assigned and dedicated to the vessel being towed*
 3 *in addition to any towing vessel required under that section.*

4 “(c) *RELATIONSHIP TO OTHER LAW.—This section does not affect section*
 5 *55111 of this title.*

6 “(d) *PENALTY.—A person violating this section is liable to the Government*
 7 *for a civil penalty of not more than \$10,000 for each day during which the*
 8 *violation occurs.*

9 **“§55113. Use of foreign documented oil spill response vessels**

10 *“Notwithstanding any other provision of law, an oil spill response vessel*
 11 *documented under the laws of a foreign country may operate in waters of the*
 12 *United States on an emergency and temporary basis, for the purpose of recover-*
 13 *ing, transporting, and unloading in a United States port oil discharged as*
 14 *a result of an oil spill in or near those waters, if—*

15 “(1) *an adequate number and type of oil spill response vessels docu-*
 16 *mented under the laws of the United States cannot be engaged to recover*
 17 *oil from an oil spill in or near those waters in a timely manner, as de-*
 18 *termined by the Federal On-Scene Coordinator for a discharge or threat*
 19 *of a discharge of oil; and*

20 “(2) *the foreign country has by its laws accorded to vessels of the*
 21 *United States the same privileges accorded to vessels of the foreign coun-*
 22 *try under this section.*

23 **“§55114. Unloading fish from foreign vessels**

24 “(a) *PROHIBITIONS.—Except as otherwise provided by this section or a*
 25 *treaty or convention to which the United States is a party, a foreign vessel*
 26 *may not unload, in a port of the United States—*

27 “(1) *its catch of fish taken on board on the high seas or fish products*
 28 *processed from that catch of fish; or*

29 “(2) *fish or fish products taken on board that vessel on the high seas*
 30 *from a vessel engaged in fishing operations or the processing of fish or*
 31 *fish products.*

32 “(b) *REGULATIONS ON OBTAINING INFORMATION.—The Secretary of Com-*
 33 *merce may prescribe regulations the Secretary considers necessary to obtain*
 34 *information on the transportation of fish products by vessels of the United*
 35 *States for foreign fish processing vessels to points in the United States.*

36 “(c) *VIRGIN ISLANDS.—*

37 “(1) *IN GENERAL.—A foreign vessel of not more than 50 feet overall*
 38 *in length may unload its catch of fresh fish (whole or with the heads,*
 39 *viscera, or fins removed, but not frozen, otherwise processed, or further*
 40 *advanced) in a port of the Virgin Islands for immediate consumption*
 41 *in those islands. Fish unloaded under this paragraph may be sold or*

1 *transferred only for immediate consumption. In the absence of satisfac-*
 2 *tory evidence that a sale or transfer to an agent, representative, or em-*
 3 *ployee of a freezer or cannery is for immediate consumption, the sale or*
 4 *transfer is deemed not to be for immediate consumption. This paragraph*
 5 *does not prohibit the freezing, smoking, or other processing of fresh fish*
 6 *by the ultimate consumer of the fish.*

7 “(2) *SEIZURE, FORFEITURE, AND PENALTY.—Fish unloaded in the*
 8 *Virgin Islands that are retained, sold, or transferred, except as allowed*
 9 *by paragraph (1), are liable to seizure by and forfeiture to the United*
 10 *States Government. A person retaining, selling, transferring, buying, or*
 11 *receiving the fish is liable to the Government for a civil penalty of not*
 12 *more than \$1,000 for each violation. A penalty or forfeiture under this*
 13 *paragraph may be compromised, modified, or remitted under section*
 14 *2107(b) of this title.*

15 “(d) *NORTHERN MARIANA ISLANDS.—Subsection (a) does not apply to the*
 16 *Northern Mariana Islands.*

17 **“§55115. Supplies on fish processing vessels**

18 “*Section 55102 of this title does not apply to supplies aboard a United*
 19 *States documented fish processing vessel that are necessary and used for proc-*
 20 *essing or assembling fishery products aboard such a vessel.*

21 **“§55116. Canadian rail lines**

22 “*Section 55102 of this title does not apply to the transportation of mer-*
 23 *chandise between points in the continental United States, including Alaska,*
 24 *over through routes in part over Canadian rail lines and connecting water*
 25 *facilities if the routes are recognized by the Surface Transportation Board*
 26 *and rate tariffs for the routes have been filed with the Board.*

27 **“§55117. Great Lakes rail route**

28 “*Section 55102 of this title does not apply to the transportation of mer-*
 29 *chandise loaded on a railroad car or to a motor vehicle with or without a*
 30 *trailer, and with its passengers or contents when accompanied by the oper-*
 31 *ator, when the railroad car or motor vehicle is transported in a railroad car*
 32 *ferry operated between fixed terminals on the Great Lakes as part of a rail*
 33 *route, if—*

34 “(1) *the car ferry is owned by a common carrier by water and oper-*
 35 *ated as part of a rail route with the approval of the Surface Transpor-*
 36 *tation Board;*

37 “(2) *the stock of the common carrier by water, or its predecessor, was*
 38 *owned or controlled by a common carrier by rail prior to June 5, 1920;*

39 “(3) *the stock of the common carrier owning the car ferry is, with the*
 40 *approval of the Board, now owned or controlled by a common carrier*
 41 *by rail; and*

1 “(4) *the car ferry is built in and documented under the laws of the*
2 *United States.*

3 **“§55118. Foreign railroads whose road enters by ferry, tug-**
4 **boat, or towboat**

5 *“A foreign railroad, whose road enters the United States by ferry, tugboat,*
6 *or towboat, may own and operate a vessel not having a coastwise endorsement*
7 *in connection with the water transportation of the passenger, freight, express,*
8 *baggage, and mail cars used by that road, together with the passengers,*
9 *freight, express matter, baggage, and mails transported in those cars. How-*
10 *ever, the foreign railroad is subject to the same restrictions imposed by law*
11 *on a vessel of the United States entering a port of the United States from*
12 *the same foreign country. Except as otherwise authorized by this chapter, the*
13 *ferry, tugboat, or towboat may not, under penalty of forfeiture, be used in*
14 *the transportation of merchandise between ports or places in the United*
15 *States to which the coastwise laws apply.*

16 **“§55119. Yukon River**

17 *“Section 55102 of this title does not apply to the transportation of mer-*
18 *chandise on the Yukon River until the Alaska Railroad is completed and the*
19 *Secretary of Transportation finds that proper facilities will be available for*
20 *transportation by citizens of the United States to properly handle the traffic.*

21 **“§55120. Transshipment of imported merchandise intended**
22 **for immediate exportation**

23 *“The Secretary of Homeland Security may prescribe regulations for the*
24 *transshipment and transportation of merchandise that is imported into the*
25 *United States by sea for immediate exportation to a foreign port by sea, or*
26 *by a river, the right to ascend or descend which for the purposes of commerce*
27 *is secured by treaty to the citizens of the United States and the subjects of*
28 *a foreign power.*

29 **“§55121. Transportation of merchandise and passengers on**
30 **Canadian vessels**

31 *“(a) BETWEEN ROCHESTER AND ALEXANDRIA BAY.—Until passenger serv-*
32 *ice is established by vessels of the United States between the port of Rochester,*
33 *New York, and the port of Alexandria Bay, New York, the Secretary of Home-*
34 *land Security may issue annually permits to Canadian passenger vessels to*
35 *transport passengers between those ports. Canadian vessels holding such a per-*
36 *mit are not subject to section 55103 of this title.*

37 *“(b) WITHIN ALASKA OR BETWEEN ALASKA AND OTHER POINTS IN THE*
38 *UNITED STATES.—Until the Secretary of Transportation determines that*
39 *service by vessels of the United States is available to provide the transpor-*
40 *tation described in paragraph (1) or (2), sections 55102 and 55103 of this*
41 *title do not apply to the transportation on Canadian vessels of—*

- 1 “(1) passengers between ports in southeastern Alaska; or
 2 “(2) passengers or merchandise between Hyder, Alaska, and other
 3 points in southeastern Alaska or in the United States outside Alaska.

4 **“CHAPTER 553—PASSENGER AND CARGO PREFERENCES**

 “SUBCHAPTER I—GENERAL

“Sec.

- “55301. Priority loading for coal.
 “55302. Transportation of United States Government personnel.
 “55303. Motor vehicles owned by United States Government personnel.
 “55304. Exports financed by the United States Government.
 “55305. Cargoes procured, furnished, or financed by the United States Government.

 “SUBCHAPTER II—EXPORT TRANSPORTATION OF AGRICULTURAL COMMODITIES

- “55311. Findings and purposes.
 “55312. Determining prevailing world market price.
 “55313. Exemption of certain agricultural exports from cargo preference provisions.
 “55314. Transportation requirements for certain exports sponsored by the Secretary of Agriculture.
 “55315. Minimum tonnage.
 “55316. Financing the transportation of agricultural commodities.
 “55317. Termination of subchapter.
 “55318. Effect on other law.

 “SUBCHAPTER III—AMERICAN GREAT LAKES VESSELS

- “55331. Definitions.
 “55332. Designating American Great Lakes vessels.
 “55333. Exemption from restriction on transporting certain cargo.
 “55334. Restrictions on operations.
 “55335. Revocations and terminations of designations.
 “55336. Civil penalty.

5 “SUBCHAPTER I—GENERAL

6 **“§55301. Priority loading for coal**

7 “A vessel engaged in the coastwise transportation of coal produced in the
 8 United States, from a port in the United States to another port in the United
 9 States, shall be given priority in loading at any of those ports ahead of a
 10 waiting vessel engaged in the export transportation of coal produced in the
 11 United States. However, if the Secretary of Transportation finds that it is
 12 in the national interest, the Secretary may eliminate this priority loading at
 13 any port. The Secretary shall report to Congress within 30 days an action
 14 eliminating priority loading under this section.

15 **“§55302. Transportation of United States Government personnel**

16 **sonnel**
 17 “(a) *IN GENERAL.*—An officer or employee of the United States Govern-
 18 ment traveling by sea on official business overseas or to or from a territory
 19 or possession of the United States shall travel and transport personal effects
 20 on a vessel documented under the laws of the United States if such a vessel
 21 is available, unless the necessity of the mission requires the use of a foreign
 22 vessel.

23 “(b) *REGULATIONS.*—The Administrator of General Services shall prescribe
 24 regulations under which agencies may not pay for or reimburse an officer or

1 *employee for travel or transportation expenses incurred on a foreign vessel in*
 2 *the absence of satisfactory proof of the necessity of using the vessel.*

3 **“§55303. Motor vehicles owned by United States Government**
 4 **personnel**

5 *“Notwithstanding any other law, privately-owned American shipping serv-*
 6 *ices may be used to transport motor vehicles owned by personnel of the United*
 7 *States Government whenever transportation of those vehicles at Government*
 8 *expense is otherwise authorized by law.*

9 **“§55304. Exports financed by the United States Government**

10 *“It is the sense of Congress that any loans made by an instrumentality of*
 11 *the United States Government to foster the exporting of agricultural or other*
 12 *products shall provide that the products may be transported only on vessels*
 13 *of the United States unless, as to any or all of those products, the Secretary*
 14 *of Transportation, after investigation, certifies to the instrumentality that*
 15 *vessels of the United States are not available in sufficient number, in suffi-*
 16 *cient tonnage capacity, on necessary schedules, or at reasonable rates.*

17 **“§55305. Cargoes procured, furnished, or financed by the**
 18 **United States Government**

19 *“(a) DEFINITION.—In this section, the term ‘privately-owned commercial*
 20 *vessel of the United States’ does not include a vessel that, after September 21,*
 21 *1961, was built or rebuilt outside the United States or documented under the*
 22 *laws of a foreign country, until the vessel has been documented under the laws*
 23 *of the United States for at least 3 years.*

24 *“(b) MINIMUM TONNAGE.—When the United States Government procures,*
 25 *contracts for, or otherwise obtains for its own account, or furnishes to or for*
 26 *the account of a foreign country without provision for reimbursement, any*
 27 *equipment, materials, or commodities, within or without the United States,*
 28 *or advances funds or credits, or guarantees the convertibility of foreign cur-*
 29 *rencies in connection with the furnishing of the equipment, materials, or com-*
 30 *modities, the appropriate agencies shall take steps necessary and practicable*
 31 *to ensure that at least 50 percent of the gross tonnage of the equipment, mate-*
 32 *rials, or commodities (computed separately for dry bulk carriers, dry cargo*
 33 *liners, and tankers) which may be transported on ocean vessels is transported*
 34 *on privately-owned commercial vessels of the United States, to the extent those*
 35 *vessels are available at fair and reasonable rates for commercial vessels of the*
 36 *United States, in a manner that will ensure a fair and reasonable participa-*
 37 *tion of commercial vessels of the United States in those cargoes by geographic*
 38 *areas.*

39 *“(c) WAIVERS.—The President, the Secretary of Defense, or Congress (by*
 40 *concurrent resolution or otherwise) may waive this section temporarily by—*

41 *“(1) declaring the existence of an emergency justifying a waiver; and*

1 *Agriculture. The Secretary shall prescribe the procedures by regulation, with*
 2 *notice and opportunity for public comment under section 553 of title 5.*

3 “(b) *SERVICES AND NON-AGRICULTURAL COMMODITIES AND PRODUCTS.—*
 4 *If a determination of the prevailing world market price of any other type of*
 5 *materials, goods, equipment, or service is required to determine whether a*
 6 *barter or exchange transaction is subject to section 55314(b)(6) or (7) of this*
 7 *title, the determination shall be made by the Secretary of Agriculture in con-*
 8 *sultation with the heads of other appropriate agencies.*

9 **“§55313. Exemption of certain agricultural exports from**
 10 **cargo preference provisions**

11 “*Sections 55304 and 55305 of this title do not apply to export activities*
 12 *of the Secretary of Agriculture or the Commodity Credit Corporation under*
 13 *which—*

14 “(1) *agricultural commodities or their products acquired by the Cor-*
 15 *poration are made available to United States exporters, users, processors,*
 16 *or foreign purchasers for the purpose of developing, maintaining, or ex-*
 17 *anding export markets for United States agricultural commodities or*
 18 *their products at prevailing world market prices;*

19 “(2) *payments are made available to United States exporters, users,*
 20 *or processors or, except as provided in section 55314 of this title, cash*
 21 *grants are made available to foreign purchasers, for the purpose de-*
 22 *scribed in paragraph (1);*

23 “(3) *commercial credit guarantees are blended with direct credits from*
 24 *the Corporation to reduce the effective rate of interest on export sales of*
 25 *United States agricultural commodities or their products;*

26 “(4) *credit or credit guarantees for not more than 3 years are extended*
 27 *by the Corporation to finance or guarantee export sales of United States*
 28 *agricultural commodities or their products; or*

29 “(5) *agricultural commodities or their products owned or controlled by*
 30 *or under loan from the Corporation are exchanged or bartered for mate-*
 31 *rials, goods, equipment, or services at least equal in value to the agricul-*
 32 *tural commodities or their products for which they are exchanged or*
 33 *bartered (determined on the basis of prevailing world market prices at*
 34 *the time of the exchange or barter), but this paragraph does not exempt*
 35 *from the cargo preference provisions referred to in section 55314(b) of*
 36 *this title any requirement otherwise applicable to the materials, goods,*
 37 *equipment, or services imported under the transaction.*

38 **“§55314. Transportation requirements for certain exports**
 39 **sponsored by the Secretary of Agriculture**

40 “(a) *MINIMUM TONNAGE.—*

1 “(1) *IN GENERAL.*—*In addition to the requirement under section*
 2 *55305 of this title for the transportation of a percentage of gross tonnage*
 3 *on commercial vessels of the United States, 25 percent of the gross ton-*
 4 *nage of agricultural commodities or their products specified in subsection*
 5 *(b) shall be transported each calendar year on commercial vessels of the*
 6 *United States that—*

7 “(A) *are necessary for national security; and*

8 “(B) *if more than 25 years old, were rebuilt within the last 5*
 9 *years and certified by the Secretary of Transportation as having a*
 10 *useful life of at least 5 years after that rebuilding.*

11 “(2) *CALENDAR YEAR.*—*To provide for effective and equitable admin-*
 12 *istration of the cargo preference laws, the calendar year for the purpose*
 13 *of compliance with minimum percentage requirements is the 12-month*
 14 *period beginning October 1 of each year.*

15 “(b) *APPLICABLE EXPORT ACTIVITY.*—*This section applies to export activ-*
 16 *ity (except inspection or weighing activities, other activities carried out for*
 17 *health or safety, or technical assistance provided in the handling of commer-*
 18 *cial transactions) of the Secretary of Agriculture or the Commodity Credit*
 19 *Corporation—*

20 “(1) *carried out under the Agricultural Trade Development and As-*
 21 *istance Act of 1954 (7 U.S.C. 1691 et seq.);*

22 “(2) *carried out under section 416 of the Agricultural Act of 1949 (7*
 23 *U.S.C. 1431);*

24 “(3) *carried out under the Bill Emerson Humanitarian Trust Act (7*
 25 *U.S.C. 1736f-1);*

26 “(4) *under which agricultural commodities or their products are—*

27 “(A) *donated through foreign governments or private or public*
 28 *agencies, including intergovernmental organizations; or*

29 “(B) *sold for foreign currencies or for dollars on credit terms of*
 30 *more than 10 years;*

31 “(5) *under which agricultural commodities or their products are made*
 32 *available for emergency food relief at less than prevailing world market*
 33 *prices;*

34 “(6) *under which a cash grant is made directly or through an inter-*
 35 *mediary to a foreign purchaser to enable the purchaser to obtain United*
 36 *States agricultural commodities or their products in an amount greater*
 37 *than the difference between the prevailing world market price and the*
 38 *United States market price, free along side vessel at a United States*
 39 *port; or*

40 “(7) *under which agricultural commodities owned or controlled by or*
 41 *under loan from the Corporation are exchanged or bartered for materials,*

1 *goods, equipment, or services produced in foreign countries, except export*
 2 *activities described in section 55313(5) of this title.*

3 *“(c) ADDITIONAL REQUIREMENTS.—*

4 *“(1) APPLICATION OF SECTION 55305.—The requirement for transpor-*
 5 *tation on vessels of the United States under subsection (a) is subject to*
 6 *the same terms and conditions as provided in section 55305 of this title.*

7 *“(2) ALLOCATION OF COMMODITIES.—Subject to paragraph (3), in*
 8 *carrying out this section and section 55305 of this title, the Corporation*
 9 *shall take steps necessary and practicable, and consistent with this sec-*
 10 *tion and section 55305, without detriment to any port range to allocate,*
 11 *on the principle of lowest landed cost without regard to the country of*
 12 *registry of the vessel, 25 percent of the bagged, processed, or fortified com-*
 13 *modities provided under title II of the Agricultural Trade Development*
 14 *and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).*

15 *“(3) CALCULATIONS.—In carrying out paragraph (2), first there shall*
 16 *be calculated the allocation of 100 percent of the quantity to be procured*
 17 *on an overall lowest landed cost basis without regard to the country of*
 18 *registry of the vessel, and then there shall be allocated to the Great Lakes*
 19 *port range any cargoes for which it has the lowest landed cost under that*
 20 *calculation. The requirements for transportation on vessels of the United*
 21 *States under this section and section 55305 of this title do not apply to*
 22 *commodities allocated to the Great Lakes port range under paragraph*
 23 *(2). Commodities allocated to the Great Lakes port range under para-*
 24 *graph (2) may not be reallocated or diverted to another port range to*
 25 *meet those requirements to the extent that the total tonnage of commod-*
 26 *ities to which paragraph (2) applies that is furnished and transported*
 27 *from the Great Lakes port range is less than 25 percent of the total an-*
 28 *annual tonnage of the commodities furnished.*

29 *“(4) AWARDING CONTRACTS.—In awarding a contract for the trans-*
 30 *portation by vessel of commodities from the Great Lakes port range pur-*
 31 *suant to an export activity referred to in subsection (b), an agency—*

32 *“(A) shall consider expressions of freight interest for any vessel*
 33 *from a vessel operator who meets reasonable requirements for finan-*
 34 *cial and operational integrity; and*

35 *“(B) may not deny award of the contract to a person based on*
 36 *the type of vessel on which the transportation would be provided*
 37 *(including on the basis that the transportation would not be pro-*
 38 *vided on a liner vessel, as that term is used in the Shipping Act*
 39 *of 1984, as in effect on November 14, 1995), if the person otherwise*
 40 *satisfies reasonable requirements for financial and operational in-*
 41 *tegrity.*

1 “(5) *NONAVAILABILITY OF VESSELS.*—*A determination of nonavail-*
 2 *ability of vessels of the United States resulting from the application of*
 3 *this subsection may not reduce the gross tonnage of commodities required*
 4 *by this section and section 55305 of this title to be transported on vessels*
 5 *of the United States.*

6 **“§55315. *Minimum tonnage***

7 “(a) *DEFINITION.*—*In this section, the term ‘base period’ means the 5-year*
 8 *period running from the sixth through the second prior fiscal years.*

9 “(b) *REQUIREMENT.*—*For each fiscal year, the minimum quantity of agri-*
 10 *cultural commodities to be exported under programs subject to section 55314*
 11 *of this title is the average of the tonnage exported under those programs dur-*
 12 *ing the base period, discarding the high and low years.*

13 “(c) *WAIVERS.*—*The President may waive the minimum quantity for a fis-*
 14 *cal year under this section if the President determines and reports to Con-*
 15 *gress, together with reasons, that the quantity cannot be used effectively for*
 16 *the purposes of those programs or, based on a certification by the Secretary*
 17 *of Agriculture, that the commodities are not available for reasons that include*
 18 *the unavailability of funds.*

19 **“§55316. *Financing the transportation of agricultural com-***
 20 ***modities***

21 “(a) *FINANCING OF INCREASED CHARGES.*—*The Secretary of Transpor-*
 22 *tation shall finance any increased ocean freight charges incurred in any fiscal*
 23 *year that result from the application of section 55314 of this title.*

24 “(b) *REIMBURSEMENT OF INCREASED CHARGES.*—

25 “(1) *IN GENERAL.*—*The Secretary of Transportation shall reimburse*
 26 *the Secretary of Agriculture and the Commodity Credit Corporation for*
 27 *the amount by which, in any fiscal year—*

28 “(A) *the total cost of ocean freight and ocean freight differential*
 29 *for which obligations are incurred by the Secretary of Agriculture*
 30 *and the Corporation on exports of agricultural commodities and*
 31 *their products under the agricultural export programs specified in*
 32 *section 55314(b) of this title; exceeds*

33 “(B) *20 percent of the value of the commodities and their prod-*
 34 *ucts and the cost of the ocean freight and ocean freight differential*
 35 *on which obligations are incurred by the Secretary of Agriculture*
 36 *and the Corporation during that fiscal year.*

37 “(2) *COMMODITIES SHIPPED FROM INVENTORY.*—*For purposes of this*
 38 *subsection, commodities shipped from the inventory of the Corporation*
 39 *shall be valued as provided in section 412(d) of the Agricultural Trade*
 40 *Development and Assistance Act of 1954 (7 U.S.C. 1736f(d)).*

41 “(c) *ISSUANCE AND PURCHASE OF OBLIGATIONS.*—

1 “(1) *ISSUANCE.*—To meet the expenses required to be assumed under
2 subsections (a) and (b), the Secretary of Transportation shall issue obli-
3 gations to the Secretary of the Treasury. The Secretary of Transpor-
4 tation, with the approval of the Secretary of the Treasury, shall prescribe
5 the form, denomination, maturity, and other terms (except the interest
6 rate) of the obligations. The Secretary of the Treasury shall set the inter-
7 est rate for the obligations, considering the average market yield on out-
8 standing marketable obligations of the United States Government of com-
9 parable maturities during the month before the obligations are issued.

10 “(2) *PURCHASE.*—The Secretary of the Treasury shall purchase the ob-
11 ligations issued under this subsection. To purchase the obligations, the
12 Secretary of the Treasury may use as a public debt transaction the pro-
13 ceeds from the sale of securities issued under chapter 31 of title 31. The
14 purposes for which securities may be issued under that chapter are ex-
15 tended to include the purchase of obligations under this subsection. A re-
16 demption or purchase of the obligations by the Secretary of the Treasury
17 is a public debt transaction of the Government.

18 “(d) *SOURCE OF FUNDS FOR REIMBURSEMENT.*—Reimbursement of the
19 Secretary of Transportation for costs incurred under this section shall be
20 made with appropriated funds rather than through cancellation of notes.

21 “(e) *APPROPRIATIONS.*—

22 “(1) *AUTHORIZATION.*—Each fiscal year, there is authorized to be ap-
23 propriated an amount sufficient to reimburse the Secretary of Transpor-
24 tation for the costs incurred under this section, including administrative
25 expenses and the principal and interest due on obligations issued to the
26 Secretary of the Treasury.

27 “(2) *APPROPRIATION FOR ADMINISTRATIVE EXPENSES.*—Each fiscal
28 year, such amounts as may be necessary are hereby appropriated to pay
29 interest and to liquidate debt on obligations issued to the Secretary of
30 the Treasury under this section.

31 “(f) *NOTIFICATION TO CONGRESS OF INSUFFICIENCY.*—If the Secretary of
32 Transportation is unable to obtain the funds necessary to finance the in-
33 creased ocean freight charges resulting from the requirements of subsections
34 (a) and (b) and section 55314(a) of this title, the Secretary shall notify Con-
35 gress within 10 working days of the discovery of the insufficiency.

36 **“§ 55317. Termination of subchapter**

37 *“This subchapter terminates 90 days after the date on which a notification*
38 *is made under section 55316(f) of this title, except for shipments of agricul-*
39 *tural commodities and their products subject to contracts made before the end*
40 *of that 90-day period, unless within that 90-day period the Secretary of*
41 *Transportation proclaims that funds are available to finance increased freight*

1 *charges resulting from the requirements of sections 55314(a) and 55316(a)*
 2 *and (b) of this title. On the termination of this subchapter under this sec-*
 3 *tion—*

4 *“(1) this subchapter does not exempt export activities from, or subject*
 5 *export activities to, the cargo preference laws; and*

6 *“(2) the 50-percent requirement in section 55305 of this title remains*
 7 *in effect.*

8 **“§55318. Effect on other law**

9 *“This subchapter does not affect chapter 5 of title 5.*

10 **SUBCHAPTER III—AMERICAN GREAT LAKES VESSELS**

11 **“§55331. Definitions**

12 *“In this subchapter:*

13 *“(1) AMERICAN GREAT LAKES VESSEL.—The term ‘American Great*
 14 *Lakes vessel’ means a vessel so designated under section 55332 of this*
 15 *title, but only during the period the designation is in effect.*

16 *“(2) GREAT LAKES.—The term ‘Great Lakes’ means Lake Superior,*
 17 *Lake Michigan, Lake Huron, Lake Erie, Lake Ontario, the Saint Law-*
 18 *rence River west of Saint Regis, New York, and their connecting and*
 19 *tributary waters.*

20 *“(3) GREAT LAKES SHIPPING SEASON.—The term ‘Great Lakes ship-*
 21 *ping season’ means the period each year during which the Saint Law-*
 22 *rence Seaway is open for navigation by vessels, as declared by the Saint*
 23 *Lawrence Seaway Development Corporation.*

24 **“§55332. Designating American Great Lakes vessels**

25 *“(a) DESIGNATIONS.—The Secretary of Transportation shall designate a*
 26 *vessel as an American Great Lakes vessel if—*

27 *“(1) an application for designation is submitted to the Secretary*
 28 *under regulations prescribed by the Secretary;*

29 *“(2) the vessel is documented under the laws of the United States;*

30 *“(3) the vessel, on the effective date of the designation, is—*

31 *“(A) at least 1, but not more than 6, years old; or*

32 *“(B) at least 1, but not more than 11, years old if the Secretary*
 33 *finds that suitable vessels are not available to provide the type of*
 34 *service for which the vessel will be used after the designation;*

35 *“(4) the vessel has not previously been designated as an American*
 36 *Great Lakes vessel; and*

37 *“(5) the owner makes an agreement as provided under subsection (b).*

38 *“(b) AGREEMENTS.—A vessel may be designated as an American Great*
 39 *Lakes vessel only if the person that will be the owner of the vessel at the time*
 40 *of the designation makes an agreement with the Secretary providing that if*
 41 *the Secretary determines that the vessel is necessary to the defense of the*

1 **“§55335. Revocations and terminations of designations**

2 “(a) *REVOCATIONS.*—After notice and an opportunity for a hearing, the
3 Secretary of Transportation may revoke a designation of a vessel as an Amer-
4 ican Great Lakes vessel if the Secretary finds that—

5 “(1) the vessel does not meet a requirement for the designation;

6 “(2) the vessel has been operated in violation of this subchapter; or

7 “(3) the owner or operator of the vessel has violated an agreement
8 made under section 55332(b) of this title.

9 “(b) *TERMINATIONS.*—On petition and a showing of good cause by the
10 owner of a vessel, the Secretary may terminate the designation of a vessel as
11 an American Great Lakes vessel. The Secretary may impose conditions in a
12 termination order to prevent significant adverse effects on other operators of
13 vessels of the United States.

14 **“§55336. Civil penalty**

15 “After notice and an opportunity for a hearing, the Secretary of Transpor-
16 tation may impose a civil penalty of not more than \$1,000,000 on the owner
17 of an American Great Lakes vessel for any act for which the designation may
18 be revoked under section 55335 of this title.

19 **“CHAPTER 555—MISCELLANEOUS**

“Sec.

“55501. *Mobile trade fairs.*

20 **“§55501. Mobile trade fairs**

21 “(a) *IN GENERAL.*—The Secretary of Commerce shall encourage and pro-
22 mote the development and use of mobile trade fairs designed to show and sell
23 the products of United States business and agriculture at foreign ports and
24 at other commercial centers throughout the world where the operators of the
25 fairs use, insofar as practicable, vessels and aircraft of the United States in
26 transporting their exhibits.

27 “(b) *TECHNICAL AND FINANCIAL ASSISTANCE.*—When the Secretary deter-
28 mines that a mobile trade fair provides an economical and effective means
29 of promoting export sales, the Secretary may provide to the operator of the
30 fair—

31 “(1) technical assistance and support; and

32 “(2) financial assistance to defray certain expenses incurred outside
33 the United States, except the cost of transportation on foreign vessels and
34 aircraft.

35 “(c) *USE OF FOREIGN CURRENCIES.*—To carry out this section, the Presi-
36 dent may use, in addition to amounts appropriated to carry out trade pro-
37 motion activities, foreign currencies owned by or owed to the United States
38 Government.

1 “PART E—CONTROL OF MERCHANT MARINE CAPABILITIES

2 “CHAPTER 561—RESTRICTIONS ON TRANSFERS

“Sec.

“56101. Approval required to transfer vessel to noncitizen.

“56102. Additional controls during war or national emergency.

“56103. Conditional approvals.

“56104. Penalty for false statements.

“56105. Forfeiture procedure.

3 **“§56101. Approval required to transfer vessel to noncitizen**

4 “(a) RESTRICTIONS.—

5 “(1) IN GENERAL.—Except as otherwise provided in this section, sec-
6 tion 12119 of this title, or section 611 of the Merchant Marine Act, 1936,
7 a person may not, without the approval of the Secretary of Transpor-
8 tation—

9 “(A) sell, lease, charter, deliver, or in any other manner transfer,
10 or agree to sell, lease, charter, deliver, or in any other manner
11 transfer, to a person not a citizen of the United States, an interest
12 in or control of—

13 “(i) a documented vessel owned by a citizen of the United
14 States; or

15 “(ii) a vessel last documented under the laws of the United
16 States; or

17 “(B) place under foreign registry, or operate under the authority
18 of a foreign country, a documented vessel or a vessel last docu-
19 mented under the laws of the United States.

20 “(2) EXCEPTIONS.—Paragraph (1)(A) does not apply to a vessel that
21 has been operated only for pleasure or only as a fishing vessel, fish proc-
22 essing vessel, or fish tender vessel (as defined in section 2101 of this
23 title).

24 “(b) APPROVAL BEFORE DOCUMENTATION.—To promote financing with re-
25 spect to a vessel to be documented under chapter 121 of this title, the Sec-
26 retary may grant approval under subsection (a) before the vessel is docu-
27 mented.

28 “(c) EXCEPTIONS.—Notwithstanding any other provision of this subtitle,
29 the Merchant Marine Act, 1936, or any contract with the Secretary made
30 under this subtitle or that Act, a person may place a vessel under foreign reg-
31 istry without the approval of the Secretary if—

32 “(1)(A) the Secretary, in conjunction with the Secretary of Defense,
33 determines that at least one replacement vessel of equal or greater mili-
34 tary capability and of a capacity that is equivalent or greater, as meas-
35 ured by deadweight tons, gross tons, or container equivalent units, as ap-
36 propriate, is documented under chapter 121 of this title by the owner
37 of the vessel placed under foreign registry; and

1 “(B) the replacement vessel is not more than 10 years old on the date
2 of that documentation; or

3 “(2) an operating agreement covering the vessel under chapter 531 of
4 this title has expired.

5 “(d) *STATUS OF PROHIBITED TRANSACTION.*—A charter, sale, or transfer
6 of a vessel, or of an interest in or control of a vessel, in violation of this sec-
7 tion is void.

8 “(e) *PENALTIES.*—

9 “(1) *CRIMINAL PENALTY.*—A person that knowingly sells, charters, or
10 transfers a vessel, or an interest in or control of a vessel, in violation
11 of this section shall be fined under title 18, imprisoned for not more than
12 5 years, or both.

13 “(2) *CIVIL PENALTY.*—A person that sells, charters, or transfers a ves-
14 sel, or an interest in or control of a vessel, in violation of this section
15 is liable to the United States Government for a civil penalty of not more
16 than \$10,000 for each violation.

17 “(3) *FORFEITURE.*—A documented vessel may be seized by and for-
18 feited to the Government if, in violation of this section, a person—

19 “(A) knowingly sells, charters, or transfers the vessel or an inter-
20 est in or control of the vessel; or

21 “(B) places the vessel under foreign registry or operates the vessel
22 under the authority of a foreign country.

23 **“§56102. Additional controls during war or national emer-
24 gency**

25 “(a) *IN GENERAL.*—During war, or a national emergency declared by
26 Presidential proclamation, a person may not, without the approval of the Sec-
27 retary of Transportation—

28 “(1) place under foreign registry a vessel owned in whole or in part
29 by a citizen of the United States or a corporation incorporated under
30 the laws of the United States or of a State;

31 “(2) sell, mortgage, lease, charter, deliver, or in any other manner
32 transfer, or agree to sell, mortgage, lease, charter, deliver, or in any other
33 manner transfer, to a person not a citizen of the United States—

34 “(A) a vessel owned as described in paragraph (1), or an interest
35 therein;

36 “(B) a vessel documented under the laws of the United States, or
37 an interest therein; or

38 “(C) a facility for building or repairing vessels, or an interest
39 therein;

40 “(3) issue, assign, or transfer to a person not a citizen of the United
41 States an instrument of indebtedness secured by a mortgage of a vessel

1 to a trustee, by an assignment of an owner's interest in a vessel under
2 construction to a trustee, or by a mortgage of a facility for building or
3 repairing vessels to a trustee, unless the trustee or a substitute trustee
4 is approved by the Secretary under subsection (b);

5 “(4) enter into an agreement or understanding to construct a vessel
6 in the United States for, or to be delivered to, a person not a citizen
7 of the United States without expressly stipulating that construction will
8 not begin until after the war or national emergency has ended;

9 “(5) enter into an agreement or understanding whereby there is vested
10 in, or for the benefit of, a person not a citizen of the United States the
11 controlling interest in a corporation that is incorporated under the laws
12 of the United States or a State and that owns a vessel or facility for
13 building or repairing vessels; or

14 “(6) cause or procure a vessel, constructed in whole or in part in the
15 United States and never cleared for a foreign port, to depart from a port
16 of the United States before it has been documented under the laws of the
17 United States.

18 “(b) TRUSTEES.—

19 “(1) APPROVAL.—The Secretary shall approve a trustee or substitute
20 trustee under subsection (a)(3) if and only if the trustee is a bank or
21 trust company that—

22 “(A) is organized as a corporation, and is doing business, under
23 the laws of the United States or a State;

24 “(B) is authorized under those laws to exercise corporate trust
25 powers;

26 “(C) is a citizen of the United States;

27 “(D) is subject to supervision or examination by Federal or State
28 authority; and

29 “(E) has a combined capital and surplus (as set forth in its most
30 recent published report of condition) of at least \$3,000,000.

31 “(2) DISAPPROVAL.—If a trustee or substitute trustee ceases to meet
32 the conditions in paragraph (1), the Secretary shall disapprove the trust-
33 ee or substitute trustee. After the disapproval, the restrictions on transfer
34 or assignment without the Secretary's approval in subsection (a)(3)
35 apply.

36 “(3) OPERATION OF VESSEL.—During a period when subsection (a)
37 applies, a trustee referred to in subsection (a)(3), even though approved
38 as a trustee by the Secretary, may not operate the vessel under the mort-
39 gage or assignment without the Secretary's approval.

40 “(c) STATUS OF PROHIBITED TRANSACTION.—A transaction in violation of
41 this section is void.

1 “(d) *RECOVERY OF CONSIDERATION.*—

2 “(1) *IN GENERAL.*—A person that deposited or paid consideration in
3 connection with a transaction prohibited by this section may recover the
4 consideration after tender of the vessel, facility, stock, or other security,
5 or interest therein, to the person entitled to it, or the forfeiture thereof
6 to the United States Government.

7 “(2) *EXCEPTION.*—Paragraph (1) does not apply if the person in
8 whose interest the consideration was deposited, or to whom it was paid,
9 entered into the transaction in the belief that the person depositing or
10 paying the consideration was a citizen of the United States.

11 “(e) *PENALTIES.*—

12 “(1) *CRIMINAL PENALTY.*—A person that violates, or attempts or con-
13 spires to violate, this section shall be fined under title 18, imprisoned
14 for not more than 5 years, or both.

15 “(2) *FORFEITURE.*—The following shall be forfeited to the Government:

16 “(A) A vessel, a facility for building or repairing vessels, or an
17 interest in a vessel or such a facility, that is sold, mortgaged, leased,
18 chartered, delivered, transferred, or documented, or agreed to be sold,
19 mortgaged, leased, chartered, delivered, transferred, or documented,
20 in violation of this section.

21 “(B) Stock and other securities sold or transferred, or agreed to
22 be sold or transferred, in violation of this section.

23 “(C) A vessel departing in violation of subsection (a)(6).

24 **“§56103. Conditional approvals**

25 “(a) *IN GENERAL.*—In approving an act or transaction under section
26 56101 or 56102 of this title, the Secretary of Transportation may do so abso-
27 lutely or upon conditions the Secretary considers advisable. The Secretary
28 shall state the conditions in the notice of approval.

29 “(b) *VIOLATIONS.*—A violation of a condition of approval is subject to the
30 same penalties as a violation resulting from an act done without the required
31 approval. The violation occurs at the time the condition is violated.

32 **“§56104. Penalty for false statements**

33 “A person that knowingly makes a false statement of a material fact to the
34 Secretary of Transportation or another officer, employee, or agent of the De-
35 partment of Transportation, to obtain the Secretary’s approval under section
36 56101 or 56102 of this title, shall be fined under title 18, imprisoned for not
37 more than 5 years, or both.

38 **“§56105. Forfeiture procedure**

39 “(a) *IN GENERAL.*—A forfeiture under this chapter may be enforced in the
40 same way as a forfeiture under the laws on the collection of duties. However,
41 such a forfeiture may be remitted without seizure of the vessel.

1 “(b) *PRIOR CONVICTIONS.*—*In a proceeding under this chapter to enforce*
 2 *a forfeiture, a prior criminal conviction of a person for a violation of this*
 3 *chapter with respect to the subject matter of the forfeiture is prima facie evi-*
 4 *dence of the violation against the person convicted.*

5 **“CHAPTER 563—EMERGENCY ACQUISITION OF VESSELS**

“*Sec.*

“56301. *General authority.*

“56302. *Charter terms.*

“56303. *Compensation.*

“56304. *Disputed compensation.*

“56305. *Vessel encumbrances.*

“56306. *Use and transfer of vessels.*

“56307. *Return of vessels.*

6 **“§56301. General authority**

7 “*During a national emergency declared by Presidential proclamation, or*
 8 *a period for which the President has proclaimed that the security of the na-*
 9 *tional defense makes it advisable, the Secretary of Transportation may req-*
 10 *uisition or purchase, or requisition or charter the use of, a vessel owned by*
 11 *citizens of the United States, a documented vessel, or a vessel under construc-*
 12 *tion in the United States.*

13 **“§56302. Charter terms**

14 “(a) *IN GENERAL.*—*If a vessel is requisitioned for use but not ownership*
 15 *under this chapter, the Secretary of Transportation, at the time of requisition*
 16 *or as soon thereafter as the situation allows, shall offer the person entitled*
 17 *to possession of the vessel a charter containing—*

18 “(1) *the terms the Secretary believes should govern the relationship be-*
 19 *tween the United States Government and the person; and*

20 “(2) *the rate of hire the Secretary considers just compensation for the*
 21 *use of the vessel and the services required under the charter.*

22 “(b) *REFUSAL TO ACCEPT.*—*If the person does not accept the charter and*
 23 *rate of hire, the parties shall proceed as provided in section 56304 of this title.*

24 **“§56303. Compensation**

25 “(a) *IN GENERAL.*—*As soon as practicable, the Secretary of Transportation*
 26 *shall determine and pay just compensation for a vessel requisitioned under*
 27 *this chapter.*

28 “(b) *FACTORS NOT AFFECTING VALUE.*—*The value of a vessel may not be*
 29 *considered enhanced by the circumstances requiring its requisition. Con-*
 30 *sequential damages arising from the requisition may not be paid.*

31 “(c) *EFFECT OF CONSTRUCTION-DIFFERENTIAL SUBSIDY.*—

32 “(1) *IF PAID.*—*If a construction-differential subsidy has been paid for*
 33 *the vessel, the value of the vessel at the time of requisition shall be deter-*
 34 *mined under section 802 of the Merchant Marine Act, 1936.*

1 “(2) *IF NOT PAID.*—If a construction-differential subsidy has not been
2 paid for the vessel, the value of any national defense features previously
3 paid for by the United States Government shall be excluded.

4 “(d) *LOSS OR DAMAGE DURING CHARTER.*—If a vessel is lost or damaged
5 by a risk assumed by the Government under the charter, but a valuation for
6 the vessel or a means of compensation has not been agreed to, the Secretary
7 shall pay just compensation for the loss or damage, to the extent the person
8 is not reimbursed through insurance.

9 **“§56304. Disputed compensation**

10 “If the person entitled to compensation disputes the amount of just com-
11 pensation determined by the Secretary of Transportation under this chapter,
12 the Secretary shall pay the person, as a tentative advance, 75 percent of the
13 amount determined. The person may bring a civil action against the United
14 States to recover just compensation. If the tentative advance paid under this
15 section is greater than the amount of the court’s judgment, the person shall
16 refund the difference.

17 **“§56305. Vessel encumbrances**

18 “(a) *IN GENERAL.*—The existence of an encumbrance on a vessel does not
19 prevent the requisition of the vessel under this chapter.

20 “(b) *DEPOSIT IN TREASURY.*—

21 “(1) *IN GENERAL.*—If an encumbrance exists, the Secretary of Trans-
22 portation may deposit part of the compensation or advance of compensa-
23 tion to be paid under this chapter (but not more than the total amount
24 of all encumbrances) in a fund in the Treasury. The Secretary shall pub-
25 lish notice of the creation of the fund in the Federal Register.

26 “(2) *AVAILABILITY OF AMOUNTS DEPOSITED.*—Amounts deposited in
27 the fund shall be available to pay the compensation or any of the encum-
28 brances (including encumbrances stipulated to in a court of the United
29 States or a State) existing at the time the vessel was requisitioned.

30 “(c) *CIVIL ACTION.*—

31 “(1) *IN GENERAL.*—Within 6 months after publication of notice under
32 subsection (b), the holder of an encumbrance may bring a civil action
33 in admiralty, according to the principles of libels in rem, against the
34 fund.

35 “(2) *VENUE.*—The action must be brought in the district court of the
36 United States—

37 “(A) from whose custody the vessel was or may be requisitioned;

38 or

39 “(B) in whose district the vessel was located when it was requi-
40 sitioned.

1 “(3) *SERVICE OF PROCESS.*—*Service of process shall be made on the*
 2 *appropriate United States Attorney, the Attorney General, and the Sec-*
 3 *retary, in the manner provided by the Federal Rules of Civil Procedure*
 4 *(28 App. U.S.C.). Notice of the action shall be given to all interested per-*
 5 *sons as ordered by the court.*

6 “(4) *AS BETWEEN PRIVATE PARTIES.*—*The action shall proceed and*
 7 *be determined according to the principles of law and the rules of practice*
 8 *applicable in like cases between private parties.*

9 **“§56306. Use and transfer of vessels**

10 “(a) *IN GENERAL.*—*The Secretary of Transportation may repair, recondi-*
 11 *tion, reconstruct, operate, or charter for operation, a vessel acquired under*
 12 *this chapter.*

13 “(b) *TRANSFER TO OTHER AGENCIES.*—*The Secretary may transfer the*
 14 *possession or control of a vessel acquired under this chapter to another depart-*
 15 *ment or agency of the United States Government on terms and conditions ap-*
 16 *proved by the President. The department or agency shall promptly reimburse*
 17 *the Secretary for expenditures for just compensation, purchase price, charter*
 18 *hire, repairs, reconditioning, or reconstruction.*

19 **“§56307. Return of vessels**

20 “*When a vessel requisitioned for use but not ownership is returned to the*
 21 *owner, the Secretary of Transportation shall—*

22 “(1) *return the vessel in a condition at least as good as when taken,*
 23 *less ordinary wear and tear; or*

24 “(2) *pay the owner an amount sufficient to recondition the vessel to*
 25 *that condition, less ordinary wear and tear.*

26 **“CHAPTER 565—ESSENTIAL VESSELS AFFECTED BY**
 27 **NEUTRALITY ACT**

“*Sec.*

“56501. *Definition.*

“56502. *Adjusting obligations and arranging maintenance.*

“56503. *Types of adjustments and arrangements.*

“56504. *Changes in adjustments and arrangements.*

28 **“§56501. Definition**

29 “*In this chapter, the term ‘essential vessel’ means a vessel that is—*

30 “(1)(A) *security for a mortgage indebtedness to the United States Gov-*
 31 *ernment; or*

32 “(B) *constructed under this subtitle or required by a contract under*
 33 *this subtitle to be operated on a certain essential foreign trade route; and*

34 “(2) *necessary in the interests of commerce and national defense to be*
 35 *maintained in condition for prompt use.*

36 **“§56502. Adjusting obligations and arranging maintenance**

37 “(a) *GENERAL AUTHORITY.*—*On written application, the Secretary of*
 38 *Transportation may adjust obligations and arrange for maintenance of an es-*

1 *sential vessel as provided in this chapter if the Secretary determines, after*
 2 *any investigation or proceeding the Secretary considers desirable, that—*

3 “(1) *the operation of the vessel in the service, route, or line to which*
 4 *it is assigned under this subtitle, or in which it otherwise would be oper-*
 5 *ated, is not—*

6 “(A) *lawful under the Neutrality Act of 1939 (22 U.S.C. 441 et*
 7 *seq.) or a proclamation issued under that Act; or*

8 “(B) *compatible with maintaining the availability of the vessel*
 9 *for national defense and commerce;*

10 “(2) *it is not feasible under existing law to employ the vessel in any*
 11 *other service or operation in foreign or domestic trade (except temporary*
 12 *or emergency operation under section 56503(b)(5) of this title); and*

13 “(3) *the applicant, because of the restrictions of the Neutrality Act of*
 14 *1939 (22 U.S.C. 441 et seq.) or the withdrawal of vessels for national*
 15 *defense under paragraph (1), is not earning or will not earn a reason-*
 16 *able return on the capital necessarily employed in its business.*

17 “(b) *EFFECTIVE PERIOD.—Adjustments and arrangements under subsection*
 18 *(a) shall continue in effect only as long as the circumstances described in sub-*
 19 *section (a) continue to exist.*

20 **“§56503. *Types of adjustments and arrangements***

21 “(a) *SUSPENSION REQUIREMENTS.—An adjustment or arrangement under*
 22 *this chapter shall include suspension of—*

23 “(1) *the requirement to operate the vessel in foreign trade under the*
 24 *applicable operating-differential or construction-differential subsidy con-*
 25 *tract or mortgage or other agreement; and*

26 “(2) *the right to operating-differential subsidy for the vessel.*

27 “(b) *DISCRETIONARY ADJUSTMENTS AND ARRANGEMENTS.—To the extent*
 28 *the Secretary of Transportation considers appropriate to carry out the pur-*
 29 *poses of this subtitle, an adjustment or arrangement under this chapter may*
 30 *include any of the following:*

31 “(1) *Lay-up of the vessel by the owner or in the custody of the Sec-*
 32 *retary, with payment or reimbursement by the Secretary of necessary*
 33 *and proper expenses (including reasonable overhead and insurance) or*
 34 *a fixed periodic allowance instead of payment or reimbursement.*

35 “(2) *Postponement, for not more than the total period of the lay-up,*
 36 *of the maturity date of each installment of the principal of obligations*
 37 *to the United States Government for the vessel (regardless of whether the*
 38 *maturity date is during a lay-up period), or rearrangement of those ma-*
 39 *turities.*

40 “(3) *Postponement or cancellation of interest accruing on the obliga-*
 41 *tions during a lay-up period.*

1 “(4) *Extension, for not more than the total period of the lay-up, of*
 2 *the 20-year life limitation for the vessel and other limitations and provi-*
 3 *sions of this subtitle based on a 20-year life.*

4 “(5) *Provision for temporary or emergency employment of the vessel*
 5 *(instead of lay-up) as may be practicable, with such arrangements for*
 6 *management of the vessel, payment of expenses, and application of the*
 7 *proceeds of the employment, as the Secretary may approve, with any pe-*
 8 *riod of operation being included as part of the lay-up period.*

9 “(6) *Payment to the Secretary, on termination of the arrangements*
 10 *with the applicant, of the applicant’s net profits (earned while the ar-*
 11 *rangements were in effect) in excess of 10 percent a year on the capital*
 12 *necessarily employed in the applicant’s business, as reimbursement for*
 13 *obligations postponed or canceled and expenses incurred or paid by the*
 14 *Secretary under this section.*

15 “(c) *LAIID-UP VESSELS.—Under subsection (b)(6), capital of the applicant*
 16 *represented by a vessel of the applicant laid-up or operated under this section*
 17 *shall be included in capital necessarily employed in the applicant’s business.*
 18 *The Secretary may require a vessel laid-up or operated under this section to*
 19 *be security for reimbursement.*

20 **“§56504. Changes in adjustments and arrangements**

21 *“The Secretary of Transportation may change an adjustment or arrange-*
 22 *ment made under this chapter as the Secretary considers necessary to carry*
 23 *out this chapter.*

24 **“PART F—GOVERNMENT-OWNED MERCHANT VESSELS**

25 **“CHAPTER 571—GENERAL AUTHORITY**

“Sec.

“57101. *Placement of vessels in National Defense Reserve Fleet.*

“57102. *Disposition of vessels not worth preserving.*

“57103. *Sale of obsolete vessels in National Defense Reserve Fleet.*

“57104. *Acquisition of vessels from sale of obsolete vessels.*

“57105. *Acquisition of vessels for essential services, routes, or lines.*

“57106. *Maintenance, improvement, and operation of vessels.*

“57107. *Vessels for other agencies.*

“57108. *Consideration of ballast and equipment in determining selling price.*

“57109. *Operation of vessels purchased, chartered, or leased from Secretary of Transportation.*

26 **“§57101. Placement of vessels in National Defense Reserve**
 27 **Fleet**

28 “(a) *IN GENERAL.—Any vessel acquired by the Maritime Administration*
 29 *shall be placed in the National Defense Reserve Fleet maintained under sec-*
 30 *tion 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).*

31 “(b) *REMOVAL FROM FLEET.—A vessel placed in the Fleet under subsection*
 32 *(a) may not be traded out or sold from the Fleet, except as provided in section*
 33 *57102, 57103, or 57104 or chapter 533, 537, 573, or 575 of this title.*

1 **“§57102. Disposition of vessels not worth preserving**

2 “(a) *IN GENERAL.*—If the Secretary of Transportation determines that a
3 vessel owned by the Maritime Administration is of insufficient value for com-
4 mercial or military operation to warrant its further preservation, the Sec-
5 retary may scrap the vessel or sell the vessel for cash.

6 “(b) *SELLING PROCEDURE.*—The sale of a vessel under subsection (a) shall
7 be made on the basis of competitive sealed bids, after an appraisal and due
8 advertisement. The purchaser does not have to be a citizen of the United
9 States. The purchaser shall provide a surety bond, with a surety approved
10 by the Secretary, to ensure that the vessel will not be operated in the foreign
11 trade of the United States at any time within 10 years after the sale, in com-
12 petition with a vessel owned by a citizen of the United States and documented
13 under the laws of the United States.

14 **“§57103. Sale of obsolete vessels in National Defense Reserve**
15 **Fleet**

16 “(a) *IN GENERAL.*—The Secretary of Transportation may convey the right,
17 title, and interest of the United States Government in any vessel of the Na-
18 tional Defense Reserve Fleet that has been identified by the Secretary as an
19 obsolete vessel of insufficient value to warrant its further preservation, if the
20 recipient—

21 “(1) is a non-profit organization, a State, or a municipal corporation
22 or political subdivision of a State;

23 “(2) agrees not to use, or allow others to use, the vessel for commercial
24 transportation purposes;

25 “(3) agrees to make the vessel available to the Government whenever
26 the Secretary indicates that it is needed by the Government;

27 “(4) agrees to hold the Government harmless for any claims arising
28 from exposure to asbestos, polychlorinated biphenyls, lead paint, or other
29 hazardous substances after conveyance of the vessel, except for claims
30 arising from use of the vessel by the Government;

31 “(5) has a conveyance plan and a business plan that describes the in-
32 tended use of the vessel, each of which has been submitted to and ap-
33 proved by the Secretary;

34 “(6) has provided proof, as determined by the Secretary, of resources
35 sufficient to accomplish the transfer, necessary repairs and modifica-
36 tions, and initiation of the intended use of the vessel; and

37 “(7) agrees that when the recipient no longer requires the vessel for
38 use as described in the business plan required under paragraph (5)—

39 “(A) the recipient will, at the discretion of the Secretary, re-
40 convey the vessel to the Government in good condition except for or-
41 dinary wear and tear; or

1 “(B) if the Board of Trustees of the recipient has decided to dis-
2 solve the recipient according to the laws of the State in which the
3 recipient is incorporated, then—

4 “(i) the recipient shall distribute the vessel, as an asset of
5 the recipient, to a person that has been determined exempt
6 from taxation under section 501(c)(3) of the Internal Revenue
7 Code of 1986 (26 U.S.C. 501(c)(3)), or to the Federal Govern-
8 ment or a State or local government for a public purpose; and

9 “(ii) the vessel shall be disposed of by a court of competent
10 jurisdiction of the county in which the principal office of the
11 recipient is located, for such purposes as the court shall deter-
12 mine, or to such organizations as the court shall determine are
13 organized exclusively for public purposes.

14 “(b) OTHER EQUIPMENT.—At the Secretary’s discretion, additional equip-
15 ment from other obsolete vessels of the Fleet may be conveyed to assist the re-
16 cipient with maintenance, repairs, or modifications.

17 “(c) ADDITIONAL TERMS.—The Secretary may require any additional
18 terms the Secretary considers appropriate.

19 “(d) DELIVERY OF VESSEL.—If conveyance is made under this section, the
20 vessel shall be delivered to the recipient at a time and place to be determined
21 by the Secretary. The vessel shall be conveyed in an ‘as is’ condition.

22 “(e) LIMITATIONS.—If at any time prior to delivery of the vessel to the re-
23 cipient, the Secretary determines that a different disposition of the vessel
24 would better serve the interests of the Government, the Secretary shall pursue
25 the more favorable disposition of the obsolete vessel and shall not be liable for
26 any damages that may result from an intended recipient’s reliance upon a
27 proposed transfer.

28 “(f) REVERSION.—The Secretary shall include in any conveyance under
29 this section terms under which all right, title, and interest conveyed by the
30 Secretary shall revert to the Government if the Secretary determines the vessel
31 has been used other than as described in the business plan required under sub-
32 section (a)(5).

33 **“§ 57104. Acquisition of vessels from sale of obsolete vessels**

34 “(a) IN GENERAL.—The Secretary of Transportation may acquire suitable
35 documented vessels with amounts in the Vessel Operations Revolving Fund de-
36 rived from the sale of obsolete vessels in the National Defense Reserve Fleet.

37 “(b) VALUATION.—The acquired and obsolete vessels shall be valued at their
38 scrap value in domestic or foreign markets as of the date of the acquisition
39 for or sale from the Fleet. However, the value assigned to those vessels shall
40 be determined on the same basis, with consideration given to the fair value
41 of the cost of moving the vessel sold from the Fleet to the place of scrapping.

1 “(c) *COSTS INCIDENT TO LAY-UP.*—Costs incident to the lay-up of the ves-
2 sel acquired under this section may be paid from amounts in the Fund.

3 “(d) *TRANSFERS TO NON-CITIZENS.*—A vessel sold from the Fleet under
4 this section may be scrapped in an approved foreign market without obtain-
5 ing additional separate approval from the Secretary to transfer the vessel to
6 a person not a citizen of the United States.

7 **“§57105. Acquisition of vessels for essential services, routes,
8 or lines**

9 “(a) *IN GENERAL.*—The Secretary of Transportation may acquire a vessel,
10 by purchase or otherwise, if—

11 “(1) the Secretary considers the vessel necessary to establish, maintain,
12 improve, or serve as a replacement on an essential service, route, or line
13 in the foreign commerce of the United States, as determined under sec-
14 tion 50103 of this title;

15 “(2) the vessel was constructed in the United States; and

16 “(3) the Secretary of the Navy has certified to the Secretary of Trans-
17 portation that the vessel is suitable for economical and speedy conversion
18 into a naval or military auxiliary or otherwise suitable for use by the
19 United States Government in time of war or national emergency.

20 “(b) *PRICE.*—The price paid for the vessel shall be based on a fair and rea-
21 sonable valuation. However, the price may not exceed by more than 5 percent
22 the cost of the vessel to the owner (excluding any construction-differential sub-
23 sidy and the cost of national defense features paid by the Secretary of Trans-
24 portation) plus the actual cost previously expended for reconditioning, less de-
25 preciation based on a 25-year life for a dry-cargo or passenger vessel and a
26 20-year life for a tanker or other liquid bulk carrier vessel.

27 “(c) *DOCUMENTATION.*—A vessel acquired under this section that is not
28 documented under the laws of the United States at the time of acquisition
29 shall be so documented as soon as practicable.

30 **“§57106. Maintenance, improvement, and operation of ves-
31 sels**

32 “(a) *IN GENERAL.*—The Secretary of Transportation may maintain, re-
33 pair, recondition, remodel, and improve vessels owned by the United States
34 Government and in the possession or under the control of the Secretary, to
35 equip them adequately for competition in the foreign trade of the United
36 States. The Secretary may operate such a vessel or charter the vessel on terms
37 and conditions the Secretary considers appropriate to carry out the purposes
38 of this subtitle.

39 “(b) *DOCUMENTATION AND RESTRICTIONS ON OPERATION.*—A vessel recon-
40 ditioned, remodeled, or improved under subsection (a) shall be documented
41 under the laws of the United States and remain so documented for at least

1 5 years after completion of the reconditioning, remodeling, or improvement.
 2 During that period, it shall be operated on voyages that are not exclusively
 3 coastwise.

4 **“§57107. Vessels for other agencies**

5 “(a) *IN GENERAL.*—The Secretary of Transportation may construct, recon-
 6 struct, repair, equip, and outfit, by contract or otherwise, vessels or parts
 7 thereof, for any other department or agency of the United States Government
 8 to the extent the other department or agency is authorized by law to do so
 9 for its own account.

10 “(b) *EFFECT ON CONTRACT AUTHORIZATION.*—An obligation incurred or
 11 expenditure made by the Secretary under this section does not affect any con-
 12 tract authorization of the Secretary, but instead shall be charged against the
 13 existing appropriation or contract authorization of the department or agency.

14 **“§57108. Consideration of ballast and equipment in deter-
 15 mining selling price**

16 “The Maritime Administration may not sell a vessel until its ballast and
 17 equipment have been inventoried and their value considered in determining
 18 the selling price of the vessel.

19 **“§57109. Operation of vessels purchased, chartered, or
 20 leased from Secretary of Transportation**

21 “Unless otherwise authorized by the Secretary of Transportation, a vessel
 22 purchased, chartered, or leased from the Secretary may be operated only
 23 under a certificate of documentation with a registry or coastwise endorsement.
 24 Such a vessel, while employed solely as a merchant vessel, is subject to the
 25 laws, regulations, and liabilities governing merchant vessels, whether the
 26 United States Government has an interest in the vessel as an owner or holds
 27 a mortgage, lien, or other interest.

28 **“CHAPTER 573—VESSEL TRADE-IN PROGRAM**

“Sec.

“57301. *Definitions.*

“57302. *Authority to acquire vessels.*

“57303. *Utility value and tonnage requirements.*

“57304. *Eligible acquisition dates.*

“57305. *Determination of trade-in allowance.*

“57306. *Payment of trade-in allowance.*

“57307. *Recognition of gain for tax purposes.*

“57308. *Use of vessels at least 25 years old.*

29 **“§57301. Definitions**

30 “In this chapter:

31 “(1) *NEW VESSEL.*—The term ‘new vessel’ means a vessel—

32 “(A) constructed under this subtitle and acquired within 2 years
 33 after the date of completion; or

1 “(B) constructed in a domestic shipyard on private account and
2 not under this subtitle, and documented under the laws of the
3 United States.

4 “(2) OBSOLETE VESSEL.—The term ‘obsolete vessel’ means a vessel
5 that—

6 “(A) is of at least 1,350 gross tons;

7 “(B) the Secretary of Transportation believes should, because of
8 its age, obsolescence, or other reasons, be replaced in the public in-
9 terest; and

10 “(C) has been owned by a citizen of the United States for at least
11 3 years immediately before its acquisition under this chapter.

12 **“§ 57302. Authority to acquire vessels**

13 “To promote the construction of new, safe, and efficient vessels to carry the
14 domestic and foreign waterborne commerce of the United States, the Secretary
15 of Transportation may acquire an obsolete vessel in exchange for an allowance
16 of credit toward the cost of construction or purchase of a new vessel as pro-
17 vided in this chapter.

18 **“§ 57303. Utility value and tonnage requirements**

19 “(a) UTILITY VALUE.—The utility value of a new vessel to be acquired
20 under this chapter for operation in the domestic or foreign commerce of the
21 United States may not be substantially less than that of the obsolete vessel
22 acquired in exchange under this chapter.

23 “(b) TONNAGE.—If the Secretary of Transportation finds that the new ves-
24 sel will have a utility value at least equal to that of the obsolete vessel, the
25 new vessel may be of lesser gross tonnage than the obsolete vessel. However,
26 the gross tonnage of the new vessel must be at least one-third the gross tonnage
27 of the obsolete vessel.

28 **“§ 57304. Eligible acquisition dates**

29 “At the option of the owner, the acquisition of an obsolete vessel under this
30 chapter shall occur—

31 “(1) when the owner contracts for the construction or purchase of a
32 new vessel; or

33 “(2) within 5 days of the actual date of delivery of the new vessel to
34 the owner.

35 **“§ 57305. Determination of trade-in allowance**

36 “(a) IN GENERAL.—The Secretary of Transportation shall determine the
37 trade-in allowance for an obsolete vessel at the time of acquisition of the ves-
38 sel. The allowance shall be the fair value of the vessel. In determining the
39 value, the Secretary shall consider—

40 “(1) the scrap value of the obsolete vessel in American and foreign
41 markets;

1 “(2) the depreciated value based on a 20-year or 25-year life, which-
2 ever applies to the obsolete vessel; and

3 “(3) the market value of the obsolete vessel for operation in world com-
4 merce or in the domestic or foreign commerce of the United States.

5 “(b) *USE OF OBSOLETE VESSELS.*—If acquisition of the obsolete vessel oc-
6 curs when the owner contracts for the construction of the new vessel, and the
7 owner uses the obsolete vessel during the period of construction of the new ves-
8 sel, the Secretary shall reduce the trade-in allowance by an amount rep-
9 resenting the fair value of that use. The Secretary shall establish the rate for
10 use of the obsolete vessel when the contract for construction of the new vessel
11 is made.

12 **“§57306. Payment of trade-in allowance**

13 “(a) *ACQUISITION AT TIME OF CONTRACT.*—If acquisition of an obsolete
14 vessel under this chapter occurs when the owner contracts for the construction
15 or purchase of the new vessel, the Secretary of Transportation shall apply the
16 trade-in allowance to the purchase price of the new vessel rather than paying
17 it to the owner. If the new vessel is constructed under this subtitle, the Sec-
18 retary may apply the trade-in allowance to the required cash payments on
19 terms and conditions the Secretary may prescribe. If the new vessel is not
20 constructed under this subtitle, the Secretary shall pay the trade-in allowance
21 to the builder of the vessel for the account of the owner when the Secretary
22 acquires the obsolete vessel.

23 “(b) *ACQUISITION AT TIME OF DELIVERY.*—If acquisition of the obsolete
24 vessel occurs when the new vessel is delivered to the owner, the Secretary shall
25 deposit the trade-in allowance in the owner’s capital construction fund.

26 **“§57307. Recognition of gain for tax purposes**

27 “*The owner of an obsolete vessel does not recognize a gain under the Federal*
28 *income tax laws when the vessel is transferred to the Secretary of Transpor-*
29 *tation in exchange for a trade-in allowance under this chapter. The basis of*
30 *the new vessel acquired with the allowance is the same as the basis of the obs-*
31 *solete vessel—*

32 “(1) increased by the difference between the cost of the new vessel and
33 the trade-in allowance of the obsolete vessel; and

34 “(2) decreased by the amount of loss recognized on the transfer.

35 **“§57308. Use of vessels at least 25 years old**

36 “*An obsolete vessel acquired under this chapter that is or becomes at least*
37 *25 years old may not be used for commercial operation. However, the vessel*
38 *may be used—*

39 “(1) during a period in which vessels may be requisitioned under
40 chapter 563 of this title; or

1 of title V of the Merchant Marine Act, 1936, applicable to a contract with
2 a private shipbuilder for the construction of a vessel under title V of that Act.

3 **“§57503. Competitive bidding**

4 “(a) *ADVERTISEMENT AND BIDDING.*—The Secretary of Transportation
5 may make a contract with a private shipbuilder for the construction of a new
6 vessel, or for the reconstruction or reconditioning of an existing vessel, only
7 after due advertisement and upon sealed competitive bids.

8 “(b) *OPENING OF BIDS.*—Bids required under this section shall be opened
9 at the time and place stated in the advertisement for bids. All interested per-
10 sons, including representatives of the press, shall be permitted to attend. The
11 results of the bidding shall be publicly announced.

12 **“§57504. Charter or sale of vessels acquired by Department
13 of Transportation**

14 “Vessels transferred to or otherwise acquired by the Department of Trans-
15 portation in any manner may be chartered or sold by the Secretary of Trans-
16 portation as provided in this chapter.

17 **“§57505. Employment of vessels on foreign trade routes**

18 “(a) *IN GENERAL.*—The Secretary of Transportation shall arrange for the
19 employment of the Department of Transportation’s vessels in steamship lines
20 on such trade routes, exclusively serving the foreign trade of the United States,
21 as the Secretary determines are essential for the development and mainte-
22 nance of the commerce of the United States and the national defense. How-
23 ever, the Secretary shall first determine that those routes are not being ade-
24 quately served by existing steamship lines privately owned and operated by
25 citizens of the United States and documented under the laws of the United
26 States.

27 “(b) *POLICY TO ENCOURAGE PRIVATE OPERATION.*—The Secretary shall
28 have a policy of encouraging private operation of each essential steamship
29 line now owned by the United States Government by—

30 “(1) selling the line to a citizen of the United States; or

31 “(2) demising the Secretary’s vessels on bareboat charter to citizens of
32 the United States who agree to maintain the line in the manner provided
33 in this chapter.

34 **“§57506. Minimum selling price of vessels**

35 “(a) *IN GENERAL.*—A vessel constructed under this subtitle or the Merchant
36 Marine Act, 1936, may not be sold by the Secretary of Transportation for
37 less than the price specified in this section.

38 “(b) *OPERATION IN FOREIGN TRADE.*—If the vessel is to be operated in for-
39 eign trade, the minimum price is the estimated foreign construction cost (ex-
40 clusive of national defense features) determined as of the date the construction
41 contract is executed, less depreciation under subsection (d).

1 “(c) *OPERATION IN DOMESTIC TRADE.*—If the vessel is to be operated in
2 domestic trade, the minimum price is the cost of construction in the United
3 States (exclusive of national defense features), less depreciation under sub-
4 section (d).

5 “(d) *DEPRECIATION.*—Depreciation under subsections (b) and (c) shall be
6 based on—

7 “(1) a 25-year life for dry-cargo and passenger vessels; and

8 “(2) a 20-year life for tankers and other bulk liquid carrier vessels.

9 “SUBCHAPTER II—CHARTERS

10 “**§57511. Demise charters**

11 “A charter by the Secretary of Transportation under this chapter shall de-
12 mise the vessel to the charterer subject to all usual conditions contained in
13 a bareboat charter. The charter shall be for a term the Secretary considers
14 to be in the best interest of the United States Government and the merchant
15 marine.

16 “**§57512. Competitive bidding**

17 “(a) *IN GENERAL.*—The Secretary of Transportation may charter a vessel
18 of the Department of Transportation to a private operator only on the basis
19 of competitive sealed bidding. The bids must be submitted in strict compliance
20 with the terms and conditions of a public advertisement soliciting the bids.

21 “(b) *ADVERTISEMENT FOR BIDS.*—An advertisement for bids shall state—

22 “(1) the number, type, and tonnage of the vessels being offered for
23 bareboat charter for operation as a steamship line on a designated trade
24 route;

25 “(2) the minimum number of sailings required;

26 “(3) the length of time of the charter;

27 “(4) the right of the Secretary to reject all bids; and

28 “(5) other information the Secretary considers necessary for the infor-
29 mation of prospective bidders.

30 “(c) *OPENING OF BIDS.*—Bids required under this section shall be opened
31 at the time and place stated in the advertisement for bids. All interested per-
32 sons, including representatives of the press, shall be permitted to attend. The
33 results of the bidding shall be publicly announced.

34 “**§57513. Minimum bid**

35 “The Secretary of Transportation shall reject any bid for the charter under
36 this subchapter of a vessel constructed under this subtitle or the Merchant Ma-
37 rine Act, 1936, if the charter hire offered is lower than the minimum charter
38 hire would be if the vessel were chartered under section 57531 of this title.

39 “**§57514. Qualifications of bidders**

40 “(a) *CONSIDERATIONS.*—In deciding whether to award a charter to a bid-
41 der, the Secretary of Transportation shall consider—

1 “(1) the bidder’s financial resources, credit standing, and practical ex-
2 perience in operating vessels; and

3 “(2) other factors a prudent business person would consider in enter-
4 ing into a transaction involving a large capital investment.

5 “(b) *DISQUALIFICATIONS.*—The Secretary may not charter a vessel to a
6 person appearing to lack sufficient capital, credit, and experience to operate
7 the vessel successfully over the period covered by the charter.

8 **“§57515. Awarding of charters**

9 “(a) *IN GENERAL.*—The Secretary of Transportation shall award the char-
10 ter to the bidder proposing to pay the highest monthly charter hire. However,
11 the Secretary may reject the highest or most advantageous or any other bid
12 if the Secretary considers the charter hire offered too low or determines that
13 the bidder lacks the qualifications required by section 57514 of this title.

14 “(b) *HIGHEST BID REJECTED.*—If the Secretary rejects the highest bid, the
15 Secretary may—

16 “(1) award the charter to the next highest bidder; or

17 “(2) reject all bids and either readvertise the line or operate the line
18 until conditions appear more favorable to reoffer the line for private
19 charter.

20 “(c) *REASON FOR REJECTION.*—On request of a bidder, the reason for rejec-
21 tion shall be stated in writing to the bidder.

22 **“§57516. Operating-differential subsidies**

23 “*If the Secretary of Transportation considers it necessary, the Secretary*
24 *may make a contract with a charterer of a vessel owned by the Secretary for*
25 *payment of an operating-differential subsidy, on the same terms and condi-*
26 *tions, and subject to the same limitations and restrictions, as otherwise pro-*
27 *vided with respect to payment of operating-differential subsidies to operators*
28 *of privately-owned vessels.*

29 **“§57517. Recovery of excess profits**

30 “(a) *IN GENERAL.*—A charter under this chapter shall provide that if, at
31 the end of a calendar year subsequent to the execution of the charter, the cu-
32 mulative net voyage profit (after payment of the charter hire reserved in the
33 charter and payment of the charterer’s fair and reasonable overhead expenses
34 applicable to operation of the chartered vessel) exceeds 10 percent a year of
35 the charterer’s capital necessarily employed in the business of the chartered
36 vessel, the charterer shall pay to the Secretary of Transportation, as addi-
37 tional charter hire, half the cumulative net voyage profit in excess of 10 per-
38 cent a year. However, any cumulative net voyage profit accounted for under
39 this subsection is not to be included in the calculation of cumulative net voy-
40 age profit in any subsequent year.

1 “(b) *TERMS TO BE DEFINED AND USED.*—*The Secretary shall define the*
 2 *terms ‘net voyage profit’, ‘fair and reasonable overhead expenses’, and ‘capital*
 3 *necessarily employed’ for this section. Each advertisement for bids and each*
 4 *charter shall contain these definitions, stating the formula for determining*
 5 *each of these three amounts.*

6 **“§57518. Performance bond**

7 *“The Secretary of Transportation shall require a charterer of a vessel of*
 8 *the Secretary to deposit with the Secretary an undertaking, with approved*
 9 *sureties, in such amount as the Secretary may require as security for the*
 10 *faithful performance of the terms of the charter, including indemnity against*
 11 *liens on the chartered vessel.*

12 **“§57519. Insurance**

13 *“A charter under this chapter shall require the charterer to carry, at the*
 14 *charterer’s expense, insurance on the chartered vessel covering all marine and*
 15 *port risks, protection and indemnity risks, and all other hazards and liabil-*
 16 *ities, adequate to cover damages claimed against and losses sustained by the*
 17 *chartered vessel arising during the term of the charter. The insurance shall*
 18 *be in such form, in such amount, and with such companies as the Secretary*
 19 *of Transportation may require. In accordance with law, any of the insurance*
 20 *risks may be underwritten by the Secretary.*

21 **“§57520. Vessel maintenance**

22 “(a) *IN GENERAL.*—*A charter under this chapter shall require the*
 23 *charterer, at the charterer’s expense, to—*

24 *“(1) keep the chartered vessel in good repair and efficient operating*
 25 *condition; and*

26 *“(2) make any repairs required by the Secretary of Transportation.*

27 “(b) *INSPECTION.*—*The charter shall provide that the Secretary has the*
 28 *right to inspect the vessel at any time to ascertain its condition.*

29 **“§57521. Termination of charter during national emergency**

30 *“A charter under this chapter shall provide that during a national emer-*
 31 *gency proclaimed by the President or a period for which the President has*
 32 *proclaimed that the security of the national defense makes it advisable, the*
 33 *Secretary of Transportation may terminate the charter without cost to the*
 34 *United States Government on such notice to the charterer as the President*
 35 *determines.*

36 “SUBCHAPTER III—MISCELLANEOUS

37 **“§57531. Construction and charter of vessels for unsuccess-**
 38 ***ful routes***

39 “(a) *IN GENERAL.*—*If the Secretary of Transportation finds that a trade*
 40 *route determined to be essential under section 50103 of this title cannot be*
 41 *successfully developed and maintained and the Secretary’s replacement pro-*

1 *gram cannot be achieved under private operation of the trade route by a cit-*
 2 *izen of the United States with vessels documented under chapter 121 of this*
 3 *title, without further aid by the United States Government in addition to the*
 4 *financial aid authorized under titles V and VI of the Merchant Marine Act,*
 5 *1936, the Secretary, without advertisement or competition, may—*

6 *“(1) have constructed, in private shipyards or in navy yards, vessels*
 7 *of the types necessary for the trade route; and*

8 *“(2) demise charter those new vessels to the operator of vessels of the*
 9 *United States established on the trade route.*

10 *“(b) AMOUNT OF CHARTER HIRE.—*

11 *“(1) IN GENERAL.—The annual charter hire under subsection (a) shall*
 12 *be at least 4 percent of the price (referred to in this section as the ‘for-*
 13 *foreign cost’) at which the vessel would be sold if constructed under title*
 14 *V of the Merchant Marine Act, 1936, plus—*

15 *“(A) a percentage of the depreciated foreign cost computed annu-*
 16 *ally determined by the Secretary of the Treasury, taking into con-*
 17 *sideration the current average market yield on outstanding market-*
 18 *able obligations of the Government with remaining periods to matu-*
 19 *rity comparable to the term of the charter, adjusted to the nearest*
 20 *one-eighth percent; and*

21 *“(B) an allowance adequate in the judgment of the Secretary of*
 22 *Transportation to cover administrative costs.*

23 *“(2) DEPRECIATION.—Depreciation under paragraph (1)(A) shall be*
 24 *based on—*

25 *“(A) a 25-year life for dry-cargo and passenger vessels; and*

26 *“(B) a 20-year life for tankers and other bulk liquid carrier ves-*
 27 *sels.*

28 *“(c) OPTION TO PURCHASE.—The charter may contain an option to the*
 29 *charterer to purchase the vessels from the Secretary of Transportation within*
 30 *5 years after delivery under the charter, on the same terms and conditions*
 31 *as provided in title V of the Merchant Marine Act, 1936, for the purchase*
 32 *of new vessels from the Secretary. However—*

33 *“(1) the purchase price shall be the foreign cost less depreciation to*
 34 *the date of purchase based on the useful life specified in subsection (b)(2);*

35 *“(2) the required cash payment payable at the time of the purchase*
 36 *shall be 25 percent of the purchase price;*

37 *“(3) the charter may provide that any part of the charter hire paid*
 38 *in excess of the minimum charter hire provided for in this section may*
 39 *be credited against the cash payment payable at the time of the purchase;*

40 *“(4) the balance of the purchase price shall be paid within the remain-*
 41 *ing years of useful life (as specified in subsection (b)(2)) after the date*

1 *of delivery of the vessel under the charter and in approximately equal*
 2 *annual installments, except that the first installment, which shall be*
 3 *payable on the next ensuing anniversary date of the delivery under the*
 4 *charter, shall be a proportionate part of the annual installment; and*

5 *“(5) interest shall be payable on the unpaid balances from the date*
 6 *of purchase, at a rate not less than—*

7 *“(A) a rate determined by the Secretary of the Treasury, taking*
 8 *into consideration the current average market yield on outstanding*
 9 *marketable obligations of the Government with remaining periods to*
 10 *maturity comparable to the average maturities of the loans, adjusted*
 11 *to the nearest one-eighth percent; plus*

12 *“(B) an allowance adequate in the judgment of the Secretary of*
 13 *Transportation to cover administrative costs.*

14 *“(d) OPERATION OF VESSEL.—*

15 *“(1) PERMISSIBLE VOYAGES.—The charter shall provide for operation*
 16 *of the vessel exclusively—*

17 *“(A) in foreign trade;*

18 *“(B) on a round-the-world voyage;*

19 *“(C) on a round voyage from the west coast of the United States*
 20 *to a European port that includes an intercoastal port of the United*
 21 *States;*

22 *“(D) on a round voyage from the Atlantic coast of the United*
 23 *States to the Orient that includes an intercoastal port of the United*
 24 *States; or*

25 *“(E) on a voyage in foreign trade on which the vessel may stop*
 26 *at Hawaii or an island territory or possession of the United States.*

27 *“(2) DOMESTIC TRADE.—The charter shall provide if the vessel is op-*
 28 *erated in domestic trade on any of the services specified in paragraph*
 29 *(1), the charterer will pay annually to the Secretary of Transportation*
 30 *that proportion of $\frac{1}{25}$ of the difference between the domestic and foreign*
 31 *cost of the vessel as the gross revenue derived from the domestic trade*
 32 *bears to the gross revenue derived from the entire voyages completed dur-*
 33 *ing the preceding year.*

34 **“§ 57532. Operation of experimental vessels**

35 *“(a) DEFINITION.—In this section, the term ‘experimental vessel’ means a*
 36 *vessel owned by the United States Government (including a vessel in the Na-*
 37 *tional Defense Reserve Fleet) that has been constructed, reconditioned, or re-*
 38 *modeled for experimental or testing purposes.*

39 *“(b) AUTHORITY TO OPERATE.—The Secretary of Transportation, for the*
 40 *purpose of practical development, trial, and testing, may operate an experi-*
 41 *mental vessel under a bareboat charter or general agency agreement in the*

1 *foreign or domestic trade of the United States or for use for the account of*
 2 *a department or agency of the Government, without regard to other provisions*
 3 *of this subtitle and other laws related to chartering and general agency oper-*
 4 *ations. Not more than 10 vessels may be operated and tested under this sec-*
 5 *tion in any one year.*

6 “(c) *TERMS OF OPERATION.*—*Operation of a vessel under this section shall*
 7 *be on terms the Secretary considers appropriate to carry out the purposes of*
 8 *this subtitle. A bareboat charter under this section shall be at reasonable rates*
 9 *and include restrictions the Secretary considers appropriate to protect the*
 10 *public interest, including provisions for recapture of profits under section*
 11 *57517 of this title. A charter or general agency agreement under this section*
 12 *shall be reviewed annually to determine whether conditions exist to justify*
 13 *continuance of the charter or agreement.*

14 “(d) *RIGHTS OF SEAMEN.*—*A seaman engaged in vessel operations of the*
 15 *Secretary under this section and employed through a general agent in connec-*
 16 *tion with a charter or agreement under this section is entitled to all the rights*
 17 *and remedies provided in sections 1(a) and (c), 3(c), and 4 of the Act of*
 18 *March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294).*

19 “*PART G—RESTRICTIONS AND PENALTIES*

20 “***CHAPTER 581—RESTRICTIONS AND PENALTIES***

“*Sec.*

“58101. *Operating in domestic intercoastal or coastwise service.*

“58102. *Default on payment or maintenance of reserves.*

“58103. *Employing another person as managing or operating agent.*

“58104. *Willful violation constitutes breach of contract or charter.*

“58105. *Preferences for cargo in which charterer has interest.*

“58106. *Concerted discriminatory activities.*

“58107. *Discrimination at ports by water common carriers.*

“58108. *Charges for transportation subject to subtitle IV of title 49.*

“58109. *Penalties.*

21 “***§58101. Operating in domestic intercoastal or coastwise***
 22 ***service***

23 “(a) *PROHIBITION.*—*A subsidy may not be awarded or paid to a contractor*
 24 *under the operating-differential subsidy program, and a vessel may not be*
 25 *chartered to a person under chapter 575 of this title, if the contractor or*
 26 *charterer, or a holding company, subsidiary, affiliate, or associate of the con-*
 27 *tractor or charterer, or an officer, director, agent, or executive thereof, directly*
 28 *or indirectly—*

29 “(1) *owns, charters, or operates a vessel engaged in the domestic inter-*
 30 *coastal or coastwise service; or*

31 “(2) *owns a pecuniary interest in a person that owns, charters, or op-*
 32 *erates a vessel in the domestic intercoastal or coastwise service.*

33 “(b) *WAIVER.*—*A person may apply to the Secretary of Transportation for*
 34 *a waiver of subsection (a). Before deciding on the waiver, the Secretary shall*

1 *give the applicant and other interested persons an opportunity for a hearing.*

2 *The Secretary may not grant the waiver if the Secretary finds it would—*

3 *“(1) result in unfair competition to a person operating exclusively in*
4 *the domestic intercoastal or coastwise service; or*

5 *“(2) be prejudicial to the objectives and policy of this subtitle.*

6 *“(c) CONTINUOUS OPERATION SINCE 1935.—The Secretary shall grant an*
7 *application under subsection (b) without requiring further proof that the pub-*
8 *lic interest and convenience will be served and without further proceedings*
9 *as to the competition in the route or trade, if the contractor or other person,*
10 *or a predecessor in interest, was in bona-fide operation as a common carrier*
11 *by water in the domestic intercoastal or coastwise trade in 1935 over the route*
12 *or in the trade for which the application is made and has so operated since*
13 *that time or, if engaged in furnishing seasonal service only, was in bona-fide*
14 *operation in 1935 during the season ordinarily covered by its operation, ex-*
15 *cept in either event as to interruptions of service over which the applicant*
16 *or its predecessor in interest had no control.*

17 *“(d) DIVERSION INTO INTERCOASTAL OR COASTWISE OPERATIONS.—If an*
18 *application under subsection (b) is approved, a person referred to in this sec-*
19 *tion may not divert, directly or indirectly, money, property, or any other*
20 *thing of value, used in a foreign-trade operation for which a subsidy is paid*
21 *by the United States Government, into intercoastal or coastwise operations.*

22 **“§58102. Default on payment or maintenance of reserves**

23 *“The Secretary of Transportation may supervise the number and com-*
24 *penetration of all officers and employees of a contractor under the operating-*
25 *differential subsidy program or a charterer under chapter 575 of this title,*
26 *receiving an operating-differential subsidy, if the contractor or charterer—*

27 *“(1) is in default on a mortgage, note, purchase contract, or other obli-*
28 *gation to the Secretary; or*

29 *“(2) has not maintained, in a manner satisfactory to the Secretary,*
30 *all of the reserves provided for in this subtitle.*

31 **“§58103. Employing another person as managing or oper-**
32 **ating agent**

33 *“(a) PROHIBITION.—Except with the written consent of the Secretary of*
34 *Transportation, a contractor holding a contract under the operating-differen-*
35 *tial subsidy program or under chapter 575 of this title may not—*

36 *“(1) employ another person as the managing or operating agent of the*
37 *operator; or*

38 *“(2) charter a vessel, on which an operating-differential subsidy is to*
39 *be paid, for operation by another person.*

40 *“(b) APPLICABILITY OF PROVISIONS TO CHARTERER.—If a charter prohib-*
41 *ited by this section is made, the person operating the chartered vessel is sub-*

1 *ject to all the provisions of this subtitle and the operating-differential subsidy*
 2 *program, including limitations of profits and salaries.*

3 **“§58104. Willful violation constitutes breach of contract or**
 4 **charter**

5 *“A willful violation of any provision of sections 58101–58103 of this title*
 6 *constitutes a breach of the contract or charter. On determining that a viola-*
 7 *tion has occurred, the Secretary of Transportation may declare the contract*
 8 *or charter rescinded.*

9 **“§58105. Preferences for cargo in which charterer has inter-**
 10 **est**

11 *“A contractor receiving an operating-differential subsidy, or a charterer*
 12 *under chapter 575 of this title, may not unjustly discriminate in any manner*
 13 *so as to give preference, directly or indirectly, to cargo in which the con-*
 14 *tractor or charterer has a direct or indirect ownership, purchase, or vending*
 15 *interest.*

16 **“§58106. Concerted discriminatory activities**

17 *“(a) PROHIBITION.—A contractor receiving an operating-differential sub-*
 18 *sidy, or a charterer under chapter 575 of this title, may not continue as a*
 19 *party to or conform to an agreement with another carrier by water, or engage*
 20 *in a practice in concert with another carrier by water, that is unjustly dis-*
 21 *criminatory or unfair to any other citizen of the United States operating a*
 22 *common carrier by water employing only vessels documented under the laws*
 23 *of the United States on an established trade route from and to a United*
 24 *States port.*

25 *“(b) GOVERNMENT PAYMENT PROHIBITED.—No payment or subsidy of any*
 26 *kind may be paid, directly or indirectly, out of funds of the United States*
 27 *Government to a contractor or charterer that has violated subsection (a).*

28 *“(c) CIVIL ACTION.—A person whose business or property is injured by a*
 29 *violation of subsection (a) may bring a civil action in the district court of*
 30 *the United States for the district in which the defendant resides, is found, or*
 31 *has an agent. If the person prevails, the person shall be awarded—*

32 *“(1) 3 times the damages; and*

33 *“(2) costs, including reasonable attorney fees.*

34 **“§58107. Discrimination at ports by water common carriers**

35 *“(a) PROHIBITION.—A common carrier by water may not, directly or indi-*
 36 *rectly, through an agreement, conference, association, understanding, or other-*
 37 *wise, prevent or attempt to prevent any other common carrier by water from*
 38 *servicing any port described in subsection (b) at the same rates the first carrier*
 39 *charges at the nearest port already regularly served by it.*

40 *“(b) PORTS.—A port referred to in subsection (a) is one that is—*

41 *“(1) designed for the accommodation of ocean-going vessels;*

1 “(2) located on an improvement project authorized by law or by a
2 Federal agency; and

3 “(3) located within the continental limits of the United States.

4 “(c) *OTHER AUTHORITY NOT LIMITED.*—This section does not limit the au-
5 thority otherwise vested in the Secretary of Transportation and the Federal
6 Maritime Commission.

7 **“§58108. Charges for transportation subject to subtitle IV of**
8 **title 49**

9 “(a) *PROHIBITION.*—A carrier may not charge, collect, or receive for trans-
10 portation subject to subtitle IV of title 49 of persons or property, under any
11 joint rate, fare, or charge, or under any export, import, or other proportional
12 rate, fare, or charge, that is based in whole or in part on the fact that the
13 persons or property affected are to be transported to, or have been transported
14 from, a port in a territory or possession of the United States or in a foreign
15 country, by a carrier by water in foreign commerce, any lower rate, fare, or
16 charge than the carrier charges, collects, or receives for the transportation of
17 persons or similar property for the same distance, in the same direction, and
18 over the same route, in commerce wholly within the United States, unless the
19 vessel used for the transportation is or was at the time of the transportation
20 documented under the laws of the United States.

21 “(b) *SUSPENSION OF PROHIBITION.*—Whenever the Secretary of Transpor-
22 tation believes that adequate shipping facilities to or from any port in a terri-
23 tory or possession of the United States or a foreign country are not being pro-
24 vided by vessels documented under the laws of the United States, the Secretary
25 shall certify this fact to the Surface Transportation Board. On receiving the
26 certification, the Board may by order suspend the operation of subsection (a)
27 with respect to the rates, fares, and charges for the transportation by rail of
28 persons and property transported from or to be transported to those ports, for
29 such time and under such terms and conditions as the Secretary may specify
30 in the order or in any supplemental order.

31 “(c) *TERMINATION OF SUSPENSION.*—Whenever the Secretary believes that
32 adequate shipping facilities are being provided to those ports by vessels docu-
33 mented under the laws of the United States, and certifies that fact to the
34 Board, the Board may order the termination of the suspension.

35 **“§58109. Penalties**

36 “(a) *INDIVIDUALS.*—An individual convicted of violating section 58101(d),
37 58103, or 58105 of this title shall be fined under title 18, imprisoned for at
38 least one year but not more than 5 years, or both.

39 “(b) *ORGANIZATIONS.*—An organization convicted of committing an act
40 prohibited by this subtitle shall be fined under title 18.

1 “(c) *INELIGIBILITY TO RECEIVE BENEFITS.*—An individual or organiza-
 2 tion convicted of violating a section referred to in subsection (a) is ineligible,
 3 at the discretion of the Secretary of Transportation, to receive any benefit
 4 under the construction-differential subsidy or operating-differential subsidy
 5 programs, or a charter under chapter 575 of this title, for 5 years after the
 6 conviction.”.

7 **SEC. 9. SUBTITLE VI OF TITLE 46.**

8 (a) *REDESIGNATION.*—Title 46, United States Code, is amended by redesign-
 9 ating subtitle VI as subtitle VII.

10 (b) *NEW SUBTITLE.*—Title 46, United States Code, is amended by inserting
 11 after subtitle V the following:

12 **“Subtitle VI—Clearance, Tonnage Taxes, and**
 13 **Duties**

<i>“Chapter</i>	<i>Sec.</i>
“601. Arrival and Departure Requirements	60101
“603. Tonnage Taxes and Light Money	60301
“605. Discriminating Duties and Reciprocal Privileges	60501

14 **“CHAPTER 601—ARRIVAL AND DEPARTURE**
 15 **REQUIREMENTS**

“Sec.

“60101. Boarding arriving vessels before inspection.

“60102. Production of certificate on entry.

“60103. Oath of ownership on entry.

“60104. Depositing certificates of documentation with consular officers.

“60105. Clearance of vessels.

“60106. State inspection laws.

“60107. Payment of fees on departing vessel.

“60108. Duty to transport tendered cargo.

“60109. Duty to transport money and securities of the United States Government.

16 **“§ 60101. Boarding arriving vessels before inspection**

17 “(a) *REGULATIONS.*—The Secretary of Homeland Security shall prescribe
 18 and enforce regulations on the boarding of a vessel arriving at a port of the
 19 United States before the vessel has been inspected and secured.

20 “(b) *CRIMINAL PENALTY.*—A person violating a regulation prescribed
 21 under this section shall be fined under title 18, imprisoned for not more than
 22 6 months, or both.

23 “(c) *RELATIONSHIP TO OTHER LAW.*—This section shall be construed as
 24 supplementary to section 2279 of title 18.

25 **“§ 60102. Production of certificate on entry**

26 “On entry of a vessel documented under chapter 121 of this title, the master
 27 or other individual in charge of the vessel shall produce the certificate of docu-
 28 mentation to the customs officer at the place where the vessel is entered. If
 29 the certificate is not produced, the vessel is not entitled to the privileges of
 30 a documented vessel.

1 **“§ 60103. Oath of ownership on entry**

2 “(a) *REQUIRED STATEMENT.*—On entry of a vessel of the United States
3 from a foreign port, the individual designated under subsection (b) shall state
4 under oath that—

5 “(1) *the vessel’s certificate of documentation contains the names of all*
6 *the owners of the vessel; or*

7 “(2) *part of the ownership has been transferred since the certificate*
8 *was issued and, to the best of the individual’s knowledge and belief, the*
9 *vessel is still owned only by citizens of the United States.*

10 “(b) *PERSON TO MAKE STATEMENT.*—The statement under subsection (a)
11 shall be made by—

12 “(1) *an owner if one resides at the port of entry; or*

13 “(2) *the master if an owner does not reside at the port of entry.*

14 “(c) *CONSEQUENCE OF NOT MAKING STATEMENT.*—If the appropriate indi-
15 vidual does not make the statement required by this section, the vessel is not
16 entitled to the privileges of a vessel of the United States.

17 **“§ 60104. Depositing certificates of documentation with con-
18 sular officers**

19 “(a) *REQUIREMENT OF MASTER.*—When a vessel owned by citizens of the
20 United States, on a voyage from a port in the United States, arrives at a
21 foreign port, the master of the vessel shall deposit the vessel’s certificate of doc-
22 umentation with a consular officer at the foreign port if there is a consular
23 officer at that port.

24 “(b) *RETURN OF CERTIFICATE.*—When the master produces a clearance
25 from the appropriate officer of the foreign port, the consular officer shall re-
26 turn the certificate of documentation to the master if the master has complied
27 with the provisions of law related to the discharge of seamen in a foreign
28 country and the payment of fees of consular officers.

29 “(c) *CIVIL PENALTY AND COLLECTION.*—The master of a vessel failing to
30 deposit the certificate of documentation as required by subsection (a) is liable
31 to the United States Government for a civil penalty of \$500. The consular
32 officer shall bring an action to recover the penalty in any court of competent
33 jurisdiction. The action shall be brought in the name of the consular officer
34 for the benefit of the United States.

35 **“§ 60105. Clearance of vessels**

36 “(a) *VESSELS OF THE UNITED STATES.*—Except as otherwise provided by
37 law, a vessel of the United States shall obtain clearance from the Secretary
38 of Homeland Security before proceeding from a port or place in the United
39 States—

40 “(1) *for a foreign port or place;*

1 “(2) for another port or place in the United States if the vessel has
2 on board foreign merchandise for which entry has not been made; or

3 “(3) outside the territorial sea to visit a hovering vessel or to receive
4 merchandise while outside the territorial sea.

5 “(b) *OTHER VESSELS.*—Except as otherwise provided by law, a vessel that
6 is not a vessel of the United States shall obtain clearance from the Secretary
7 before proceeding from a port or place in the United States—

8 “(1) for a foreign port or place;

9 “(2) for another port or place in the United States; or

10 “(3) outside the territorial sea to visit a hovering vessel or to receive
11 or deliver merchandise while outside the territorial sea.

12 “(c) *REGULATIONS.*—The Secretary may by regulation—

13 “(1) prescribe the manner in which clearance under this section is to
14 be obtained, including the documents, data, or information which shall
15 be submitted or transmitted, pursuant to an authorized data interchange
16 system, to obtain the clearance;

17 “(2) permit clearance to be obtained before all requirements for clear-
18 ance are complied with, but only if the owner or operator of the vessel
19 files a bond in an amount set by the Secretary conditioned on the com-
20 pliance by the owner or operator with all specified requirements for
21 clearance within a time period (not exceeding 4 business days) estab-
22 lished by the Secretary; and

23 “(3) permit clearance to be obtained at a place other than a des-
24 ignated port of entry, under conditions the Secretary may prescribe.

25 **“§ 60106. State inspection laws**

26 “When State law requires a certificate of inspection for goods carried on
27 a vessel, a vessel transporting the goods may not be cleared until the certifi-
28 cate is produced.

29 **“§ 60107. Payment of fees on departing vessel**

30 “A departing vessel may be cleared only when all legal fees that have ac-
31 crued on the vessel are paid and proof of payment is presented to the indi-
32 vidual granting the clearance.

33 **“§ 60108. Duty to transport tendered cargo**

34 “Clearance may be refused to a vessel or vehicle transporting cargo destined
35 for a domestic or foreign port when the owner, master, or other individual
36 in charge refuses to accept cargo tendered in good condition, with proper
37 charges, for the same or an intermediate port by a citizen of the United
38 States. This section does not apply if the vessel or vehicle is already fully
39 loaded (giving appropriate consideration to its proper loading) or is not
40 adaptable to transport the tendered cargo.

1 **“§60109. Duty to transport money and securities of the**
 2 **United States Government**

3 *“Before being given clearance, a vessel owned by a citizen of the United*
 4 *States and bound on a voyage from a port in the United States to another*
 5 *port in the United States or in a foreign country, or on a voyage from a*
 6 *port in a foreign country to a port in the United States, shall receive on*
 7 *board any bullion, coin, notes, bonds, or other securities of the United States*
 8 *Government that an agency, consular officer, or other agent of the Govern-*
 9 *ment offers. The vessel shall transport the items securely and deliver them*
 10 *promptly to the proper authorities or consignees on arriving at the port of*
 11 *destination. Compensation shall be paid for services provided under this sec-*
 12 *tion that is equal to compensation paid to other carriers in the ordinary*
 13 *transaction of business.*

14 **“CHAPTER 603—TONNAGE TAXES AND LIGHT MONEY**

“Sec.

“60301. Regular tonnage taxes.

“60302. Special tonnage taxes.

“60303. Light money.

“60304. Presidential suspension of tonnage taxes and light money.

“60305. Vessels in distress.

“60306. Vessels not engaged in trade.

“60307. Vessels engaged in coastwise trade or the fisheries.

“60308. Vessels engaged in Great Lakes trade.

“60309. Passenger vessels making trips between ports of the United States and foreign ports.

“60310. Vessels making daily trips on interior waters.

“60311. Hospital vessels in time of war.

“60312. Rights under treaties preserved.

15 **“§60301. Regular tonnage taxes**

16 “(a) *LOWER RATE.*—A tax is imposed at the rate of 2 cents per ton (but
 17 *not more than a total of 10 cents per ton per year) at each entry in a port*
 18 *of the United States of—*

19 “(1) *a vessel entering from a foreign port or place in North America,*
 20 *Central America, the West Indies Islands, the Bahama Islands, the Ber-*
 21 *muda Islands, or the coast of South America bordering the Caribbean*
 22 *Sea; or*

23 “(2) *a vessel returning to the same port or place in the United States*
 24 *from which it departed, and not entering the United States from another*
 25 *port or place, except—*

26 “(A) *a vessel of the United States;*

27 “(B) *a recreational vessel (as defined in section 2101 of this title);*

28 or

29 “(C) *a barge.*

30 “(b) *HIGHER RATE.*—A tax is imposed at the rate of 6 cents per ton (but
 31 *not more than a total of 30 cents per ton per year) on a vessel at each entry*
 32 *in a port of the United States from a foreign port or place not named in*
 33 *subsection (a)(1).*

1 “(c) *EXCEPTION FOR VESSELS ENTERING OTHER THAN BY SEA.*—Sub-
2 section (a) does not apply to a vessel entering other than by sea from a for-
3 eign port or place at which tonnage, lighthouse, or other equivalent taxes are
4 not imposed on vessels of the United States.

5 **“§ 60302. Special tonnage taxes**

6 “(a) *ENTRY FROM FOREIGN PORT OR PLACE.*—Regardless of whether a tax
7 is imposed under section 60301 of this title, a tax is imposed on a vessel at
8 each entry in a port of the United States from a foreign port or place at
9 the following rates:

10 “(1) 30 cents per ton on a vessel built in the United States but owned
11 in any part by a subject of a foreign country.

12 “(2) 50 cents per ton on other vessels not of the United States.

13 “(3) 50 cents per ton on a vessel of the United States having an officer
14 who is not a citizen of the United States.

15 “(4) \$2 per ton on a foreign vessel entering from a foreign port or
16 place at which vessels of the United States are not ordinarily allowed
17 to enter and trade.

18 “(b) *VESSELS NOT OF THE UNITED STATES TRANSPORTING PROPERTY BE-*
19 *TWEEN DISTRICTS.*—Regardless of whether a tax is imposed under section
20 60301 of this title, a tax of 50 cents per ton is imposed on a vessel not of
21 the United States at each entry in one customs district from another district
22 when transporting goods loaded in one district to be delivered in another dis-
23 trict.

24 “(c) *EXCEPTION FOR VESSELS BECOMING DOCUMENTED.*—The tax of 50
25 cents per ton under this section does not apply to a vessel that—

26 “(1) is owned only by citizens of the United States; and

27 “(2) after entering a port of the United States, becomes documented
28 as a vessel of the United States before leaving that port.

29 **“§ 60303. Light money**

30 “(a) *IMPOSITION OF TAX.*—A tax of 50 cents per ton, to be called ‘light
31 money’, is imposed on a vessel not of the United States at each entry in a
32 port of the United States. This tax shall be imposed and collected under the
33 same regulations that apply to tonnage taxes.

34 “(b) *EXCEPTION FOR VESSELS OWNED BY CITIZENS.*—

35 “(1) *IN GENERAL.*—Subsection (a) does not apply to a vessel owned
36 only by citizens of the United States if—

37 “(A) the vessel is carrying a regular document issued by a cus-
38 tomhouse of the United States proving the vessel to be owned only
39 by citizens of the United States; and

40 “(B) on entry of the vessel from a foreign port, the individual
41 designated under paragraph (2) states under oath that—

1 “(i) the document contains the names of all the owners of
2 the vessel; or

3 “(ii) part of the ownership has been transferred since the
4 document was issued and, to the best of that individual’s
5 knowledge and belief, the vessel is still owned only by citizens
6 of the United States.

7 “(2) *PERSON TO MAKE STATEMENT.*—The statement under paragraph
8 (1)(B) shall be made by—

9 “(A) an owner if one resides at the port of entry; or

10 “(B) the master if an owner does not reside at the port of entry.

11 “(c) *EXCEPTION FOR VESSELS BECOMING DOCUMENTED.*—Subsection (a)
12 section does not apply to a vessel that—

13 “(1) is owned only by citizens of the United States; and

14 “(2) after entering a port of the United States, becomes documented
15 as a vessel of the United States before leaving that port.

16 **“§ 60304. Presidential suspension of tonnage taxes and light
17 money**

18 “If the President is satisfied that the government of a foreign country does
19 not impose discriminating or countervailing duties to the disadvantage of the
20 United States, the President shall suspend the imposition of special tonnage
21 taxes and light money under sections 60302 and 60303 of this title on vessels
22 of that country.

23 **“§ 60305. Vessels in distress**

24 “A vessel is exempt from tonnage taxes and light money when it enters be-
25 cause it is in distress.

26 **“§ 60306. Vessels not engaged in trade**

27 “A vessel is exempt from tonnage taxes and light money when not engaged
28 in trade.

29 **“§ 60307. Vessels engaged in coastwise trade or the fisheries**

30 “A vessel with a registry endorsement or a coastwise endorsement, trading
31 from one port in the United States to another port in the United States or
32 employed in the bank, whale, or other fisheries, is exempt from tonnage taxes
33 and light money.

34 **“§ 60308. Vessels engaged in Great Lakes trade**

35 “A documented vessel with a registry endorsement, engaged in foreign trade
36 on the Great Lakes or their tributary or connecting waters in trade with Can-
37 ada, does not become subject to tonnage taxes or light money because of that
38 trade.

1 **“§ 60309. Passenger vessels making trips between ports of the**
 2 **United States and foreign ports**

3 *“A passenger vessel making at least 3 trips per week between a port of the*
 4 *United States and a foreign port is exempt from tonnage taxes and light*
 5 *money.*

6 **“§ 60310. Vessels making daily trips on interior waters**

7 *“A vessel making regular daily trips between a port of the United States*
 8 *and a port of Canada only on interior waters not navigable to the ocean is*
 9 *exempt from tonnage taxes and light money, except on its first clearing each*
 10 *year.*

11 **“§ 60311. Hospital vessels in time of war**

12 *“In time of war, a hospital vessel is exempt from tonnage taxes, light*
 13 *money, and pilotage charges in the ports of the United States if the vessel*
 14 *is one for which the conditions of the international convention for the exemp-*
 15 *tion of hospital ships from taxation in time of war, concluded at The Hague*
 16 *on December 21, 1904, are satisfied. The President by proclamation shall*
 17 *name the vessels for which the conditions are satisfied and state when the ex-*
 18 *emption begins and ends.*

19 **“§ 60312. Rights under treaties preserved**

20 *“This chapter and chapter 605 of this title do not affect a right or privilege*
 21 *of a foreign country relating to tonnage taxes or other duties on vessels under*
 22 *a law or treaty of the United States.*

23 **“CHAPTER 605—DISCRIMINATING DUTIES AND**
 24 **RECIPROCAL PRIVILEGES**

“Sec.

“60501. Vessels allowed to import.

“60502. Discriminating duty on goods imported in foreign vessels or from contiguous countries.

“60503. Reciprocal suspension of discriminating duties.

“60504. Reciprocal privileges for recreational vessels.

“60505. Retaliatory suspension of commercial privileges.

“60506. Retaliation against British dominions of North America.

“60507. Suspension of free passage through Saint Marys Falls Canal.

25 **“§ 60501. Vessels allowed to import**

26 *“(a) IN GENERAL.—Except as otherwise provided by treaty, goods may be*
 27 *imported into the United States from a foreign port or place only in—*

28 *“(1) a vessel of the United States; or*

29 *“(2) a foreign vessel owned only by citizens or subjects of the coun-*
 30 *try—*

31 *“(A) in which the goods are grown, produced, or manufactured;*

32 *or*

33 *“(B) from which the goods can only be, or most usually are, first*
 34 *shipped for transportation.*

35 *“(b) EXCEPTION FOR VESSELS OF COUNTRIES NOT MAINTAINING SIMILAR*
 36 *RESTRICTIONS.—Subsection (a) does not apply to a vessel of a foreign coun-*

1 *try that does not maintain a similar restriction against United States docu-*
 2 *mented vessels.*

3 “(c) *EXCEPTION FOR VESSELS BECOMING DOCUMENTED.*—Subsection (a)
 4 *does not apply to a vessel that—*

5 *“(1) is owned only by citizens of the United States; and*

6 *“(2) after entering a port of the United States, becomes documented*
 7 *as a vessel of the United States before leaving that port.*

8 “(d) *SEIZURE AND FORFEITURE.*—*If goods are imported in violation of*
 9 *this section, the goods and the vessel in which they are imported, along with*
 10 *its equipment and other cargo, may be seized by and forfeited to the United*
 11 *States Government.*

12 **“§ 60502. Discriminating duty on goods imported in foreign**
 13 **vessels or from contiguous countries**

14 “(a) *IMPOSITION OF DUTY.*—*A discriminating duty of 10 percent ad valo-*
 15 *rem (in addition to other duties imposed by law) is imposed on goods—*

16 *“(1) imported in a vessel not of the United States unless the vessel—*

17 *“(A) is entitled by law or treaty to enter the ports of the United*
 18 *States on payment of the same duties as are payable on goods im-*
 19 *ported in a vessel of the United States; or*

20 *“(B)(i) is owned only by citizens of the United States; and*

21 *“(ii) after entering a port of the United States, becomes docu-*
 22 *mented as a vessel of the United States before leaving that port; or*

23 *“(2) produced or manufactured in a foreign country not contiguous*
 24 *to the United States and imported from a country contiguous to the*
 25 *United States, unless imported in the usual course of strictly retail trade.*

26 “(b) *SEIZURE AND FORFEITURE.*—*If goods are imported without payment*
 27 *of the duty required by this section, the goods and the vessel in which they*
 28 *are imported may be seized by, and forfeited to, the United States Govern-*
 29 *ment.*

30 **“§ 60503. Reciprocal suspension of discriminating duties**

31 “(a) *GENERAL AUTHORITY.*—*On receiving satisfactory proof from the gov-*
 32 *ernment of a foreign country that it has suspended, in any part, the imposi-*
 33 *tion of discriminating duties for any class of vessels owned by citizens of the*
 34 *United States or goods imported in those vessels, the President may proclaim*
 35 *a reciprocal suspension of discriminating duties for the same class of vessels*
 36 *owned by citizens of that country or goods imported in those vessels.*

37 “(b) *EFFECTIVE AND EXPIRATION DATES.*—*A suspension under this section*
 38 *takes effect retroactively from the date the President received the proof from*
 39 *the foreign government, and expires when that government stops granting the*
 40 *reciprocal suspension.*

1 **“§ 60504. Reciprocal privileges for recreational vessels**

2 “When the President is satisfied that yachts owned by residents of the
3 United States and used only for pleasure are allowed to arrive at, depart
4 from, and cruise in the waters of a foreign port without entering, clearing,
5 or paying any duties or fees (including cruising license fees), the Secretary
6 of Homeland Security may allow yachts from that foreign port used only for
7 pleasure to arrive at and depart from the ports of the United States and to
8 cruise in the waters of the United States without paying any duties or fees.
9 However, the Secretary may require foreign yachts to obtain a license to
10 cruise in the waters of the United States. The license shall be in the form
11 prescribed by the Secretary and contain limitations about length of time, di-
12 rection, place of cruising and action, and other matters the Secretary con-
13 siderers appropriate. The license shall be issued without cost to the yacht.

14 **“§ 60505. Retaliatory suspension of commercial privileges**

15 “(a) GENERAL AUTHORITY.—The President may proclaim a suspension of
16 commercial privileges to vessels of a foreign country when—

17 “(1) vessels of that country have been given the same commercial
18 privileges in the ports and waters of the United States given to vessels
19 of the United States (except the privilege of engaging in coastwise com-
20 merce); and

21 “(2) vessels of the United States are denied commercial privileges in
22 the ports or waters of that country given to vessels of that country.

23 “(b) APPLICATION.—A suspension under this section shall apply to the
24 same commercial privileges denied to vessels of the United States in the ports
25 or waters of the foreign country, and to the same class of vessels of that coun-
26 try as the class of vessels of the United States denied the privileges.

27 “(c) EFFECTIVE DATE.—The President shall designate the effective date of
28 the suspension in the proclamation.

29 “(d) PENALTIES.—

30 “(1) SEIZURE AND FORFEITURE.—If the master, officer, or agent of
31 a vessel of a foreign country does an act for the vessel in the ports or
32 waters of the United States in violation of a proclamation issued under
33 this section, the vessel and the goods on the vessel may be seized by, and
34 forfeited to, the United States Government.

35 “(2) FINE OR IMPRISONMENT.—A person opposing an official of the
36 Government enforcing this section shall be fined under title 18, impris-
37 oned for not more than 2 years, or both.

38 **“§ 60506. Retaliation against British dominions of North**
39 **America**

40 “(a) GENERAL AUTHORITY.—The President by proclamation may prohibit
41 vessels of the British dominions of North America, their masters and crews,

1 *and products of or coming from those dominions, from entering waters, ports,*
 2 *or places of the United States when the President is satisfied that—*

3 *“(1) fishermen or fishing vessels of the United States in waters, ports,*
 4 *or places of the British dominions of North America are being or recently*
 5 *have been—*

6 *“(A) denied rights provided by law or treaty;*

7 *“(B) subjected to unreasonable restrictions in the exercise of those*
 8 *rights; or*

9 *“(C) otherwise harassed;*

10 *“(2) fishermen or fishing vessels of the United States, having a permit*
 11 *under the laws of the United States to dock or trade at a port or place*
 12 *in the British dominions of North America, are being or recently have*
 13 *been—*

14 *“(A) denied the privilege of entering the port or place in the same*
 15 *manner and under the same regulations applicable to trading ves-*
 16 *sels of the most-favored-nation;*

17 *“(B) prevented from buying supplies allowed to be sold to trading*
 18 *vessels of the most-favored-nation; or*

19 *“(C) otherwise harassed; or*

20 *“(3) other vessels of the United States or their masters or crews in wa-*
 21 *ters, ports, or places of the British dominions of North America are being*
 22 *or recently have been—*

23 *“(A) denied privileges given to vessels of the most-favored-nation*
 24 *or their masters or crews; or*

25 *“(B) otherwise harassed.*

26 *“(b) COVERAGE AND EXCEPTIONS.—The President may apply a proclama-*
 27 *tion under this section to any of the subjects named, and may include excep-*
 28 *tions for vessels in distress or need of supplies. The President may change,*
 29 *revoke, and renew the proclamation.*

30 *“(c) PENALTIES.—A person violating a proclamation issued under this sec-*
 31 *tion shall be fined under title 18, imprisoned for not more than 2 years, or*
 32 *both. A vessel or goods found in waters, ports, or places of the United States*
 33 *in violation of the proclamation may be seized by, and forfeited to, the United*
 34 *States Government.*

35 **“§60507. Suspension of free passage through Saint Marys**
 36 **Falls Canal**

37 *“(a) PURPOSE.—The purpose of this section is to secure reciprocal advan-*
 38 *tages for the citizens, ports, and vessels of the United States.*

39 *“(b) GENERAL AUTHORITY.—When the President is satisfied that vessels of*
 40 *the United States, or passengers or cargo being transported to a port of the*
 41 *United States, are prohibited from passing through a canal or lock connected*

1 *with the navigation of the Saint Lawrence River, the Great Lakes, or their*
 2 *connecting waterways, or burdened in that passage by tolls or other means*
 3 *that are unreasonable in view of the free passage through the Saint Marys*
 4 *Falls Canal allowed to vessels of all countries, the President by proclamation*
 5 *may suspend the right of free passage through the Saint Marys Falls Canal*
 6 *for vessels owned by subjects of the country imposing the prohibition, tolls,*
 7 *or other burdens and for passengers and cargo being transported to the ports*
 8 *of that country, even when carried in vessels of the United States. The suspen-*
 9 *sion shall apply to the extent and for the time the President considers appro-*
 10 *priate.*

11 “(c) *IMPOSITION OF TOLL.—*

12 “(1) *IN GENERAL.—*During a suspension under this section, the Presi-
 13 dent shall impose a toll of not more than \$2 per ton on cargo and not
 14 more than \$5 on each passenger.

15 “(2) *EXCEPTIONS.—*Notwithstanding paragraph (1), a toll may not be
 16 imposed on passengers or cargo landed at Ogdensburg, New York, or any
 17 port west of Ogdensburg and south of a line drawn from the northern
 18 boundary of New York through the Saint Lawrence River, the Great
 19 Lakes, and their connecting channels to the northern boundary of Min-
 20 nesota.

21 “(d) *COLLECTION OF TOLL.—*

22 “(1) *IN GENERAL.—*A toll imposed under this section shall be collected
 23 under regulations prescribed by the Secretary of Homeland Security. The
 24 Secretary may require the master of a vessel to provide a sworn state-
 25 ment of the amount and kind of cargo, the number of passengers, and
 26 the destination of the passengers and cargo.

27 “(2) *PROOF OF LANDING.—*When applicable, the Secretary also may
 28 require satisfactory proof that the passengers and cargo were landed at
 29 a port described in subsection (c)(2). Until that proof is provided, the
 30 Secretary may assume the passengers and cargo were not landed at such
 31 a port, and the amount of a toll that otherwise would be imposed is a
 32 lien enforceable against the vessel when found in the waters of the United
 33 States.”.

34 **SEC. 10. SUBTITLE VII OF TITLE 46.**

35 Subtitle VII of title 46, United States Code, as redesignated by section 9(a)
 36 of this Act, is amended as follows:

37 (1) The subtitle heading and analysis are amended to read as follows:

38 **“Subtitle VII—Security and Drug Enforcement**

<i>“Chapter</i>	<i>Sec.</i>
“701. Port Security	70101
“703. Maritime Security	70301
“705. Maritime Drug Law Enforcement	70501”.

(2) Add after chapter 701 the following:

“CHAPTER 703—MARITIME SECURITY

“Sec.

“70301. *Definitions.*

“70302. *International measures for seaport and vessel security.*

“70303. *Security standards at foreign ports.*

“70304. *Travel advisories on security at foreign ports.*

“70305. *Suspension of passenger services.*

“70306. *Report on terrorist threats.*

“§ 70301. Definitions

“In this chapter:

“(1) *COMMON CARRIER.*—The term ‘common carrier’ has the meaning given that term in section 40102 of this title.

“(2) *PASSENGER VESSEL.*—The term ‘passenger vessel’ has the meaning given that term in section 2101 of this title.

“(3) *SECRETARY.*—The term ‘Secretary’ means the Secretary of the department in which the Coast Guard is operating.

“§ 70302. International measures for seaport and vessel security

“Congress encourages the President to continue to seek agreement on international seaport and vessel security through the International Maritime Organization. In developing an agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. The agreement would establish seaport and vessel security measures and could include—

“(1) seaport screening of cargo and baggage similar to that done at airports;

“(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

“(3) additional security on board vessels;

“(4) licensing or certification of compliance with appropriate security standards; and

“(5) other appropriate measures to prevent unlawful acts against passengers and crews on vessels.

“§ 70303. Security standards at foreign ports

“(a) *GENERAL REQUIREMENTS.*—The Secretary shall develop and implement a plan to assess the effectiveness of the security measures maintained at foreign ports that the Secretary, in consultation with the Secretary of State, determines pose a high risk of acts of terrorism against passenger vessels. In carrying out this subsection, the Secretary shall consult with the Secretary of State about the terrorist threat that exists in each country and poses a high risk of acts of terrorism against passenger vessels.

“(b) *NOTICE AND RECOMMENDATIONS TO OTHER COUNTRIES.*—If the Secretary, after implementing the plan under subsection (a), determines that a

1 *port does not maintain and administer effective security measures, the Sec-*
2 *retary of State (after being informed by the Secretary) shall—*

3 *“(1) notify the appropriate government authorities of the country in*
4 *which the port is located of the determination; and*

5 *“(2) recommend steps necessary to bring the security measures at that*
6 *port up to the standard used by the Secretary in making the assessment*
7 *under subsection (a).*

8 *“(c) ANTITERRORISM ASSISTANCE.—The President is encouraged to provide*
9 *antiterrorism assistance related to maritime security under chapter 8 of part*
10 *II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) to foreign*
11 *countries, especially for a port that the Secretary determines under subsection*
12 *(b) does not maintain and administer effective security measures.*

13 **“§ 70304. Travel advisories on security at foreign ports**

14 *“(a) GENERAL REQUIREMENTS.—On being notified by the Secretary that*
15 *the Secretary has determined that a condition exists that threatens the safety*
16 *or security of passengers, passenger vessels, or crew traveling to or from a for-*
17 *ign port that the Secretary has determined under section 70303(b) of this*
18 *title does not maintain and administer effective security measures, the Sec-*
19 *retary of State immediately shall issue a travel advisory for that port. The*
20 *Secretary of State shall take the necessary steps to widely publicize the travel*
21 *advisory.*

22 *“(b) LIFTING ADVISORIES.—A travel advisory issued under subsection (a)*
23 *may be lifted only if the Secretary, in consultation with the Secretary of*
24 *State, has determined that effective security measures are maintained and ad-*
25 *ministered at the port.*

26 *“(c) NOTICE TO CONGRESS.—The Secretary of State shall notify Congress*
27 *immediately of any change in the status of a travel advisory issued under*
28 *this section.*

29 **“§ 70305. Suspension of passenger services**

30 *“(a) GENERAL AUTHORITY.—Whenever the President determines that a for-*
31 *ign nation permits the use of territory under its jurisdiction as a base of*
32 *operations or training for, or as a sanctuary for, or in any way arms, aids,*
33 *or abets, a terrorist or terrorist group that knowingly uses the illegal seizure*
34 *of passenger vessels or the threat thereof as an instrument of policy, the Presi-*
35 *dent may suspend the right of any passenger vessel common carrier to operate*
36 *to or from, and the right of any passenger vessel of the United States to use,*
37 *a port in that foreign nation for passenger service. The suspension may be*
38 *without notice or hearing and for as long as the President determines is nec-*
39 *essary to ensure the security of passenger vessels against unlawful seizure.*

1 “(b) *PROHIBITION.*—A passenger vessel common carrier, or a passenger ves-
2 sel of the United States, may not operate in violation of a suspension under
3 this section.

4 “(c) *PENALTIES.*—

5 “(1) *DENIAL OF ENTRY.*—If a person operates a vessel in violation of
6 this section, the Secretary may deny the vessels of that person entry to
7 ports of the United States.

8 “(2) *CIVIL PENALTY.*—A person violating this section is liable to the
9 United States Government for a civil penalty of not more than \$50,000.
10 Each day a vessel uses a prohibited port is a separate violation.

11 **“§ 70306. Report on terrorist threats**

12 “(a) *CONTENT.*—Not later than February 28 of each year, the Secretary
13 shall submit a report to Congress on the threat from acts of terrorism to
14 United States ports and vessels operating from those ports. The Secretary
15 shall include a description of activities undertaken under title I of the Mari-
16 time Transportation Security Act of 2002 (Public Law 107–295, 116 Stat.
17 2066) and an analysis of the effect of those activities on port security against
18 acts of terrorism.

19 “(b) *SUBMISSION.*—The report shall be submitted to the Committee on
20 International Relations and the Committee on Transportation and Infra-
21 structure of the House of Representatives and the Committee on Foreign Rela-
22 tions and the Committee on Commerce, Science, and Transportation of the
23 Senate. Any classified information in the report shall be submitted separately
24 as an addendum.

25 **“CHAPTER 705—MARITIME DRUG LAW ENFORCEMENT**

“Sec.

“70501. Findings and declarations.

“70502. Definitions.

“70503. Manufacture, distribution, or possession of controlled substances on vessels.

“70504. Jurisdiction and venue.

“70505. Failure to comply with international law as a defense.

“70506. Penalties.

“70507. Forfeitures.

26 **“§ 70501. Findings and declarations**

27 “Congress finds and declares that trafficking in controlled substances
28 aboard vessels is a serious international problem, is universally condemned,
29 and presents a specific threat to the security and societal well-being of the
30 United States.

31 **“§ 70502. Definitions**

32 “(a) *APPLICATION OF OTHER DEFINITIONS.*—The definitions in section 102
33 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21
34 U.S.C. 802) apply to this chapter.

35 “(b) *VESSEL OF THE UNITED STATES.*—In this chapter, the term ‘vessel
36 of the United States’ means—

1 “(1) a vessel documented under chapter 121 of this title or numbered
2 as provided in chapter 123 of this title;

3 “(2) a vessel owned in any part by an individual who is a citizen
4 of the United States, the United States Government, the government of
5 a State or political subdivision of a State, or a corporation incorporated
6 under the laws of the United States or of a State, unless—

7 “(A) the vessel has been granted the nationality of a foreign na-
8 tion under article 5 of the 1958 Convention on the High Seas; and

9 “(B) a claim of nationality or registry for the vessel is made by
10 the master or individual in charge at the time of the enforcement
11 action by an officer or employee of the United States who is author-
12 ized to enforce applicable provisions of United States law; and

13 “(3) a vessel that was once documented under the laws of the United
14 States and, in violation of the laws of the United States, was sold to
15 a person not a citizen of the United States, placed under foreign registry,
16 or operated under the authority of a foreign nation, whether or not the
17 vessel has been granted the nationality of a foreign nation.

18 “(c) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—

19 “(1) IN GENERAL.—In this chapter, the term ‘vessel subject to the ju-
20 risdiction of the United States’ includes—

21 “(A) a vessel without nationality;

22 “(B) a vessel assimilated to a vessel without nationality under
23 paragraph (2) of article 6 of the 1958 Convention on the High Seas;

24 “(C) a vessel registered in a foreign nation if that nation has con-
25 sented or waived objection to the enforcement of United States law
26 by the United States;

27 “(D) a vessel in the customs waters of the United States;

28 “(E) a vessel in the territorial waters of a foreign nation if the
29 nation consents to the enforcement of United States law by the
30 United States; and

31 “(F) a vessel in the contiguous zone of the United States, as de-
32 fined in Presidential Proclamation 7219 of September 2, 1999 (43
33 U.S.C. 1331 note), that—

34 “(i) is entering the United States;

35 “(ii) has departed the United States; or

36 “(iii) is a hovering vessel as defined in section 401 of the
37 Tariff Act of 1930 (19 U.S.C. 1401).

38 “(2) CONSENT OR WAIVER OF OBJECTION.—Consent or waiver of objec-
39 tion by a foreign nation to the enforcement of United States law by the
40 United States under paragraph (1)(C) or (E)—

1 “(A) may be obtained by radio, telephone, or similar oral or elec-
2 tronic means; and

3 “(B) is proved conclusively by certification of the Secretary of
4 State or the Secretary’s designee.

5 “(d) *VESSEL WITHOUT NATIONALITY.*—

6 “(1) *IN GENERAL.*—In this chapter, the term ‘vessel without nation-
7 ality’ includes—

8 “(A) a vessel aboard which the master or individual in charge
9 makes a claim of registry that is denied by the nation whose reg-
10 istry is claimed;

11 “(B) a vessel aboard which the master or individual in charge
12 fails, on request of an officer of the United States authorized to en-
13 force applicable provisions of United States law, to make a claim
14 of nationality or registry for that vessel; and

15 “(C) a vessel aboard which the master or individual in charge
16 makes a claim of registry and for which the claimed nation of reg-
17 istry does not affirmatively and unequivocally assert that the vessel
18 is of its nationality.

19 “(2) *VERIFICATION OR DENIAL.*—A claim of registry under paragraph
20 (1)(A) or (C) may be verified or denied by radio, telephone, or similar
21 oral or electronic means. The denial of such a claim is proved conclu-
22 sively by certification of the Secretary of State or the Secretary’s des-
23 ignee.

24 “(e) *CLAIM OF NATIONALITY OR REGISTRY.*—A claim of nationality or reg-
25 istry under this section includes only—

26 “(1) possession on board the vessel and production of documents evi-
27 dencing the vessel’s nationality as provided in article 5 of the 1958 Con-
28 vention on the High Seas;

29 “(2) flying its nation’s ensign or flag; or

30 “(3) a verbal claim of nationality or registry by the master or indi-
31 vidual in charge of the vessel.

32 “**§ 70503. Manufacture, distribution, or possession of con-**
33 **rolled substances on vessels**

34 “(a) *PROHIBITIONS.*—An individual may not knowingly or intentionally
35 manufacture or distribute, or possess with intent to manufacture or distribute,
36 a controlled substance on board—

37 “(1) a vessel of the United States or a vessel subject to the jurisdiction
38 of the United States; or

39 “(2) any vessel if the individual is a citizen of the United States or
40 a resident alien of the United States.

1 “(b) *EXTENSION BEYOND TERRITORIAL JURISDICTION.*—Subsection (a) ap-
2 plies even though the act is committed outside the territorial jurisdiction of
3 the United States.

4 “(c) *NONAPPLICATION.*—

5 “(1) *IN GENERAL.*—Subject to paragraph (2), subsection (a) does not
6 apply to—

7 “(A) a common or contract carrier or an employee of the carrier
8 who possesses or distributes a controlled substance in the lawful and
9 usual course of the carrier’s business; or

10 “(B) a public vessel of the United States or an individual on
11 board the vessel who possesses or distributes a controlled substance
12 in the lawful course of the individual’s duties.

13 “(2) *ENTERED IN MANIFEST.*—Paragraph (1) applies only if the con-
14 trolled substance is part of the cargo entered in the vessel’s manifest and
15 is intended to be imported lawfully into the country of destination for
16 scientific, medical, or other lawful purposes.

17 “(d) *BURDEN OF PROOF.*—The United States Government is not required
18 to negative a defense provided by subsection (c) in a complaint, information,
19 indictment, or other pleading or in a trial or other proceeding. The burden
20 of going forward with the evidence supporting the defense is on the person
21 claiming its benefit.

22 **“§ 70504. Jurisdiction and venue**

23 “(a) *JURISDICTION.*—Jurisdiction of the United States with respect to a
24 vessel subject to this chapter is not an element of an offense. Jurisdictional
25 issues arising under this chapter are preliminary questions of law to be deter-
26 mined solely by the trial judge.

27 “(b) *VENUE.*—A person violating section 70503 of this title shall be tried
28 in the district court of the United States for—

29 “(1) the district at which the person enters the United States; or

30 “(2) the District of Columbia.

31 **“§ 70505. Failure to comply with international law as a de-
32 fense**

33 “A person charged with violating section 70503 of this title does not have
34 standing to raise a claim of failure to comply with international law as a
35 basis for a defense. A claim of failure to comply with international law in
36 the enforcement of this chapter may be made only by a foreign nation. A fail-
37 ure to comply with international law does not divest a court of jurisdiction
38 and is not a defense to a proceeding under this chapter.

39 **“§ 70506. Penalties**

40 “(a) *VIOLATIONS.*—A person violating section 70503 of this title shall be
41 punished as provided in section 1010 of the Comprehensive Drug Abuse Pre-

1 *vention and Control Act of 1970 (21 U.S.C. 960). However, if the offense is*
 2 *a second or subsequent offense as provided in section 1012(b) of that Act (21*
 3 *U.S.C. 962(b)), the person shall be punished as provided in section 1012 of*
 4 *that Act (21 U.S.C. 962).*

5 *“(b) ATTEMPTS AND CONSPIRACIES.—A person attempting or conspiring to*
 6 *violate section 70503 of this title is subject to the same penalties as provided*
 7 *for violating section 70503.*

8 **“§ 70507. Forfeitures**

9 *“(a) IN GENERAL.—Property described in section 511(a) of the Comprehen-*
 10 *sive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that*
 11 *is used or intended for use to commit, or to facilitate the commission of, an*
 12 *offense under section 70503 of this title may be seized and forfeited in the*
 13 *same manner that similar property may be seized and forfeited under section*
 14 *511 of that Act (21 U.S.C. 881).*

15 *“(b) PRIMA FACIE EVIDENCE OF VIOLATION.—Practices commonly recog-*
 16 *nized as smuggling tactics may provide prima facie evidence of intent to use*
 17 *a vessel to commit, or to facilitate the commission of, an offense under section*
 18 *70503 of this title, and may support seizure and forfeiture of the vessel, even*
 19 *in the absence of controlled substances aboard the vessel. The following indi-*
 20 *cia, among others, may be considered, in the totality of the circumstances, to*
 21 *be prima facie evidence that a vessel is intended to be used to commit, or*
 22 *to facilitate the commission of, such an offense:*

23 *“(1) The construction or adaptation of the vessel in a manner that*
 24 *facilitates smuggling, including—*

25 *“(A) the configuration of the vessel to ride low in the water or*
 26 *present a low hull profile to avoid being detected visually or by*
 27 *radar;*

28 *“(B) the presence of any compartment or equipment that is built*
 29 *or fitted out for smuggling, not including items such as a safe or*
 30 *lock-box reasonably used for the storage of personal valuables;*

31 *“(C) the presence of an auxiliary tank not installed in accordance*
 32 *with applicable law or installed in such a manner as to enhance*
 33 *the vessel’s smuggling capability;*

34 *“(D) the presence of engines that are excessively over-powered in*
 35 *relation to the design and size of the vessel;*

36 *“(E) the presence of materials used to reduce or alter the heat or*
 37 *radar signature of the vessel and avoid detection;*

38 *“(F) the presence of a camouflaging paint scheme, or of materials*
 39 *used to camouflage the vessel, to avoid detection; or*

40 *“(G) the display of false vessel registration numbers, false indicia*
 41 *of vessel nationality, false vessel name, or false vessel homeport.*

1 **“§ 80101. Vessel stranded on foreign coast**

2 “(a) *DUTIES OF CONSULAR OFFICER.*—When a vessel of the United States
3 is stranded on a coast of a foreign country, the consular officer in that coun-
4 try shall take proper measures, to the extent the laws of that country allow,
5 to—

6 “(1) *save and secure the vessel and property on the vessel; and*

7 “(2) *prepare an inventory of the property that is saved.*

8 “(b) *DELIVERY TO OWNER.*—After deducting the expenses, the consular offi-
9 cer shall deliver the property, with an inventory, to the owner of the property.

10 “(c) *LIMITATION ON TAKING POSSESSION.*—A consular officer may not take
11 possession of property under this section when the owner, master, or consignee
12 is present or able to take possession of the property.

13 **“§ 80102. License to salvage on Florida coast**

14 “(a) *LICENSING REQUIREMENTS.*—To be regularly employed in the busi-
15 ness of salvaging on the coast of Florida, a vessel and its master each must
16 have a license issued by a judge of the district court of the United States for
17 a judicial district of Florida.

18 “(b) *JUDICIAL FINDINGS.*—Before issuing a license under this section, the
19 judge must be satisfied, when the license is for—

20 “(1) *a vessel, that the vessel is seaworthy and properly equipped for*
21 *the business of saving property shipwrecked and in distress; or*

22 “(2) *a master, that the master is trustworthy and innocent of any*
23 *fraud or misconduct related to property shipwrecked or saved on the*
24 *coast.*

25 **“§ 80103. Property on Florida coast to be taken to port of**
26 ***entry***

27 “(a) *IN GENERAL.*—Property taken from a wreck, the sea, or a key or
28 shoal, on the coast of Florida and within the jurisdiction of the United States,
29 shall be brought to a port of entry of the United States.

30 “(b) *SEIZURE AND FORFEITURE.*—A vessel transporting property described
31 in subsection (a) to a foreign port may be seized by, and forfeited to, the
32 United States Government. A forfeiture under this subsection accrues half to
33 the informer and half to the Government.

34 **“§ 80104. Salvaging operations by foreign vessels**

35 “(a) *PROHIBITION.*—Except as provided in this section or section 80105 of
36 this title, a foreign vessel may not, under penalty of forfeiture, engage in sal-
37 vaging operations on the Atlantic or Pacific coast of the United States, in
38 any portion of the Great Lakes or their connecting or tributary waters, in-
39 cluding any portion of the Saint Lawrence River through which the inter-
40 national boundary line extends, or in territorial waters of the United States
41 on the Gulf of Mexico.

1 “(b) *WHEN SUITABLE VESSEL NOT AVAILABLE.*—*The Secretary of Home-*
 2 *land Security may authorize a foreign vessel to engage in salvaging oper-*
 3 *ations in a particular locality if, on investigation, the Secretary is satisfied*
 4 *that there is not available in that locality a suitable vessel that is—*

5 “(1) *owned only by citizens of the United States (including a*
 6 *Bowaters corporation under section 12118 of this title); and*

7 “(2) *documented under chapter 121 of this title or numbered under*
 8 *chapter 123 of this title.*

9 “(c) *OPERATIONS AUTHORIZED BY TREATY.*—*This section does not prohibit*
 10 *or restrict assistance to vessels or salvaging operations authorized by treaty,*
 11 *including—*

12 “(1) *article II of the Treaty between the United States and Great Brit-*
 13 *ain concerning reciprocal rights for United States and Canada in the*
 14 *conveyance of prisoners and wrecking and salvage, signed at Washington,*
 15 *May 18, 1908 (35 Stat. 2036); or*

16 “(2) *the Treaty between the United States of America and Mexico to*
 17 *facilitate assistance to and salvage of vessels in territorial waters, signed*
 18 *at Mexico City, June 13, 1935 (49 Stat. 3359).*

19 **“§ 80105. Canadian vessels aiding vessels in United States**
 20 ***waters***

21 “(a) *IN GENERAL.*—*Canadian vessels and wrecking equipment may give*
 22 *aid to Canadian or other vessels and property wrecked, disabled, or in distress*
 23 *in the waters of the United States contiguous to Canada, including—*

24 “(1) *the canal and improvement of the waters between Lake Erie and*
 25 *Lake Huron; and*

26 “(2) *the Saint Marys River and canal.*

27 “(b) *RECIPROCITY.*—*This section does not apply after the President pro-*
 28 *claims that privileges reciprocal to those under subsection (a) have been with-*
 29 *drawn or rendered inoperative by the Government of Canada.*

30 **“§ 80106. International agreement on derelicts**

31 “*The President may make an international agreement with other govern-*
 32 *ments interested in the navigation of the North Atlantic Ocean, providing for*
 33 *the reporting, marking, and removal of dangerous wrecks, derelicts, and other*
 34 *menaces to navigation outside the coast waters of the countries bordering the*
 35 *North Atlantic Ocean.*

36 **“§ 80107. Salvors of life to share in remuneration**

37 “(a) *ENTITLEMENT OF SALVORS.*—*A salvor of human life, who gave aid*
 38 *following an accident giving rise to salvage, is entitled to a fair share of the*
 39 *payment awarded to the salvor for salvaging the vessel or other property or*
 40 *preventing or minimizing damage to the environment.*

1 “(b) *COMMON OWNERSHIP OF VESSELS.*—*The right to remuneration for*
2 *aid or salvage services is not affected by common ownership of the vessels giv-*
3 *ing and receiving the aid or salvage services.*

4 “(c) *TIME LIMIT ON BRINGING ACTIONS.*—*A civil action to recover remu-*
5 *neration for giving aid or salvage services must be brought within 2 years*
6 *after the date the aid or salvage services were given, unless the court in which*
7 *the action is brought is satisfied that during that 2-year period there had not*
8 *been a reasonable opportunity to seize the aided or salvaged vessel within the*
9 *jurisdiction of the court or within the territorial waters of the country of the*
10 *plaintiff’s residence or principal place of business.*

11 “(d) *NONAPPLICATION.*—*This section does not apply to a vessel of war or*
12 *a vessel owned by the United States Government appropriated only to a pub-*
13 *lic service.*

14 **“CHAPTER 803—ICE AND DERELICTS**

“Sec.

“80301. *International agreements.*

“80302. *Patrol services.*

“80303. *Speed of vessel in ice region.*

15 **“§ 80301. *International agreements***

16 “(a) *GENERAL AUTHORITY.*—*The President may make agreements with in-*
17 *terested maritime countries to—*

18 “(1) *maintain in the North Atlantic Ocean a service of ice patrol, of*
19 *study and observation of ice and current conditions, and of assistance*
20 *to vessels and their crews requiring assistance within the limits of the*
21 *patrol;*

22 “(2) *maintain a service of study and observation of ice and current*
23 *conditions in the waters affecting the set and drift of ice in the North*
24 *Atlantic Ocean; and*

25 “(3) *take all practicable steps to ensure the destruction or removal of*
26 *derelicts in the northern part of the Atlantic Ocean, east of the line*
27 *drawn from Cape Sable to a point in latitude 34 degrees north, longitude*
28 *70 degrees west, if the destruction or removal is necessary.*

29 “(b) *PAYMENT BETWEEN COUNTRIES.*—*The President may include in an*
30 *agreement under subsection (a) a provision for—*

31 “(1) *payment to the United States Government by other countries for*
32 *their proportionate share of the expense of maintaining the services; or*

33 “(2) *contribution by the Government for its proportionate share if the*
34 *agreement provides for another country to maintain the services.*

35 **“§ 80302. *Patrol services***

36 “(a) *GENERAL REQUIREMENTS.*—*Unless the agreements made under sec-*
37 *tion 80301 of this title provide otherwise, an ice patrol shall be maintained*
38 *during the entire ice season in guarding the southeastern, southern, and*

1 southwestern limits of the region of icebergs in the vicinity of the Grand
 2 Banks of Newfoundland. The patrol shall inform trans-Atlantic and other
 3 passing vessels by radio and other available means of the ice conditions and
 4 the extent of the dangerous region. During the ice season, there shall be main-
 5 tained a service of study of ice and current conditions, a service of providing
 6 assistance to vessels and crews requiring assistance, and a service of removing
 7 and destroying derelicts. Any of these services may be maintained during the
 8 remainder of the year as may be advisable.

9 “(b) WARNINGS TO VESSELS.—An ice patrol vessel shall warn any vessel
 10 known to be approaching a dangerous area and recommend safe routes.

11 “(c) RECORDING AND REPORTING INCIDENTS.—

12 “(1) RECORDING.—An ice patrol vessel shall record the name of a ves-
 13 sel and the facts of the case when the patrol observes or knows that the
 14 vessel—

15 “(A) is on other than a regular recognized or advertised route
 16 crossing the North Atlantic Ocean;

17 “(B) has crossed the fishing banks of Newfoundland north of lati-
 18 tude 43 degrees north during the fishing season; or

19 “(C) has passed through regions known or believed to be endan-
 20 gered by ice when proceeding to and from ports of North America.

21 “(2) REPORTING.—The name of the vessel and all pertinent informa-
 22 tion about the incident shall be reported to the government of the country
 23 to which the vessel belongs if that government requests.

24 “(d) ADMINISTRATION.—The Commandant of the Coast Guard, under the
 25 direction of the Secretary of the department in which the Coast Guard is op-
 26 erating, shall carry out the services provided for in this section and shall as-
 27 sign necessary vessels, material, and personnel of the Coast Guard. On request
 28 of such Secretary, the head of an agency may detail personnel, lend or con-
 29 tribute material or equipment, or otherwise assist in carrying out the services
 30 provided for in this section.

31 “(e) ANNUAL REPORT.—The Commandant shall publish an annual report
 32 of the activities of the services provided for in this section. A copy of the re-
 33 port shall be provided to each interested foreign government and to each agen-
 34 cy assisting in the work.

35 **“§ 80303. Speed of vessel in ice region**

36 “(a) REQUIREMENT.—The master of a vessel of the United States, when ice
 37 is reported on or near the vessel’s course, shall proceed at a moderate speed
 38 or change the course of the vessel to go well clear of the danger zone.

39 “(b) CIVIL PENALTY.—A master violating this section is liable to the
 40 United States Government for a civil penalty of not more than \$500.

**“CHAPTER 805—SAFE CONTAINERS FOR
INTERNATIONAL CARGO**

1 “Sec.

2 “80501. *Definitions.*

“80502. *Application of Convention.*

“80503. *General authority of the Secretary.*

“80504. *Approval and examination.*

“80505. *Enforcement.*

“80506. *Delegation of authority.*

“80507. *Employee protection.*

“80508. *Amendments to Convention.*

“80509. *Civil penalty.*

3 **“§ 80501. Definitions**

4 *“In this chapter:*

5 *“(1) CONTAINER.—The term ‘container’ has the meaning given that*
6 *term in the Convention.*

7 *“(2) CONVENTION.—The term ‘Convention’ means the International*
8 *Convention for Safe Containers, and its annexes, done at Geneva, Swit-*
9 *zerland, December 2, 1972.*

10 *“(3) INTERNATIONAL TRANSPORT.—The term ‘international transport’*
11 *means the transportation of a container between—*

12 *“(A) a place in a foreign country and a place in the jurisdiction*
13 *of the United States; or*

14 *“(B) two places outside the United States by United States car-*
15 *riers.*

16 *“(4) OWNER.—The term ‘owner’ includes the lessee or bailee of a con-*
17 *tainer if a written lease or bailment provides for the lessee or bailee to*
18 *exercise the owner’s responsibility for maintaining and examining the*
19 *container.*

20 *“(5) SAFETY APPROVAL PLATE.—The term ‘safety approval plate’ has*
21 *the meaning given that term in annex I of the Convention.*

22 **“§ 80502. Application of Convention**

23 *“The Convention applies to an owner of a container used in international*
24 *transport if the owner is domiciled or has its principal office in the United*
25 *States.*

26 **“§ 80503. General authority of the Secretary**

27 *“(a) IN GENERAL.—The Secretary of the department in which the Coast*
28 *Guard is operating shall carry out the Convention and this chapter in the*
29 *United States.*

30 *“(b) REGULATIONS.—The Secretary shall prescribe regulations to carry out*
31 *this chapter. The regulations shall—*

32 *“(1) establish procedures for testing, inspecting, and initially approv-*
33 *ing containers and designs for containers, including procedures for at-*
34 *taching, invalidating, and removing safety approval plates for con-*
35 *tainers;*

1 “(2) *establish procedures to be followed by the owners of containers for*
2 *the periodic examination of containers as provided in the Convention;*
3 *and*

4 “(3) *provide a method for developing, collecting, and disseminating in-*
5 *formation about container safety and the international transport of con-*
6 *tainers.*

7 “(c) *SAFETY APPROVAL PLATES.—If the owner of a container without a*
8 *safety approval plate establishes that the container satisfies the standards of*
9 *the Convention, the Secretary may authorize a safety approval plate to be at-*
10 *tached to the container.*

11 “(d) *SCHEDULE OF FEES.—The Secretary may prescribe a schedule of fees*
12 *for services performed by the Secretary, or by a person delegated authority*
13 *under section 80506 of this title, for the testing, inspection, and initial ap-*
14 *proval of containers and container designs.*

15 “(e) *ENCOURAGING INTERMODAL TRANSPORT.—To the maximum extent*
16 *possible, the Secretary shall encourage the development and use of intermodal*
17 *transport, using containers built to facilitate economical, safe, and expedi-*
18 *tious handling of containerized cargo without intermediate reloading when it*
19 *is being transported over land, air, and sea areas.*

20 **“§ 80504. Approval and examination**

21 “(a) *DOMICILE AND PRINCIPAL OFFICE IN UNITED STATES.—A container*
22 *owner domiciled and having its principal office in the United States shall*
23 *have the container—*

24 “(1) *approved initially under procedures prescribed by the Secretary*
25 *of the department in which the Coast Guard is operating or by the gov-*
26 *ernment of another country that is a party to the Convention; and*

27 “(2) *examined periodically as provided in the Convention under pro-*
28 *cedures prescribed by the Secretary.*

29 “(b) *DOMICILE OR PRINCIPAL OFFICE IN UNITED STATES.—A container*
30 *owner domiciled or having its principal office in the United States shall have*
31 *the container—*

32 “(1) *approved initially under procedures prescribed by the Secretary*
33 *or by the government of another country that is a party to the Conven-*
34 *tion; and*

35 “(2) *examined periodically as provided in the Convention, under pro-*
36 *cedures prescribed by the government of the country in which the owner*
37 *is domiciled or has its principal office, as long as that country is a*
38 *party to the Convention.*

39 “(c) *NEITHER DOMICILE NOR PRINCIPAL OFFICE IN UNITED STATES.—A*
40 *container owner neither domiciled nor having its principal office in the*
41 *United States or another country that is a party to the Convention may sub-*

1 *mit a container for initial approval and periodic examination under proce-*
 2 *dures prescribed by the Secretary.*

3 **“§ 80505. Enforcement**

4 *“(a) IN GENERAL.—To enforce the Convention, this chapter, and regula-*
 5 *tions prescribed under this chapter, the Secretary of the department in which*
 6 *the Coast Guard is operating may—*

7 *“(1) examine, or require to be examined, containers in international*
 8 *transport;*

9 *“(2) approve designs for containers;*

10 *“(3) inspect and test containers being manufactured;*

11 *“(4) issue a detention order removing or excluding a container from*
 12 *service until the container owner satisfies the Secretary that the con-*
 13 *tainer meets the standards of the Convention, if the container—*

14 *“(A) does not have a safety approval plate attached to it; or*

15 *“(B) has a safety approval plate attached but there is significant*
 16 *evidence that the container is in a condition that creates an obvious*
 17 *risk to safety;*

18 *“(5) take other appropriate action, including issuing necessary orders,*
 19 *to remove a container from service or restrict its use if the container is*
 20 *not in compliance with the Convention, this chapter, or regulations pre-*
 21 *scribed under this chapter, but does not present an obvious risk to safety;*
 22 *and*

23 *“(6) allow a container found to be unsafe or without a safety approval*
 24 *plate to be moved to another location for repair or other disposition,*
 25 *under restrictions consistent with the intent of the Convention.*

26 *“(b) PAYMENT OF EXPENSES.—*

27 *“(1) EXAMINATION.—The owner of a container involved in an action*
 28 *by the Secretary under this section related to an examination of the con-*
 29 *tainer shall pay or reimburse the Secretary for the expenses arising from*
 30 *that action, except for the costs of routine examinations of the container*
 31 *or a safety approval plate.*

32 *“(2) TESTING, INSPECTION, AND INITIAL APPROVAL.—The owner of a*
 33 *container submitted to the procedure established by the Secretary for test-*
 34 *ing, inspection, and initial approval, and the manufacturer of a con-*
 35 *tainer that submits a design to the procedure established by the Secretary*
 36 *for testing, inspection, and initial approval, shall pay or reimburse the*
 37 *Secretary for the expenses arising from the testing, inspection, or ap-*
 38 *proval.*

39 *“(3) CREDIT TO APPROPRIATION.—Amounts received by the Secretary*
 40 *as reimbursement shall be credited to the appropriation for operating ex-*
 41 *penses of the Coast Guard.*

1 “(c) *PRESUMPTION BASED ON SAFETY APPROVAL PLATE.*—A container
2 bearing a safety approval plate authorized by a country that is a party to
3 the Convention is presumed to be in a safe condition unless there is signifi-
4 cant evidence that the container is in a condition that creates an obvious risk
5 to safety.

6 “(d) *NOTICE OF ORDERS.*—

7 “(1) *IN GENERAL.*—When the Secretary issues a detention or other
8 order under this section, the Secretary promptly shall notify in writ-
9 ing—

10 “(A) the owner of the container;

11 “(B) the owner’s agent; or

12 “(C) if the identity of the owner is not apparent from the con-
13 tainer or shipping documents, the custodian.

14 “(2) *INFORMATION TO INCLUDE.*—The notification shall identify the
15 container involved, give the location of the container, and describe the
16 condition or situation giving rise to the order.

17 “(e) *DURATION OF ORDERS.*—An order issued by the Secretary under this
18 section remains in effect until—

19 “(1) the Secretary declares the container to be in compliance with the
20 standards of the Convention; or

21 “(2) the container is removed permanently from service.

22 “(f) *NOTICE OF DEFECTIVE CONTAINER TO COUNTRY ISSUING SAFETY AP-
23 PROVAL PLATE.*—If the Secretary has reason to believe that a container bear-
24 ing a safety approval plate issued by another country was defective at the
25 time of approval, the Secretary shall notify that country.

26 **“§ 80506. Delegation of authority**

27 “(a) *IN GENERAL.*—The Secretary of the department in which the Coast
28 Guard is operating may delegate to any person, including a public or private
29 agency or nonprofit organization, authority to grant initial approval for con-
30 tainers and designs and to attach safety approval plates.

31 “(b) *REGULATIONS.*—Before making a delegation under this section, the
32 Secretary shall prescribe regulations establishing—

33 “(1) criteria to be followed in selecting a person to whom authority
34 is to be delegated;

35 “(2) a detailed description of the duties and powers to be carried out
36 by the person to whom authority is delegated, including the records the
37 person shall keep; and

38 “(3) the review the Secretary will conduct to decide whether the person
39 is carrying out the delegated duties and powers properly.

1 “(c) *INSPECTION OF RECORDS.*—A person delegated authority under this
2 section shall make available to the Secretary for inspection, on request,
3 records the person is required to keep.

4 “(d) *PENALTIES AND ORDERS.*—A person delegated authority under this
5 section may not—

6 “(1) assess or collect, or attempt to assess or collect, a penalty for vio-
7 lation of the Convention, this chapter, or an order issued by the Sec-
8 retary under this chapter; or

9 “(2) issue or attempt to issue a detention or other order.

10 “(e) *PUBLICATION.*—The Secretary shall publish in the Federal Register or
11 other appropriate publication—

12 “(1) the name and address of each person to whom authority is dele-
13 gated;

14 “(2) the duties and powers delegated; and

15 “(3) the period of the delegation.

16 “(f) *REVOCATION.*—The Secretary may revoke a delegation of authority
17 under this section at any time.

18 **“§ 80507. Employee protection**

19 “(a) *PROHIBITION.*—A person may not discharge or discriminate against
20 an employee because the employee has reported the existence of an unsafe con-
21 tainer or a violation of this chapter or a regulation prescribed under this
22 chapter.

23 “(b) *COMPLAINTS.*—An employee alleging to have been discharged or dis-
24 criminated against in violation of subsection (a) may file a complaint with
25 the Secretary of Labor. The complaint must be filed within 60 days after the
26 violation.

27 “(c) *ENFORCEMENT.*—The Secretary of Labor may investigate the com-
28 plaint. If the Secretary of Labor finds there has been a violation, the Sec-
29 retary of Labor may bring a civil action in an appropriate district court of
30 the United States. The court has jurisdiction to restrain violations of sub-
31 section (a) and order appropriate relief, including reinstatement of the em-
32 ployee to the employee’s former position with back pay.

33 “(d) *NOTICE TO COMPLAINANT.*—Within 30 days after receiving a com-
34 plaint under this section, the Secretary of Labor shall notify the complainant
35 of the intended action on the complaint.

36 **“§ 80508. Amendments to Convention**

37 “(a) *PROPOSALS BY UNITED STATES.*—The Secretary of State, with the
38 concurrence of the Secretary of the department in which the Coast Guard is
39 operating, may propose amendments to the Convention or request a conference
40 for amending the Convention as provided in article IX of the Convention.

1 “(b) *PROPOSALS BY OTHER COUNTRIES.*—An amendment communicated to
2 the United States under article IX(2) of the Convention may be accepted for
3 the United States by the President, with the advice and consent of the Senate.
4 The President may declare that the United States does not accept an amend-
5 ment.

6 “(c) *AMENDMENTS TO ANNEXES.*—

7 “(1) *IN GENERAL.*—The Secretary of State, with the concurrence of the
8 Secretary of the department in which the Coast Guard is operating—

9 “(A) may propose amendments to the annexes to the Convention;

10 “(B) may propose a conference for amending annexes to the Con-
11 vention; and

12 “(C) shall consider and act on amendments to the annexes to the
13 Convention adopted by the Maritime Safety Committee of the Inter-
14 national Maritime Organization and communicated to the United
15 States under article X(2) of the Convention.

16 “(2) *ACTION FOLLOWING APPROVAL OR OBJECTION.*—If a proposed
17 amendment to an annex is approved by the United States, the amend-
18 ment shall enter into force as provided in article X of the Convention.
19 If a proposed amendment is objected to, the Secretary of State promptly
20 shall communicate the objection as provided in article X(3) of the Con-
21 vention.

22 “(d) *APPOINTMENT OF ARBITRATOR.*—The Secretary of State, with the con-
23 currence of the Secretary of the department in which the Coast Guard is oper-
24 ating, shall appoint an arbitrator when one is required to resolve a dispute
25 within the meaning of article XIII of the Convention.

26 **“§ 80509. Civil penalty**

27 “(a) *IN GENERAL.*—An owner, agent, or custodian who has been notified
28 of an order issued under section 80505 of this title and fails to take reasonable
29 and prompt action to prevent or stop a container subject to the order from
30 being moved in violation of the order is liable to the United States Govern-
31 ment for a civil penalty of not more than \$5,000 for each container moved.
32 Each day the container remains in service while the order is in effect is a
33 separate violation.

34 “(b) *ASSESSMENT AND COLLECTION.*—

35 “(1) *IN GENERAL.*—After notice and an opportunity for a hearing, the
36 Secretary of the department in which the Coast Guard is operating shall
37 assess and collect any penalty under this section.

38 “(2) *FACTORS TO CONSIDER.*—In determining the amount of the pen-
39 alty, the Secretary shall consider the gravity of the violation, the hazards
40 involved, and the record of the person charged with respect to violations

1 of the Convention, this chapter, or regulations prescribed under this
2 chapter.

3 “(3) *REMISSION, MITIGATION, OR COMPROMISE.*—The Secretary may
4 remit, mitigate, or compromise a penalty under this section.

5 “(4) *ENFORCEMENT.*—If a person fails to pay a penalty under this
6 section, the Secretary shall refer the matter to the Attorney General for
7 collection in an appropriate district court of the United States.”.

8 **SEC. 12. MARITIME ADMINISTRATION.**

9 Section 109 of title 49, United States Code, is amended to read as follows:

10 **“§ 109. Maritime Administration**

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

13 “(b) *MARITIME ADMINISTRATOR.*—The head of the Maritime Administra-
14 tion is the Maritime Administrator, who is appointed by the President by
15 and with the advice and consent of the Senate. The Administrator shall report
16 directly to the Secretary of Transportation and carry out the duties pre-
17 scribed by the Secretary.

18 “(c) *DEPUTY MARITIME ADMINISTRATOR.*—The Maritime Administration
19 shall have a Deputy Maritime Administrator, who is appointed in the com-
20 petitive service by the Secretary, after consultation with the Administrator.
21 The Deputy Administrator shall carry out the duties prescribed by the Ad-
22 ministrator. The Deputy Administrator shall be Acting Administrator during
23 the absence or disability of the Administrator and, unless the Secretary des-
24 ignates another individual, during a vacancy in the office of Administrator.

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

27 “(e) *REGIONAL OFFICES.*—The Maritime Administration shall have re-
28 gional offices for the Atlantic, Gulf, Great Lakes, and Pacific port ranges, and
29 may have other regional offices as necessary. The Secretary shall appoint a
30 qualified individual as Director of each regional office. The Secretary shall
31 carry out appropriate activities and programs of the Maritime Administra-
32 tion through the regional offices.

33 “(f) *INTERAGENCY AND INDUSTRY RELATIONS.*—The Secretary shall estab-
34 lish and maintain liaison with other agencies, and with representative trade
35 organizations throughout the United States, concerned with the transportation
36 of commodities by water in the export and import foreign commerce of the
37 United States, for the purpose of securing preference to vessels of the United
38 States for the transportation of those commodities.

39 “(g) *DETAILING OFFICERS FROM ARMED FORCES.*—To assist the Secretary
40 in carrying out duties and powers relating to the Maritime Administration,
41 not more than five officers of the armed forces may be detailed to the Sec-

1 *retary at any one time, in addition to details authorized by any other law.*
 2 *During the period of a detail, the Secretary shall pay the officer an amount*
 3 *that, when added to the officer's pay and allowances as an officer in the*
 4 *armed forces, makes the officer's total pay and allowances equal to the amount*
 5 *that would be paid to an individual performing work the Secretary considers*
 6 *to be of similar importance, difficulty, and responsibility as that performed*
 7 *by the officer during the detail.*

8 *“(h) CONTRACTS AND AUDITS.—*

9 *“(1) CONTRACTS.—In the same manner that a private corporation*
 10 *may make a contract within the scope of its authority under its charter,*
 11 *the Secretary may make contracts for the United States Government and*
 12 *disburse amounts to—*

13 *“(A) carry out the Secretary's duties and powers under this sec-*
 14 *tion and subtitle V of title 46; and*

15 *“(B) protect, preserve, and improve collateral held by the Sec-*
 16 *retary to secure indebtedness.*

17 *“(2) AUDITS.—The financial transactions of the Secretary under*
 18 *paragraph (1) shall be audited by the Comptroller General. The Comp-*
 19 *troller General shall allow credit for an expenditure shown to be nec-*
 20 *essary because of the nature of the business activities authorized by this*
 21 *section or subtitle V of title 46. At least once a year, the Comptroller*
 22 *General shall report to Congress any departure by the Secretary from*
 23 *this section or subtitle V of title 46.*

24 *“(i) AUTHORIZATION OF APPROPRIATIONS.—*

25 *“(1) IN GENERAL.—Except as otherwise provided in this subsection,*
 26 *there are authorized to be appropriated such amounts as may be nec-*
 27 *essary to carry out the duties and powers of the Secretary relating to*
 28 *the Maritime Administration.*

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

32 *“(A) acquisition, construction, or reconstruction of vessels;*

33 *“(B) construction-differential subsidies incident to the construc-*
 34 *tion, reconstruction, or reconditioning of vessels;*

35 *“(C) costs of national defense features;*

36 *“(D) payments of obligations incurred for operating-differential*
 37 *subsidies;*

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

41 *“(F) the Vessel Operations Revolving Fund;*

- 1 “(G) National Defense Reserve Fleet expenses;
 2 “(H) expenses necessary to carry out part B of subtitle V of title
 3 46; and
 4 “(I) other operations and training expenses related to the develop-
 5 ment of waterborne transportation systems, the use of waterborne
 6 transportation systems, and general administration.
 7 “(3) TRAINING VESSELS.—Amounts may not be appropriated for the
 8 purchase or construction of training vessels for State maritime academies
 9 unless the Secretary has approved a plan for sharing training vessels be-
 10 tween State maritime academies.”.

11 **SEC. 13. AMENDMENTS RELATING TO MARITIME SECURITY ACT OF**
 12 **2003.**

13 (a) AMENDMENTS TO CHAPTER 531.—Chapter 531 of title 46, United
 14 States Code, is amended as follows:

15 (1) In section 53102—

16 (A) in the headings of paragraphs (1), (2), and (4) of subsection
 17 (c), strike “SECTION 2” and substitute “SECTION 50501”;

18 (B) in subsection (c)(1), (2)(A)(i) and (ii)(II) and (B), and
 19 (4)(B), strike “section 2 of the Shipping Act, 1916 (46 U.S.C. App.
 20 802)” and substitute “section 50501 of this title”;

21 (C) in subsection (d), strike “the first section of Public Law 81–
 22 891 (64 Stat. 1120; 46 U.S.C. App. note prec. 3)” and substitute
 23 “section 501 of this title”; and

24 (D) in subsection (e)(1)—

25 (i) strike “a documented vessel (as that term is defined in
 26 section 12101 of this title)” and substitute “documented under
 27 chapter 121 of this title,”; and

28 (ii) in subparagraph (B), strike “a documented vessel (as de-
 29 fined in that section)” and substitute “documented under chap-
 30 ter 121”.

31 (2) In section 53103(c)—

32 (A) in the heading of paragraph (1)(C), strike “SECTION 2” and
 33 substitute “SECTION 50501”;

34 (B) in paragraphs (1)(A)(iii) and (C)(i) and (ii), strike “section
 35 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)” and substitute
 36 “section 50501 of this title”;

37 (C) in paragraph (1)(B), strike “subparagraphs” and substitute
 38 “subparagraph”; and

39 (D) in paragraph (3)(B), strike “agreement” and substitute
 40 “agreements”.

41 (3) In section 53104—

1 (A) in subsection (e)(3)(B)(i)(I) and (II), strike “section 2 of the
2 Shipping Act, 1916 (46 U.S.C. App. 802)” and substitute “section
3 50501 of this title”;

4 (B) in subsection (e)(2), strike “section 9 of the Shipping Act,
5 1916 (46 U.S.C. App. 808)” and substitute “section 56101 of this
6 title”; and

7 (C) in subsection (e)(3), strike “section 902 of the Merchant Ma-
8 rine Act, 1936 (46 U.S.C. App. 1242)” and “section 902 of such
9 Act” and substitute “chapter 563 of this title” and “chapter 563”,
10 respectively.

11 (4) In section 53105—

12 (A) in subsection (a)(1)(A), strike “section 12105” and substitute
13 “section 12111”; and

14 (B) in subsection (f), strike “approve” and substitute “approves”.

15 (5) In section 53106—

16 (A) in subsection (d)(1), strike “section 2631 of title 10, United
17 States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1),
18 section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936
19 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)” and substitute “sec-
20 tion 55302(a), 55304, 55305, or 55314 of this title, section 2631 of
21 title 10”;

22 (B) in subsection (d)(2), strike “section 901(a), 901(b), or 901b
23 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a),
24 1241(b), or 1241f),” and substitute “section 55302(a), 55305, or
25 55314 of this title”; and

26 (C) in subsection (e)(2), strike “section 2(c) of the Shipping Act,
27 1916 (46 U.S.C. App. 802(c))” and substitute “section 50501 of this
28 title, applying the 75 percent ownership requirement of that sec-
29 tion”.

30 (6) In section 53107(f)—

31 (A) strike “section 2631 of title 10, United States Code, the Act
32 of March 26, 1934 (46 U.S.C. App. 1241–1), section 901(a), 901(b),
33 or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a),
34 1241(b), or 1241f)” and substitute “section 55302(a), 55304, 55305,
35 or 55314 of this title, section 2631 of title 10”; and

36 (B) strike “section 2631 of title 10, United States Code, the Act
37 of March 26, 1934 (46 U.S.C. App. 1241–1), and sections 901(a),
38 901(b), and 901b of the Merchant Marine Act, 1936 (46 U.S.C. App.
39 1241(a), 1241(b), and 1241b)” and substitute “sections 55302(a),
40 55304, 55305, and 55314 of this title and section 2631 of title 10”.

1 (7) In section 53108(b), strike “section 901(b)(1) of the Merchant Ma-
2 rine Act, 1936 (46 U.S.C. App. 1241(b)(1))” and substitute “section
3 55305(a) of this title”.

4 (b) *OTHER CONFORMING PROVISIONS.*—If this Act is enacted prior to Octo-
5 ber 1, 2005, then—

6 (1) until that date, the reference in section 12111(c)(3) of title 46,
7 United States Code, as enacted by this Act, to “chapter 531 of this title”
8 is deemed instead to be a reference to “subtitle B of title VI of the Mer-
9 chant Marine Act, 1936”; and

10 (2) section 3534(b)(1) of the Maritime Security Act of 2003 (Public
11 Law 108–136, 117 Stat. 1818) is repealed.

12 **SEC. 14. AMENDMENTS TO PARTIALLY RESTATED PROVISIONS.**

13 (a) Section 2793 of the Revised Statutes (19 U.S.C. 288, 46 App. U.S.C.
14 111, 123) is amended by striking “or tonnage tax”.

15 (b) Section 809(a) of the Merchant Marine Act, 1936 (46 App. U.S.C.
16 1213(a)), is amended by striking “and section 211(a)”.

17 **SEC. 15. ADDITIONAL AMENDMENTS TO TITLE 46.**

18 Title 46, United States Code, is amended as follows:

19 (1) The analysis of subtitle II is amended as follows:

20 (A) In each chapter item, capitalize the first letter of each word
21 containing 4 or more letters.

22 (B) Strike the item for chapter 39.

23 (C) The item for chapter 45 is amended to read as follows:

24 **“45. Uninspected Commercial Fishing Industry Vessels 4501”.**

25 (2) Section 2101 is amended as follows:

26 (A) Paragraphs (2), (3), (3a), (6), (10), (10a), (12), (17b), (36),
27 (41), (44), (45), and (46) are repealed.

28 (B) In paragraph (8a), insert “Prevention” after “Abuse”.

29 (C) In paragraph (18), strike “those”.

30 (D) In paragraph (34)—

31 (i) strike “, except in part H.”; and

32 (ii) strike “head” and substitute “Secretary”.

33 (3) In section 2102(b), strike “West” and “East” and substitute
34 “west” and “east”, respectively.

35 (4) In section 2106, strike “a district court of the United States” and
36 substitute “the district court of the United States for any district”.

37 (5) Section 2108 is repealed.

38 (6) In section 2110—

39 (A) in subsection (a)(2), strike “part B of this title” and sub-
 stitute “part B of this subtitle”;

1 (B) in subsection (b)(2)(A)(iii), strike the period at the end and
2 substitute “; and”;

3 (C) in subsection (b)(5), strike “fees” and substitute “fee”;

4 (D) In subsection (f), strike “Secretary of the Treasury shall deny
5 the clearance required by section 4197 of the Revised Statutes of the
6 United States (46 App. U.S.C. 91)” and substitute “Secretary of
7 Homeland Security shall deny the clearance required by section
8 60105 of this title”; and

9 (E) In subsection (j), strike “state” and substitute “State”.

10 (7) In section 2301, strike “section” and substitute “sections 2304
11 and”.

12 (8) In section 2304—

13 (A) insert the paragraph designation “(1)” after “(a)”; and

14 (B) insert at the end of subsection (a) the following new para-
15 graph:

16 “(2) Paragraph (1) does not apply to a vessel of war or a vessel owned
17 by the United States Government appropriated only to a public service.”.

18 (9) In section 2306(a)(2), strike “section 212(A) of the Merchant Ma-
19 rine Act, 1936 (46 App. U.S.C. 1122a),” and substitute “section 50113
20 of this title”.

21 (10) In section 3205(d), strike “Secretary of the Treasury shall with-
22 hold or revoke the clearance required by section 4197 of the Revised Stat-
23 utes (46 App. U.S.C. 91)” and substitute “Secretary of Homeland Secu-
24 rity shall withhold or revoke the clearance required by section 60105 of
25 this title”.

26 (11) In section 3302—

27 (A) in subsection (b), insert a comma after “fishing vessel”;

28 (B) in subsection (j)(2)(B), strike “section 1304 of the Merchant
29 Marine Act, 1936 (46 App. U.S.C. 1295c)” and substitute “chapter
30 515 of this title”; and

31 (C) in subsection (l)(1)(C), strike “Inc.” and substitute “Inc.”.

32 (12) In section 3306(d), strike “section 1302(3) of the Merchant Ma-
33 rine Act, 1936 (46 App. U.S.C. 1295a(3))” and substitute “section 51102
34 of this title”.

35 (13) In section 3318(f), strike the period after “felony”.

36 (14) In the analysis of chapter 37, the item for section 3719 is amend-
37 ed to read as follows:

“3719. Reduction of oil spills from single hull non-self-propelled tank vessels.”.

38 (15) In paragraphs (1)(C), (2), and (3) of section 3703a(c), strike
39 “documentation under section 4136 of the Revised Statutes of the United

1 *States (46 App. U.S.C. 14)” and substitute “documentation as a wrecked*
2 *vessel under section 12112 of this title”.*

3 (16) *In section 3704, strike “section 27 of the Merchant Marine Act,*
4 *1920 (46 App. U.S.C. 883),” and substitute “chapter 551 of this title”.*

5 (17) *In section 3718(e)(1), strike “Secretary of the Treasury” and*
6 *“section 4197 of the Revised Statutes of the United States (46 App.*
7 *U.S.C. 91)” and substitute “Secretary of Homeland Security” and “sec-*
8 *tion 60105 of this title”, respectively.*

9 (18) *In section 4702, strike the subsection “(a)” designation.*

10 (19) *In section 4705—*

11 (A) *strike “subcontractor not” and substitute “subcontractor are*
12 *not”;*

13 (B) *strike “(a)(1)” and substitute “(a)”;*

14 (C) *strike “(2) Paragraph (1)” and substitute “(b) Subsection*
15 *(a)”;*

16 (D) *strike “(A)” and substitute “(1)”;* and

17 (E) *strike “(B)” and substitute “(2)”.*

18 (20) *In section 5113(b), strike “section 4197 of the Revised Statutes*
19 *(46 App. U.S.C. 91)” and substitute “section 60105 of this title”.*

20 (21) *In section 6101, redesignate the second subsection (g) and sub-*
21 *section (h) as subsections (h) and (i), respectively.*

22 (22) *In section 8103(a), strike “Only” and substitute “Except as oth-*
23 *erwise provided in this title, only”.*

24 (23) *In section 9307(b)(2)(A), strike “The” and substitute “the”.*

25 (24) *In section 12503(a), in the matter before paragraph (1), strike*
26 *“delegee” and substitute “delegate”.*

27 (25) *In section 13102(a), insert “(26 U.S.C. 9504)” after “Internal*
28 *Revenue Code of 1986”.*

29 (26) *In section 14305(a)—*

30 (A) *in paragraph (1), strike “and sections 12106(c) and*
31 *12108(c)” and substitute “of this subtitle and section 12116”;*

32 (B) *in paragraph (5), strike “section 4283 of the Revised Statutes*
33 *of the United States (46 App. U.S.C. 183)” and substitute “section*
34 *30506 of this title”;*

35 (C) *in paragraph (6), strike “sections 27 and 27A of the Act of*
36 *June 5, 1920 (46 App. U.S.C. 883 and 883–1)” and substitute “sec-*
37 *tions 12118 and 12132 of this title”;* and

38 (D) *in paragraph (7), strike “Act of July 14, 1956 (46 App.*
39 *U.S.C. 883a)” and substitute “section 12139(b) of this title”.*

1 (27) *In section 31306(a), strike “section 9 or 37 of the Shipping Act,*
2 *1916 (46 App. U.S.C. 808, 835)” and substitute “section 56102 or 56103*
3 *of this title”.*

4 (28) *In section 31308, strike “title XI of the Merchant Marine Act,*
5 *1936 (46 App. U.S.C. 1271 et seq.)” and substitute “chapter 537 of this*
6 *title”.*

7 (29) *In section 31322—*

8 (A) *in subsection (a)(4)(A), strike “section 12102(c)” and sub-*
9 *stitute “section 12113(c)”;*

10 (B) *in subsection (a)(4)(E), strike “under section 12102(a)” and*
11 *substitute “for purposes of documentation under section 12103”;*
12 *and*

13 (C) *in subsection (f)(2), strike “section 12102(c)” and substitute*
14 *“section 12113(c)”.*

15 (30) *In section 31325(b)(3)(B), strike “section 9 or 37 of the Shipping*
16 *Act, 1936 (46 App. U.S.C. 808, 835)” and substitute “section 56101 or*
17 *56102 of this title”.*

18 (31) *In section 31326(b)—*

19 (A) *in paragraph (1), strike “title XI of the Merchant Marine*
20 *Act, 1936 (46 App. U.S.C. 1101 et seq.)” and substitute “chapter*
21 *537 of this title,”; and*

22 (B) *in paragraph (2), strike “title XI of that Act” and substitute*
23 *“chapter 537 of this title”.*

24 (32) *In section 31329—*

25 (A) *in subsection (a)(1), strike “section 12102” and substitute*
26 *“section 12103”; and*

27 (B) *in subsection (b)—*

28 (i) *in paragraph (2), strike “section 902 of the Merchant*
29 *Marine Act, 1936 (46 App. U.S.C. 1242)” and substitute*
30 *“chapter 563 of this title”; and*

31 (ii) *in paragraph (3), strike “sale foreign within the terms*
32 *of the first proviso of section 27 of the Merchant Marine Act,*
33 *1920 (46 App. U.S.C. 883)” and substitute “sale to a person*
34 *not a citizen of the United States under section 12132 of this*
35 *title”.*

36 (33)(A) *Sections 70118 and 70119, as added by section 801(a) of the*
37 *Coast Guard and Maritime Transportation Act of 2004 (Public Law*
38 *108–293, 118 Stat. 1078), are redesignated as sections 70117 and 70118,*
39 *respectively, and moved to appear immediately after section 70116 of*
40 *title 46, United States Code.*

1 (B) Sections 70117 and 70118, as added by section 802(a)(2) of such
2 Act, are redesignated as sections 70120 and 70121, respectively, and
3 moved to appear immediately after section 70119 of title 46, United
4 States Code.

5 (C) In section 70120(a) (as redesignated by subparagraph (B)), strike
6 “section 70120” and substitute “section 70119”.

7 (D) In section 70121(a) (as redesignated by subparagraph (B))—

8 (i) strike “section 70120” and substitute “section 70119”; and

9 (ii) strike “section 4197 of the Revised Statutes of the United
10 States (46 U.S.C. App. 91)” and substitute “section 60105 of this
11 title”.

12 (E) In the analysis of chapter 701, strike the items relating to sections
13 70117–70119 and substitute the following:

“70117. Firearms, arrests, and seizure of property.

“70118. Enforcement by State and local officers.

“70119. Civil penalty.

“70120. In rem liability for civil penalties and certain costs.

“70121. Withholding of clearance.”.

14 **SEC. 16. RECREATIONAL BOATING SAFETY TECHNICAL AMENDMENTS.**

15 (a) SECTION 2102.—Section 2102 of title 46, United States Code, is
16 amended by—

17 (1) striking subsection (a); and

18 (2) striking the subsection (b) designation.

19 (b) CHAPTER 131.—Chapter 131 of title 46, United States Code, is amend-
20 ed as follows:

21 (1) Redesignate sections 13101 to 13106 as sections 13102 to 13107.

22 (2) Insert as the first section the following:

23 **“§ 13101. Definitions**

24 “In this chapter:

25 “(1) ELIGIBLE STATE.—The term ‘eligible State’ means a State that
26 has a State recreational boating safety program accepted by the Sec-
27 retary.

28 “(2) STATE RECREATIONAL BOATING SAFETY PROGRAM.—The term
29 ‘State recreational boating safety program’ means education, assistance,
30 and enforcement activities conducted for maritime casualty prevention,
31 reduction, and reporting for recreational boating.”.

32 (3) In the chapter analysis, redesignate items 13101 to 13106 as items
33 13102 to 13107 and insert as the first item the following:

“13101. Definitions.”.

34 (c) CROSS REFERENCES.—

35 (1) Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16
36 U.S.C. 777c) is amended by striking “13106” wherever appearing and
37 substituting “13107”.

1 (2) *Section 9504(c) of the Internal Revenue Code of 1986 (26 U.S.C.*
2 *9504(c)) is amended by striking “section 13106” and substituting “sec-*
3 *tion 13107”.*

4 (3) *Section 13102(c) of title 46, United States Code, as redesignated*
5 *by subsection (b), is amended by striking “section 13103” and sub-*
6 *stituting “section 13104”.*

7 (4) *Section 13103(c) of title 46, United States Code, as redesignated*
8 *by subsection (b), is amended by striking “section 13106” and sub-*
9 *stituting “section 13107”.*

10 (5) *Section 13107(a)(1) of title 46, United States Code, as redesi-*
11 *gnated by subsection (b), is amended by striking “section 13103” and sub-*
12 *stituting “section 13104”.*

13 (6) *Section 13108(a) of title 46, United States Code, is amended by—*

14 (A) *striking “section 13103” and substituting “section 13104”;*

15 *and*

16 (B) *striking “section 13105” and substituting “section 13106”.*

17 (7) *Section 31322(d)(1)(A) of title 46, United States Code, is amended*
18 *by striking “section 13106(b)(8)” and substituting “section 13107(b)(8)”.*

19 **SEC. 17. CONFORMING AMENDMENTS TO OTHER LAWS.**

20 (a) *TITLE 10.—Title 10, United States Code, is amended as follows:*

21 (1) *In section 374(b)(4)(A)(iv), strike “The Maritime Drug Law En-*
22 *forcement Act (46 U.S.C. App. 1901 et seq.)” and substitute “Chapter*
23 *705 of title 46”.*

24 (2) *In section 2218(d)(2), strike “sections 508 and 510 of the Merchant*
25 *Marine Act of 1936 (46 U.S.C. App. 1158, 1160), shall be deposited in*
26 *the Fund” and substitute “sections 57101–57104 and chapter 573 of title*
27 *46”.*

28 (3) *In section 2350b(g)(2), strike “section 901(b) of the Merchant Ma-*
29 *rine Act, 1936 (46 U.S.C. App. 1241(b))” and substitute “section 55305*
30 *of title 46”.*

31 (4) *In section 2645—*

32 (A) *in subsection (c), strike “the second sentence of section*
33 *1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App.*
34 *1288(a))” and substitute “section 53909(b) of title 46”;*

35 (B) *in subsection (h)(1), strike “title XII of the Merchant Marine*
36 *Act, 1936 (46 U.S.C. App. 1281 et seq.),” and substitute “chapter*
37 *539 of title 46”; and*

38 (C) *in subsection (h)(2), strike “the first sentence of section*
39 *1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App.*
40 *1288(a))” and substitute “section 53909(a) of title 46”.*

1 (5) In section 5985, strike “section 1304 of the Merchant Marine Act,
2 1936 (46 U.S.C. App. 1295c),” and substitute “chapter 515 of title 46”.

3 (6) In section 7721(a), strike “the Act of March 3, 1925 (commonly
4 referred to as the ‘Public Vessels Act’) (46 U.S.C. App. 781–790)” and
5 substitute “chapter 311 of title 46”.

6 (b) TITLE 11.—Title 11, United States Code, is amended as follows:

7 (1) In section 362(b)—

8 (A) in paragraph (12), strike “section 207 or title XI of the Mer-
9 chant Marine Act, 1936” and substitute “chapter 537 of title 46 or
10 section 109(h) of title 49”; and

11 (B) in paragraph (13), strike “section 207 or title XI of the Mer-
12 chant Marine Act, 1936” and substitute “chapter 537 of title 46”.

13 (2) In section 1110(a)(3)(A)(ii), strike “documented vessel (as defined
14 in section 30101(1) of title 46)” and substitute “vessel documented under
15 chapter 121 of title 46”.

16 (c) TITLE 14.—Sections 821(b) and 823a(b) of title 14, United States Code,
17 are each amended by striking paragraphs (3)–(5) and substituting the fol-
18 lowing:

19 “(3) Section 30101 of title 46 (popularly known as the Admiralty Ex-
20 tension Act).

21 “(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

22 “(5) Chapter 311 of title 46 (known as the Public Vessels Act).”.

23 (d) TITLE 18.—Title 18, United States Code, is amended as follows:

24 (1) In section 229F(9)(C), strike “section 3(b) of the Maritime Drug
25 Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b))” and sub-
26 stitute “section 70502(b) of title 46, United States Code”.

27 (2) In section 507—

28 (A) in the first paragraph, strike “recording, registry, or enroll-
29 ment of any vessel, in the office of any collector of the customs, or
30 a license to any vessel for carrying on the coasting trade or fisheries
31 of the United States” and substitute “documentation of any vessel”;

32 (B) in the first paragraph, strike “collector or other”; and

33 (C) in the second paragraph, strike “license.”.

34 (3) In section 924—

35 (A) in subsections (c)(2), (e)(2)(A)(i), (g)(2), and (k)(1), strike
36 “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901
37 et seq.)” and substitute “chapter 705 of title 46”; and

38 (B) in subsection (g)(2), strike “802 et seq.” and substitute “801
39 et seq.”.

1 (4) *In section 929(a)(2), strike “the Maritime Drug Law Enforcement*
 2 *Act (46 U.S.C. App. 1901 et seq.)” and substitute “chapter 705 of title*
 3 *46”.*

4 (5) *In section 965(a), strike “section 4197 of the Revised Statutes of*
 5 *the United States (46 U.S.C. App. 91)” and substitute “section 60105*
 6 *of title 46”.*

7 (6) *In section 2277(a), strike “registered, enrolled, or licensed” and*
 8 *substitute “documented”.*

9 (7) *In section 3142(e) and (f)(1)(C), strike “the Maritime Drug Law*
 10 *Enforcement Act (46 U.S.C. App. 1901 et seq.)” and substitute “chapter*
 11 *705 of title 46”.*

12 (e) *INTERNAL REVENUE CODE OF 1986.—The Internal Revenue Code of*
 13 *1986 (26 U.S.C. 1 et seq.) is amended as follows:*

14 (1) *In section 56(c)(2)—*

15 (A) *strike “section 607 of the Merchant Marine Act, 1936 (46*
 16 *U.S.C. 1177)” and substitute “chapter 535 of title 46, United States*
 17 *Code”; and*

18 (B) *in subparagraphs (A) and (B), strike “such section 607” sub-*
 19 *stitute “such chapter 535”.*

20 (2) *In section 140(a)(4), strike “section 607(d) of the Merchant*
 21 *Act, 1936 (46 U.S.C. 1177)” and substitute “section 53507 of title 46,*
 22 *United States Code”.*

23 (3) *In section 543(a)(1)(B), strike “section 511 or 607 of the Merchant*
 24 *Marine Act, 1936 (46 U.S.C. App. 1161 or 1177)” and substitute “chap-*
 25 *ter 533 or 535 of title 46, United States Code”.*

26 (4) *In section 1023(2), strike “section 511 of the Merchant Marine*
 27 *Act, 1936, as amended (46 U.S.C. 1161)” and substitute “chapter 533 of title*
 28 *46, United States Code”.*

29 (5) *In section 1061—*

30 (A) *in paragraph (1), strike “section 510 of the Merchant*
 31 *Act, 1936, see subsection (e) of that section, as amended August 4,*
 32 *1939 (46 U.S.C. App. 1160)” and substitute “chapter 573 of title*
 33 *46, United States Code, see section 57307 of title 46”;*

34 (B) *in paragraph (2), strike “section 511 of such Act, as amended*
 35 *(46 U.S.C. App. 1161)” and substitute “chapter 533 of title 46,*
 36 *United States Code”; and*

37 (C) *strike paragraph (3).*

38 (6) *In section 7518—*

39 (A) *in subsection (a)(1), strike “section 607 of the Merchant*
 40 *Marine Act, 1936” and substitute “chapter 535 of title 46 of the United*
 41 *States Code”;*

1 (B) in subsections (a)(2) and (c)(1)(A) and (D), strike “section
2 607 of the Merchant Marine Act, 1936” and substitute “chapter 535
3 of title 46, United States Code”; and

4 (C) in subsection (g)(3)(C)(iii), strike “Merchant Marine Act of
5 1936” and substitute “Merchant Marine Act, 1936.”

6 (f) TITLE 28.—Title 28, United States Code, is amended as follows:

7 (1) In section 994(h)(1)(B) and (2)(B), strike “the Maritime Drug
8 Law Enforcement Act (46 U.S.C. App. 1901 et seq.)” and substitute
9 “chapter 705 of title 46”.

10 (2) In section 1605(d), strike “the Ship Mortgage Act, 1920 (46 U.S.C.
11 911 and following)” and “that Act” and substitute “section 31301 of title
12 46” and “chapter 313 of title 46”, respectively.

13 (3) In section 2342(3)—

14 (A) in subparagraph (A), strike “section 2, 9, 37, or 41 of the
15 Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and
16 841a)” and substitute “section 50501, 50502, 56101–56104, or
17 57109 of title 46”; and

18 (B) strike subparagraph (B) and substitute the following:

19 “(B) the Federal Maritime Commission issued pursuant to sec-
20 tion 305, 41304, 41308, or 41309 or chapter 421 or 441 of title
21 46;”.

22 (4) In section 2680(d), strike “sections 741–752, 781–790 of Title 46,”
23 and substitute “chapter 309 or 311 of title 46”.

24 (g) TITLE 40.—Title 40, United States Code, is amended as follows:

25 (1) In section 548, strike “the Merchant Marine Act, 1936 (46 App.
26 U.S.C. 1101 et seq.)” and substitute “part F of subtitle V of title 46”.

27 (2) In section 3134(b), strike “the Merchant Marine Act, 1936 (46
28 App. U.S.C. 1101 et seq.)” and substitute “subtitle V of title 46”.

29 (3) In section 3313(a)—

30 (A) in the matter before paragraph (1), strike “Except for the au-
31 thority contained in section 3305(b) of this title, the” and substitute
32 “The”; and

33 (B) in paragraph (1), strike “shall” and substitute “shall, except
34 for the authority contained in section 3305(b) of this title,”.

35 (h) TITLE 49.—Title 49, United States Code, is amended as follows:

36 (1) In section 5122(c)(1), strike “Secretary of the Treasury” and “sec-
37 tion 4197 of the Revised Statutes of the United States (46 App. U.S.C.
38 91)” and substitute “Secretary of Homeland Security” and “section
39 60105 of title 46”, respectively.

40 (2) In section 5901(3)(B), strike “section 3 of the Shipping Act of
41 1984 (46 App. U.S.C. 1702)” and substitute “section 40102 of title 46”.

1 (i) *MISCELLANEOUS.*—Section 5501(a) of the Oceans Act of 1992 (Public
2 Law 102–587, 106 Stat. 5084) is amended by adding the following:

3 “(3) The exceptions provided by paragraph (2) shall apply under section
4 55109 of title 46, United States Code, to the same extent as under former sec-
5 tion 1 of the Act of May 28, 1906, as amended by paragraph (1).”

6 **SEC. 18. TRANSITIONAL AND SAVINGS PROVISIONS.**

7 (a) *CUTOFF DATE.*—This Act replaces certain provisions enacted on or be-
8 fore April 30, 2005. If a law enacted after that date amends or repeals a pro-
9 vision replaced by this Act, that law is deemed to amend or repeal, as the
10 case may be, the corresponding provision enacted by this Act. If a law enacted
11 after that date is otherwise inconsistent with this Act, it supersedes this Act
12 to the extent of the inconsistency.

13 (b) *ORIGINAL DATE OF ENACTMENT UNCHANGED.*—For purposes of deter-
14 mining whether one provision supersedes another based on enactment later in
15 time, the date of enactment of a provision enacted by this Act is deemed to
16 be the date of enactment of the provision it replaced.

17 (c) *REFERENCES TO PROVISIONS REPLACED.*—A reference to a provision
18 replaced by this Act is deemed to refer to the corresponding provision enacted
19 by this Act.

20 (d) *LAWS GOVERNING APPLICABILITY OF PRIOR AMENDMENTS.*—This Act
21 does not affect any law governing the applicability of an amendment to a
22 provision replaced by this Act, notwithstanding the repeal by this Act of the
23 provision that was amended. To the extent that any such law governed the
24 applicability of a provision replaced by this Act, that law governs the appli-
25 cability of the corresponding provision enacted by this Act.

26 (e) *REGULATIONS, ORDERS, AND OTHER ADMINISTRATIVE ACTIONS.*—A
27 regulation, order, or other administrative action in effect under a provision
28 replaced by this Act continues in effect under the corresponding provision en-
29 acted by this Act.

30 (f) *ACTIONS TAKEN AND OFFENSES COMMITTED.*—An action taken or an
31 offense committed under a provision replaced by this Act is deemed to have
32 been taken or committed under the corresponding provision enacted by this
33 Act.

34 **SEC. 19. REPEALS.**

35 The following provisions are repealed, except with respect to rights and du-
36 ties that matured, penalties that were incurred, or proceedings that were
37 begun before the date of enactment of this Act:

Revised Statutes

<i>Revised Statutes Section</i>	<i>United States Code</i>	
	<i>Title</i>	<i>Section</i>
2792	46 App.	124
4136	46 App.	14

Revised Statutes—Continued

Revised Statutes Section	United States Code	
	Title	Section
4173	46 App.	42
4184	46 App.	57
4188	46 App.	59
4197	46 App.	91
4202	46 App.	97
4204	46 App.	98
4206	46 App.	100
4219	46 App.	121
4220	46 App.	122
4221	46 App.	125
4225	46 App.	128
4226	46 App.	129
4227	46 App.	135
4228	46 App.	141
4238	46 App.	721
4239	46 App.	722
4240	46 App.	723
4241	46 App.	724
4281	46 App.	181
4282	46 App.	182
4283	46 App.	183
4283A	46 App.	183b
4283B	46 App.	183c
4284	46 App.	184
4285	46 App.	185
4286	46 App.	186
4287	46 App.	187
4289	46 App.	188
4309	46 App.	354
4310	46 App.	355
4311	46 App.	251
4320	46 App.	262
4336	46 App.	277
4370	46 App.	316
4373	46 App.	321
4374	46 App.	322
4375	46 App.	323
4376	46 App.	324
4378	46 App.	326
4379	46 App.	327
4380	46 App.	328
4493	46 App.	491

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (46 App. unless otherwise specified)
			Volume	Page	
1874 Apr. 18	110	.....	18	31	336
1878 June 19	324	.....	20	175	725
1884 June 26	121	14	23	57	121
		18	23	57	189
July 5	221	3	23	119	3
		8(c) .....	.....	.....	9
1886 June 19	421	8	24	81	289
		9	24	81	320
		17	24	82	142
1887 Mar. 3	339	.....	24	475	143
1892 July 26	248	1	27	267	144
		2	27	268	145
1893 Feb. 13	105	1	27	445	190
		2	27	445	191
		3	27	445	192
		4	27	445	193
		5	27	446	194
		6	27	446	196
		7	27	446	195
		8	27	446	190 nt
Oct. 31	No. 13	.....	28	13	726

Statutes at Large—Continued

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (46 App. unless otherwise specified)
			Volume	Page	
1898 Feb. 17	26	1	30	248	290
		3	30	248	291
1900 Mar. 31	120	1-3	31	58	163
1906 May 28	2566	1 (except as may be applicable under section 5501(a)(2) of Pub. L. 102-587).	34	204	292
1908 Mar. 24	96	1	35	46	133
		2	35	46	134
May 28	212	5	35	425	104
1909 Aug. 5	6	36	36	111	121
1910 Mar. 8	86	.....	36	234	132
1912 Aug. 1	268	1	37	242	727
		3	37	242	729
		4	37	242	730
		5	37	242	731
1913 Oct. 3	16	IV(J)(1)-(3)	38	195	19 U.S.C. 128, 130, 131; 46 App. 146
1915 Mar. 4	153	20	38	1185	688
	171	.....	38	1193	19 U.S.C. 128, 131; 46 App. 121, 128, 146
1916 Sept. 7	451	1	39	728	801
		2(a)-(c)	39	729	802
		2(d)	39	729	803
		9	39	730	808
		12	39	732	811
		34	39	738	833
		36	39	738	834
		37 .....	.....	.....	835
		38 .....	.....	.....	836
		39 .....	.....	.....	837
		41 .....	.....	.....	839
		46 .....	.....	.....	842
1920 Mar. 9	95	1	41	525	741
		2	41	525	742
		3	41	526	743
		4	41	526	744
		5	41	526	745, 745 nt
		6	41	527	746
		7	41	527	747
		8	41	527	748
		9	41	527	749
		10	41	528	750
		11	41	528	751
		12	41	528	752
Mar. 30	111	1	41	537	761
		2	41	537	762
		4	41	537	764
		5	41	537	765
		6	41	537	766
		7	41	538	767
		8	41	538	768
June 5	250	1	41	988	861
		6	41	991	865
		7	41	991	866
		8	41	992	867
		9	41	992	868
		10	41	992	869
		12	41	993	871

Statutes at Large—Continued

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (46 App. unless otherwise specified)		
			Volume	Page			
1925 Mar. 3	428	13	41	993	872		
		17	41	994	875		
		19	41	995	876		
		21	41	997	877		
		27	41	999	883		
		27A .....	.....	.....	883-1
		28	41	999	884		
		36	41	1007	887		
		37	41	1008	888		
		39	41	1008	889		
		1928 May 22	675	1	43	1112	781
2	43			1112	782		
3	43			1112	783		
4	43			1112	784		
5	43			1113	785		
6	43			1113	786		
7	43			1113	787		
8	43			1113	788		
9	43			1113	789		
10	43			1113	790		
1932 June 30	314	306	47	408	804a		
		.....	47	420	743a, 745	
	90	.....	48	500	1241-1	
		.....	48	963	48 U.S.C. 1664	
		1936 June 25	807	1	49	1922	738
				2	49	1922	738a
				4	49	1923	738c
1936 June 29	858	101	49	1985	1101		
		201	49	1985	1111		
		202	49	1986	1112		
		204	49	1987	1114		
		205	49	1987	1115		
		206	49	1987	1116		
		207	49	1988	1117		
		208	49	1988	1118		
		209	49	1988	1119		
		210	49	1989	1120		
		211	49	1989	1121		
		212	49	1990	1122		
		212(A) .....	.....	.....	1122a
		212(B) .....	.....	.....	1122b
		213	49	1991	1123		
		214	49	1991	1124		
		215 .....	.....	.....	1125
		302 .....	.....	.....	1132
		508	49	2000	1158		
		510 .....	.....	.....	1160
		511 (added by Act Oct. 10, 1940) .....	.....	.....	1161
		607	49	2005	1177		
		701	49	2008	1191		
		702	49	2008	1192		
		703	49	2008	1193		
		704	49	2008	1194		
		705	49	2009	1195		
		706	49	2009	1196		
		707	49	2009	1197		
		708	49	2009	1198		
		709	49	2010	1199		
		710	49	2010	1200		
		711	49	2010	1201		
712	49	2010	1202				
713	49	2010	1203				
714	49	2011	1204				
715 .....	.....	.....	1205		
805	49	2012	1223				
806(b)-(d)	49	2014	1228				

Statutes at Large—Continued

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (46 App. unless otherwise specified)
			Volume	Page	
		808	49	2015	1226
		809(b)			1213
		810	49	2015	1227
		901	49	2015	1241
		901a			1241e
		901b			1241f
		901c			1241g
		901d			1241h
		901e			1241i
		901f			1241j
		901g			1241k
		901h			1241l
		901i			1241m
		901j			1241n
		901k			1241o
		902	49	2015	1242
		905	49	2016	1244
		906 (1st sentence)	49	2016	1245
		908			1247
		1101			1271
		1102			1272
		1103			1273
		1104A			1274
		1104B			1274a
		1105			1275
		1108			1279a
		1109			1279b
		1110			1279c
		1111			1279d
		1111			1279f
		1112			1279e
		1112			1279g
		1201			1281
		1202			1282
		1203			1283
		1204			1284
		1205			1285
		1206			1286
		1207			1287
		1208			1288
		1209			1289
		1210			1290
		1211			1291
		1212			1292
		1213			1293
		1214			1294
		1301			1295
		1302			1295a
		1303			1295b
		1304			1295c
		1305			1295d
		1306			1295e
		1307			1295f
		1308			1295g
1938 Apr. 26	174	.....	52	223	289a
June 25	681	1st proviso on p. 1119	52	1119	1111a
1940 June 29	442	.....	54	684	1242a
1941 Feb. 6	5	4	55	6	1125a
1947 Mar. 22	20	proviso under heading "Independent Offices"	61	18	1116a
1948 June 19	526	.....	62	496	740
June 30	775	101 (last proviso on p. 1199)	62	1199	864a
1949 June 29	281	1 (proviso)	63	349	864b
1950 Dec. 27	1155	1, 2	64	1120	3 nt prec.
1951 June 2	121	pars. under heading "Vessel Operations Revolving Fund"	65	59	1241a
Nov. 1	664	par. under heading "War-Risk Insurance Revolving Fund"	65	746	1288a

Statutes at Large—Continued

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (46 App. unless otherwise specified)		
			Volume	Page			
1956 June 20	415	101 (par. beginning with "Vessel operations revolving fund").	70	319	1241b, 1241b nt		
July 14	600	2	70	544	883a		
		3	70	544	883b		
Aug. 1	846	.....	70	897	1241c	
1957 June 13	85-52	101 (1st proviso on p. 73)	71	73	1177a		
1958 June 25	85-469	101 (par. under heading "Federal Ship Mortgage Insurance Fund").	72	231	1280		
1960 June 12	86-518	9	74	217	1125 nt		
1961 June 30	87-77	.....	75	196	289b	
Sept. 13	87-220	2	75	493	251a		
		3	75	493	251b		
1965 June 30	89-56	.....	79	195	1111 nt	
July 30	89-99	1	79	424	441		
		3	79	424	443		
		4	79	424	444		
1966 Nov. 6	89-777	2	80	1356	817d		
		3	80	1357	817e		
1976 July 14	94-361	603	90	929	1126-1		
Oct. 4	94-455	807	90	1606	1177-1		
1977 Dec. 13	95-208	1	91	1475	1501 nt		
		2	91	1475	1501		
		3	91	1476	1502		
		4	91	1476	1503		
		5	91	1477	1504		
		6	91	1478	1505		
		7	91	1479	1506		
		8	91	1479	1507		
1980 Sept. 15	96-350	1	94	1159	1901		
		2	94	1160	1902		
		3	94	1160	1903		
		4	94	1160	1904		
Oct. 6	96-382	1	94	1525	763a		
Oct. 7	96-387	5	94	1546	1121-1		
1981 Aug. 6	97-31	2	95	151	1601		
		3	95	151	1602		
		4	95	151	1603		
		5	95	151	1604		
		6	95	151	1605		
		8	95	152	1607		
		9	95	152	1608		
		1982 Oct. 15	97-322	201	96	1588	446 nt
				204	96	1589	446
205	96			1589	446a		
206	96			1590	446b		
207	96			1590	446c		
1984 Mar. 20	98-237	1	98	67	1701 nt		
		2	98	67	1701		
		3	98	67	1702		
		4	98	70	1703		
		5	98	70	1704		
		6	98	72	1705		
		7	98	73	1706		
		8	98	74	1707		
		9	98	76	1708		

Statutes at Large—Continued

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (46 App. un- less otherwise specified)
			Vol- ume	Page	
		10	98	77	1709
		11	98	80	1710
		12	98	81	1711
		13	98	82	1712
		14	98	83	1713
		15	98	84	1714
		16	98	84	1715
		17	98	84	1716
		19	98	87	1718
		20(e)	98	90	1719
Oct. 5	98-454	302	98	1734	808a
Oct. 30	98-563	.....	98	2916	289c
1985					
Dec. 23	99-198	1141	99	1490	1241d
		1143	99	1496	1241p
1986					
Aug. 27	99-399	902	100	889	1801
		905	100	890	1802
		907	100	891	1803
		908	100	891	1804
		909	100	892	1805
		910	100	892	1806
		911	100	892	1807
		912	100	892	1808
		913	100	892	1809
1987					
Dec. 22	100-202	101(a) [title V (par. under heading "Ocean Freight Differential")].	101	1329,	1241h nt
		101(a) [title V (4th proviso on p. 1329- 28)].	101	1329-27	
				1329,	1295c-1
				1329-28	
1988					
May 30	100-324	1	102	576	2001 nt
		2	102	576	2001
		3	102	576	2002
		4	102	576	2003
		5	102	576	2004
		6	102	577	2005
		7	102	577	2006
		8	102	577	2007
Aug. 23	100-418	10002	102	1570	1710a
1989					
Oct. 13	101-115	4	103	692	1295c nt
		8	103	694	1121-2
1990					
Nov. 28	101-624	1521	104	3665	1241q
		1522	104	3665	1241r
		1523	104	3666	1241s
		1524	104	3667	1241t
		1526	104	3668	1241u
		1527	104	3668	1241v
1993					
Nov. 30	103-160	1358	107	1816	1280a
1996					
Oct. 19	104-324	1117	110	3973	46 U.S.C. 12101 nt
		1120(f)	110	3978	883 nt
1998					
Oct. 14	105-258	401	112	1916	1273a
Oct. 21	105-277	203(b)-(e)	112	2681-619	46 U.S.C. 12102 nt
Nov. 13	105-383	502-504	112	3445	46 U.S.C. 12106 nt
2000					
Oct. 30	106-398	1 [§ 3506]	114	1654,	1118 nt
				1654A-494 ...	
2002					
Nov. 25	107-295	403	116	2114	46 U.S.C. 12119 nt
		404	116	2114	316a

Statutes at Large—Continued

<i>Date</i>	<i>Chapter or Public Law</i>	<i>Section</i>	<i>Statutes at Large</i>		<i>U.S. Code (46 App. unless otherwise specified)</i>
			<i>Volume</i>	<i>Page</i>	
2003 Nov. 24	108-136	3527	117	1802	1280b

Reorganization Plans

<i>Year</i>	<i>Plan No.</i>	<i>Section</i>	<i>Statutes at Large</i>	
			<i>Volume</i>	<i>Page</i>
1949	6 .....	.....	63	1069
1950	21	201, 203, 204	64	1276
1961	7	101-105, 201, 301, 302	75	840, 842

House Calendar No. 61

109TH CONGRESS
1ST Session

H. R. 1442

[Report No. 109-170]

A BILL

To complete the codification of title 46, United States Code, ‘Shipping’, as positive law.

JULY 14, 2005

Reported with an amendment, referred to the House Calendar, and ordered to be printed