



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

April 16, 2012

The Honorable John Boehner
Speaker of the House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Enclosed for the consideration of Congress is draft legislation "To amend and enhance certain maritime programs of the Department of Transportation, and for other purposes."

The Maritime Administration Enhancement Act of 2012 implements programs to modernize the United States maritime industry, make it more competitive in the international maritime industry, and assist the maritime industry in order to support these efforts. Specifically, the legislation would:

Enhance Aid for the Department of Defense and Relief Efforts. The Maritime Administration (MARAD) proposes to modernize the Maritime Security Fleet Program by clarifying the terms for extending operating agreements in the program. The utility of these agreements to the U.S. Department of Defense would be enhanced by specifying that the primary consideration for determining priority for replacement of Maritime Security Program vessels is established by military requirements of the Secretary of Defense. The Maritime Administration also proposes that it be authorized to allow the use of National Defense Reserve Fleet vessels for civil contingency operations, when requested by State and local governments for foreign disaster relief and humanitarian assistance operations.

Protect the Environment. The Maritime Administration proposes to establish a Maritime Environment and Technology Assistance Program to identify, evaluate, demonstrate, and improve upon promising technologies that facilitate compliance with environmental laws and standards and share the findings with the public. The Maritime Administration also seeks authority to include transportation services that may reduce congestion on landside infrastructure in the definition of short sea transportation. Additionally, MARAD proposes authorization for non-monetary recognition awards that would be used to recognize the operation of U.S.-flag vessels in an environmentally friendly manner.

Promote the Maritime Industry. To achieve MARAD's promotional mission, the U.S. Department of Transportation proposes a variety of programs to increase awareness of the maritime industry and thereby aid recruitment efforts. Among these proposals is authority to give non-monetary recognition awards for significant achievements, such as transporting a significant share of their international cargo on U.S.-flag vessels. The Maritime Administration also seeks authority to donate items of historical value, other than vessels and real property, to various entities that have expressed interest, thereby raising awareness of the United States' maritime heritage.

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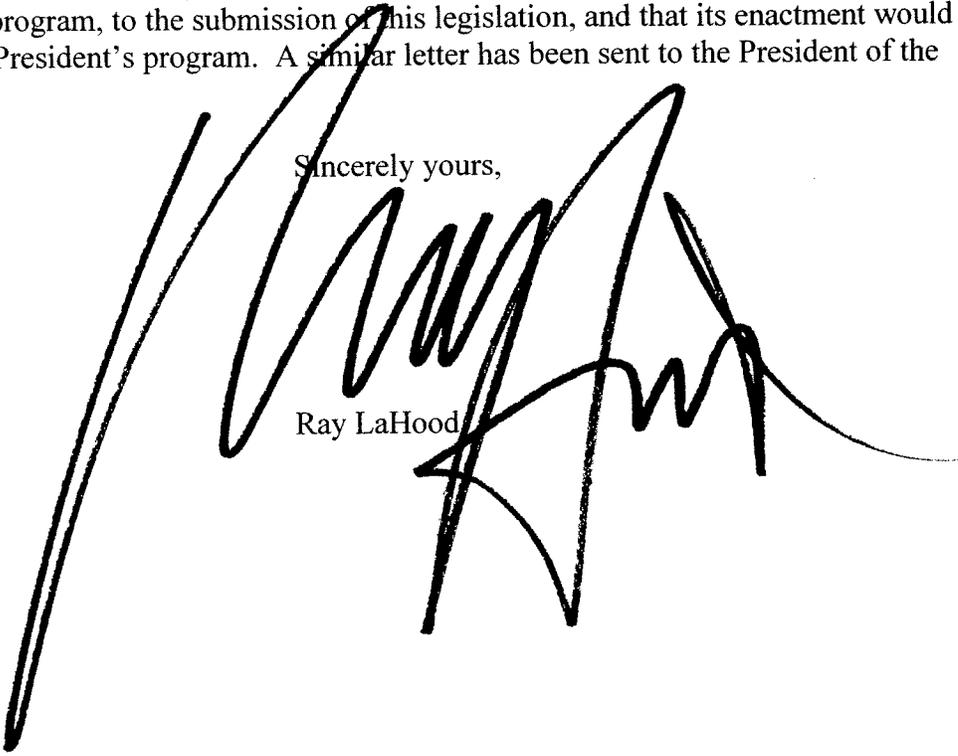
The Honorable John Boehner

Support the Maritime Industry. The Department proposes provisions to aid the U.S. maritime industry and keep it competitive in the global maritime economy. The Maritime Administration also seeks authorization to donate excess vessel fuel to state maritime academies for training purposes.

The Office of Management and Budget advises that it has no objection, from the standpoint of the Administration's program, to the submission of this legislation, and that its enactment would be in accord with the President's program. A similar letter has been sent to the President of the Senate.

Sincerely yours,

Ray LaHood

A large, stylized handwritten signature in black ink, appearing to read 'Ray LaHood', is written over the typed name and extends upwards and to the left across the 'Sincerely yours,' text.

Enclosure



THE SECRETARY OF TRANSPORTATION
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The Honorable Joseph R. Biden, Jr.
President of the Senate
Washington, DC 20510

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Sincerely yours,

Ray LaHood

Enclosure

A BILL

To amend and enhance certain maritime programs of the Department of Transportation,
and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of
America in Congress assembled,*

SECTION 1. Short Title; Table of Contents.

(a) **SHORT TITLE.**--This Act may be cited as the "Maritime Administration Enhancement Act of 2012".

(b) **TABLE OF CONTENTS.**--The table of contents for this Act is as follows:

Sec. 1. Short Title; Table of Contents.

TITLE I--MARITIME ADMINISTRATION AUTHORIZATION

- Sec. 101. Application of the Federal Acquisition Regulation.
- Sec. 102. Procurement of ship disposal.
- Sec. 103. Non-monetary recognition award authority.
- Sec. 104. Research and development.
- Sec. 105. Limitation of National Defense Reserve Fleet Vessels to those over 1,500 gross tons.
- Sec. 106. Donation of historical property.
- Sec. 107. Donation of excess fuel to Maritime Academies.
- Sec. 108. Disposal of surplus vessels.
- Sec. 109. Clarification of heading.
- Sec. 110. Authority to accept gifts and voluntary services.
- Sec. 111. Use of cost of education provided by student incentive payments.
- Sec. 112. Recovery of cost of education provided to USMMA graduates.
- Sec. 113. Reimbursement of educational costs by foreign students.
- Sec. 114. Transfer of vessels into the National Defense Reserve Fleet.
- Sec. 115. Amendments to National Defense Reserve Fleet.
- Sec. 116. Offshore LNG terminals for export of natural gas.
- Sec. 117. Authority to Waive Navy Reserve service obligations for officers serving on Department of Transportation vessels.
- Sec. 118. Reserve service obligations for State Academy graduates.
- Sec. 119. Service obligations for United States Merchant Marine Academy graduates.
- Sec. 120. Maritime and Environment Technology Assistance Program.

TITLE II--MARITIME SECURITY PROGRAM MODERNIZATION

- Sec. 201. Extension of Maritime Security Fleet Program.

TITLE I--MARITIME ADMINISTRATION AUTHORIZATION

SEC. 101. APPLICATION OF THE FEDERAL ACQUISITION REGULATION.

Section 3502(b) of Public Law 106-398-Appendix, approved October 30, 2000 (114 Stat. 1654A-490), the National Defense Authorization Act, Fiscal Year 2001 is amended by deleting the words "the enactment of this Act" and replacing them with the words "contract award".

SEC. 102. PROCUREMENT OF SHIP DISPOSAL.

Section 113(e)(15) of title 40, United States Code, is amended by--

(1) inserting the words "disposal for recycling and all contracts related thereto (including, but not limited to, contracts for towing, dry-docking, sale or purchase of services for recycling, or management of vessels during disposal)," after the words "charter, construction, reconstruction,";

(2) deleting the word "merchant" before the word "vessel or shipyard"; and

(3) inserting the words ", and the Federal Acquisition Regulation, 48 C.F.R. Chapter 1" after the words "under this subtitle".

SEC. 103. NON-MONETARY RECOGNITION AWARD AUTHORITY.

Section 109 of title 49, United States Code, is amended by inserting a new subparagraph (k) after subsection (j), as added by this Act, to read as follows:

"(k) NON-MONETARY AWARDS.--The Maritime Administrator may award nominal non-monetary items symbolic of recognition, on the basis of information and evidence deemed appropriate, to individuals or companies, judged as deserving of special recognition by reason of their outstanding contributions to the promotion, maintenance or improvement of the United States merchant marine. A Federal employee may not receive an award under this subsection."

SEC. 104. RESEARCH AND DEVELOPMENT.

Section 109(j)(2) of title 49, United States Code, as amended by this Act, is further amended by deleting subparagraph (E) and redesignating subparagraphs (F), (G), (H), and (I) as subparagraphs (E), (F), (G), and (H), respectively.

SEC. 105. LIMITATION OF NATIONAL DEFENSE RESERVE FLEET VESSELS TO THOSE OVER 1,500 GROSS TONS.

Section 57101(a) of title 46, United States Code, is amended by inserting "of 1,500 gross tons or more or such other vessels as the Secretary of Transportation shall determine are appropriate" after the word "Administration".

SEC. 106. DONATION OF HISTORICAL PROPERTY.

(a) IN GENERAL.--Chapter 571 of title 46, United States Code, is amended by inserting the following at the end:

“Sec. 57110. Maritime Administration donation authority

“(a) DONATION FOR HISTORICAL PURPOSES.--The Secretary of Transportation may convey the right, title, and interest of the United States in any property administered by the Maritime Administration, other than real estate or vessels, if the Secretary determines that such property is not needed by the Maritime Administration, and if the recipient--

“(1) is a public body or private organization not organized for profit;

“(2) agrees to hold the United States harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, lead paint, or other hazardous substances after conveyance of the property;

“(3) provides a description and explanation of the intended use of the property which has been approved by the Secretary;

“(4) has provided proof, as determined by the Secretary, of resources sufficient to accomplish the intended use set forth in paragraph (3) and maintain the property; and

“(5) agrees that when the recipient no longer requires the property for use as described in paragraph (3), at the discretion of the Secretary, the recipient will--

“(A) return the property to the Secretary at the recipient’s expense in the same condition as received, except for ordinary wear and tear; or

“(B) retain, sell or otherwise dispose of the property in a manner consistent with applicable law and subject to the Secretary’s approval of such action.

“(b) ADDITIONAL TERMS.--The Secretary may require any additional terms the Secretary considers appropriate.

“(c) REVERSION.--The Secretary shall include in any conveyance under this section terms under which all right, title, and interest is conveyed by the Secretary. The property conveyed shall, at the Secretary’s discretion, revert to the Government if the Secretary determines the property has been used for purposes other than those approved by the Secretary under subsection (a)(3).”.

(b) CONFORMING AMENDMENT.--The analysis of chapter 571 of title 46, United States Code, is amended by inserting the following after the item relating to section 57109:

“57110. Maritime Administration donation authority.”.

SEC. 107. DONATION OF EXCESS FUEL TO MARITIME ACADEMIES.

The text of section 51103(b)(1) of title 46, United States Code, is amended to read as follows:

(b) Property for Instructional Purposes.—

(1) In general.— The Secretary of Transportation may cooperate with and assist the institutions named in paragraph (2) by making vessels, fuel, shipboard equipment, and other marine equipment, owned by the United States Government and determined by the entity having custody and control of such property to be excess or surplus, available to those institutions for instructional purposes, by gift, loan, sale, lease, or charter on terms and conditions the Secretary considers appropriate. The consent of the Secretary of Navy shall be obtained with respect to any property from National Defense Reserve Fleet vessels, 50 U.S.C. App. § 1744, where such vessels are either Ready Reserve Force vessels or other National Defense Reserve Fleet vessels determined to be of sufficient value to the Navy to warrant their further preservation and retention.

SEC. 108. DISPOSAL OF SURPLUS VESSELS.

The text of section 548 of title 40, United States Code, is amended to read as follows:

“(a) **IN GENERAL.**--The Maritime Administration shall maintain and dispose of surplus vessels of 1,500 gross tons or more which the Administration determines to be merchant vessels or capable of conversion to merchant use and such other vessels as may be agreed upon by the Maritime Administration and the federal entity to which such other vessels belong. Such vessels may be maintained by the Maritime Administration at the National Defense Reserve Fleet sites or such other locations as may be agreed upon. The Maritime Administration may dispose of vessels of less than 1,500 gross tons but only after completion of the required utilization and donation screening by the General Services Administration.

“(b) **COST REIMBURSEMENT.**--The costs associated with receiving and maintaining vessels transferred from other federal entities shall be reimbursed by those entities and credited to the appropriations charged for such costs. Reimbursement for the costs of receiving and maintaining such vessels shall cease when the vessels are admitted to the National Defense Reserve Fleet site and title is accepted by the Maritime Administration.

“(c) **STATUS IN NATIONAL DEFENSE RESERVE FLEET.**--Notwithstanding section 11 of Public Law 79-321, approved March 8, 1946 (60 STAT. 41)(50 App. U.S.C. 1744), such vessels may become a non-retention part of the National Defense Reserve Fleet. Retention vessels must comply with the requirements of section 11(a) of Public Law 79-321.

“(d) **MEANS OF DISPOSAL.**--The vessels shall be disposed of in accordance with part F of subtitle V of title 46 and other laws authorizing the purchase of disposal

services, the sale for recycling or use, or other authorized disposal of such vessels. The proceeds of any such sale shall be distributed in accordance with the provisions of the National Maritime Heritage Act.”.

SEC. 109. CLARIFICATION OF HEADING.

(a) IN GENERAL.--The heading of section 57103 of title 46, United States Code, is amended to read as follows:

“Sec. 57103. Donation of Non-retention Vessels in the National Defense Reserve Fleet.”.

(a) CONFORMING AMENDMENT.--The item relating to section 57103 in the analysis of chapter 571 of title 46 is amended to read as follows:

“57103. Donation of Non-retention Vessels in the National Defense Reserve Fleet.”.

SEC. 110. AUTHORITY TO ACCEPT GIFTS AND VOLUNTARY SERVICES.

(a) IN GENERAL.--Chapter 503 of title 46, United States Code, is amended by inserting the following after section 50306:

“Sec. 50307. Maritime Administration gift acceptance authority

“(a) GIFT ACCEPTANCE AUTHORITY.--The Maritime Administrator may accept and use conditional or unconditional gifts of money or property for the benefit of the Maritime Administration.

“(b) VOLUNTARY SERVICES.--

“(1) IN GENERAL.-- The Maritime Administrator may accept a gift of services in carrying out the Administrator's duties and powers without regard to section 1342 of title 31. Such services shall not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

“(2) INCIDENTAL EXPENSES--The Administrator is authorized to provide for incidental expenses, including transportation, lodging, and subsistence, for volunteers who provide voluntary services under this subsection at rates authorized for employees of agencies under chapter 57 of title 5.

“(3) LIMITED TREATMENT AS FEDERAL EMPLOYEES.--An individual who provides voluntary services under this subsection shall not be considered an employee of the Federal Government by reason of service except for the purposes of the following provisions of law:

“(A) Chapter 81 of Title 5, relating to compensation for work-related injuries;

“(B) Chapter 171 of Title 28, and any other Federal statute relating to tort liability; and
“(C) Chapter 11 if title 18, relating to conflicts of interest.”.

(b) CONFORMING AMENDMENT.--The analysis of chapter 503 of title 46, United States Code, is amended by inserting the following after the item relating to section 50306:

“50307. Maritime Administration gift acceptance authority.”.

SEC. 111. USE OF COST OF EDUCATION PROVIDED BY STUDENT INCENTIVE PAYMENTS.

Section 51509 of title 46, United States Code, is amended by inserting the following at the end:

“(h) DEPOSIT OF CERTAIN INCENTIVE PAYMENTS.--A student incentive payment recovered, returned or reimbursed to the Federal Government shall be deposited into the then current Operations and Training appropriation for the Maritime Administration and used solely for future student incentive payments. Amounts received in accordance with this section shall remain available until expended.

SEC. 112. RECOVERY OF COST OF EDUCATION PROVIDED TO USMMA GRADUATES.

Section 51306 of title 46, United States Code, is amended by inserting the following at the end:

“(g) USE OF RECOVERED COSTS.--The Secretary of Transportation may deposit into, retain and expend from the Operations and Training account of the Maritime Administration all funds recovered for the cost of education provided as well as any associated administrative and litigation costs received from individuals who have failed to comply with their commitment agreements. Such funds shall be expended solely for purposes furthering the mission of the U.S. Merchant Marine Academy, as determined by the Secretary of Transportation, and shall remain available until expended.”.

SEC. 113. REIMBURSEMENT OF EDUCATIONAL COSTS BY FOREIGN STUDENTS.

Section 51304 of title 46, United States Code, is amended by inserting the following at the end:

“(e) USE OF REIMBURSED COSTS.--Any funds received in reimbursement under this section shall be credited back to the then current appropriation for the Academy and shall be used solely for the Academy. Amounts received under this section shall remain available for obligation until expended.”.

SEC. 114. TRANSFER OF VESSELS INTO THE NATIONAL DEFENSE RESERVE FLEET.

Section 57101 of title 46, United States Code, is amended by inserting the following at the end:

“(c) **AUTHORITY OF FEDERAL ENTITIES TO TRANSFER VESSELS.**--All federal entities are authorized to transfer vessels to the National Defense Reserve Fleet without reimbursement subject to the approval of the Secretary of Transportation and Secretary of the Navy with respect to Ready Reserve Force vessels and the Secretary of Transportation with respect to all other vessels.”.

SEC. 115. AMENDMENTS TO NATIONAL DEFENSE RESERVE FLEET.

Sections 11(c)(1)(B)-(D) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744(c)(1)(B)-(D)) are amended to read as follows:

“(B) activate and conduct sea trials on each vessel at a frequency that is deemed necessary;

“(C) maintain and adequately crew, as necessary, in an enhanced readiness status those vessels that are scheduled to be activated in five (5) or less days;

“(D) locate those vessels that are scheduled to be activated near embarkation ports specified for those vessels; and”.

SEC. 116. OFFSHORE LNG TERMINALS FOR EXPORT OF NATURAL GAS.

(a) **AMENDED DEFINITION.**--Section 3(9) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(9)(A)) is amended by adding the words, “or from any state” after the words, “to any state”.

(b) **PRIORITY IN LICENSING.**--Section 4(i) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(i)) is amended to read as follows:

“(i) To promote the security of the United States, the Secretary shall give top priority to the processing of a license under this chapter for liquefied natural gas facilities that will be supplied with liquefied natural gas by United States flag vessels or that will supply liquefied natural gas to United States flag vessels.

SEC. 117. AUTHORITY TO WAIVE NAVY RESERVE SERVICE OBLIGATIONS FOR OFFICERS SERVING ON DEPARTMENT OF TRANSPORTATION VESSELS.

Section 8103(g) of Title 46, United States Code, is amended by adding the following at the end:

“The Maritime Administrator is authorized to waive this requirement at his or her discretion for vessels in the National Defense Reserve Fleet.”.

SEC. 118. RESERVE SERVICE OBLIGATIONS FOR STATE ACADEMY GRADUATES.

(a) CLARIFICATION.--Section 51509(d)(2) of title 46, United States Code, is amended by deleting “license” and substituting “Coast Guard credential with a license endorsement” each place it appears.

(b) TWIC CREDENTIAL.--Section 51509(d)(3) of title 46, United States Code, is amended to read as follows:

“(3) maintain a valid Transportation Workers Identification Credential (TWIC) and maintain a valid Coast Guard credential with a license endorsement as an officer in the merchant marine of the United States and for at least 6 years after graduation from the academy, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;”.(c) SERVICE OBLIGATION.--Section 51509(d)(4) of title 46, United States Code, is amended to read as follows:(4) apply for and, if tendered, accept, an appointment as a commissioned officer in the Navy Reserve (including the Strategic Sealift Officer Program, Navy Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve and meet the participation requirements of such reserve units and remain in good standing for at least 8 years after the date of commissioning;

SEC. 119. SERVICE OBLIGATIONS FOR UNITED STATES MERCHANT MARINE ACADEMY GRADUATES.

(a) TERMINOLOGY CHANGE.--Section 51306(a)(2) of title 46, United States Code, is amended by striking “license” and inserting “Coast Guard credential with a license endorsement”.

(b) TWIC CREDENTIAL.--Section 51306(a)(3) of title 46, United States Code, is amended by inserting “maintain a valid Transportation Worker Identification Credential (TWIC)” at the beginning of the paragraph, and by striking the word “license” and substituting “Coast Guard credential with a license endorsement”.

(c) PARTICIPATION REQUIREMENT.--Section 51306(a)(4) of title 46, United States Code, is amended by inserting “and meet the participation requirements of such reserve units and remain in good standing” following “to serve”.

(d) LENGTH OF SERVICE.--Section 51306(a)(4) of title 46, United States Code, is amended by striking “6 years after graduation from the Academy” and substituting “8 years after the date of commissioning”, and by striking “Merchant Marine Reserve” and substituting “Strategic Sealift Officer Program”.

SEC. 120. MARITIME AND ENVIRONMENT TECHNOLOGY ASSISTANCE PROGRAM.

(a) IN GENERAL.--Chapter 503 of title 46, United States Code, is amended by inserting the following after new section 50307:

“Sec. 50308. Maritime and Environment Technology Assistance Program

“(a) IN GENERAL.--The Secretary of Transportation may establish a green ships program to engage in the environmental study, research, development, assessment and deployment of emerging marine technologies and practices related to the marine transportation system through the use of public vessels under the control of the Maritime Administration or private vessels under United States registry, and through partnerships and cooperative efforts with academic, public, and non-governmental entities and facilities. The program shall -

“(1) identify, study, evaluate, test, demonstrate, or improve emerging marine technologies and practices, likely to achieve environmental improvements through reductions of air emissions, water emissions, other ship discharges, or increasing fuel economy, use of alternative fuels and alternative energy (including the use of shore power) or control of aquatic invasive species; and

“(2) be coordinated with the Environmental Protection Agency, the United States Coast Guard, and other Federal, or State, local or Tribal agencies, as appropriate. Coordination may include activities associated with development and/or approval of validation and testing regimes and certification or validation of emerging technologies or practices that demonstrate significant environmental benefits.

“(b) FUNDING.-In carrying out the program, the Secretary of Transportation may apply such funds as may be appropriated and such funds or resources as may become available by gift, cooperative agreement, or otherwise, including the collection of fees, for the purposes of the program and its administration. Any fees collected under this section shall be credited to the Maritime Administration’s Operations and Training appropriation, to remain available until expended to carry out the Secretary’s activities for which the fees were collected.”.

(b) CONFORMING AMENDMENT.--The analysis of chapter 503 of title 46, United States Code, is amended by inserting the following at the end:

"50308. Maritime and Environment Technology Assistance Program."

TITLE II. MARITIME SECURITY FLEET PROGRAM

SEC. 201. EXTENSION OF MARITIME SECURITY FLEET PROGRAM.

(a) AMENDED DEFINITIONS .--Section 53101 of title 46, United States Code, is amended--

(1) by amending paragraph (4) to read as follows:

“(4) FOREIGN COMMERCE.--The term 'foreign commerce' means--

“(A) commerce or trade between the United States, its territories or possessions, or the District of Columbia, and a foreign country; and

“(B) commerce or trade between foreign countries.”;

(2) by striking paragraph (5);

(3) by redesignating paragraphs (6) through (13) as (5) through (12), respectively; and

(4) by amending paragraph (5), as redesignated by this Act, to read as follows:

“(5) PARTICIPATING FLEET VESSEL.--The term 'participating fleet vessel' means any vessel that--

“(A) on October 1, 2015--

“(i) meets the requirements of paragraph (1), (2), (3), or (4) of section 53102(c); and

“(ii) is less than 20 years of age if the vessel is a tank vessel, or is less than 25 years of age for all other vessel types; and

“(B) on December 31, 2014, is covered by an operating agreement under this chapter.”.

(b) VESSEL ELIGIBILITY.--Section 53102(b) of title 46, United States Code, is amended to read as follows:

“(b) VESSEL ELIGIBILITY.--A vessel is eligible to be included in the Fleet if--

“(1) the vessel meets the requirements of paragraph (1), (2), (3), or (4) of subsection (c);

“(2) the vessel is operated (or in the case of a vessel to be constructed, will be operated) in providing transportation in foreign commerce;

“(3) the vessel is self-propelled and--

“(A) is a tank vessel that is 10 years of age or less on the date the vessel is included in the Fleet; or

“(B) is any other type of vessel that is 15 years of age or less on the date the vessel is included in the Fleet;

“(4) the vessel--

“(A) is suitable for use by the United States for national defense or military purposes in time of war or national emergency, as determined by the Secretary of Defense; and

“(B) is commercially viable, as determined by the Secretary; and

“(5) the vessel--

“(A) is a United States-documented vessel; or

“(B) is not a United States-documented vessel, but--

“(i) the owner of the vessel has demonstrated an intent to have the vessel documented under chapter 121 of this title if it is included in the Fleet; and

“(ii) at the time an operating agreement for the vessel is entered into under this chapter, the vessel is eligible for documentation under chapter 121 of this title.”.

(c) EXTENSION AND AWARD OF OPERATING AGREEMENTS.--Section 53103 of title 46, United States Code, is amended--

(1) by amending subsection (b) to read as follows:

“(b) EXTENSION OF EXISTING OPERATING AGREEMENTS.--

“(1) OFFER TO EXTEND.--Not later than 60 days after the date of enactment of the Maritime Administration Authorization Act for Fiscal Year 2013, the Secretary shall offer, to an existing contractor, to extend, through September 30, 2025, an operating agreement that is in existence on the date of enactment of that Act. The terms and conditions of the extended operating agreement shall include terms and conditions authorized under this chapter, as amended from time to time.

“(2) TIME LIMIT.--An existing contractor shall have not later than 120 days after the date the Secretary offers to extend an operating agreement to agree to the extended operating agreement.

“(3) SUBSEQUENT AWARD.--The Secretary may award an operating agreement to an applicant that is eligible to enter into an operating agreement for fiscal years 2016 through 2025 if the existing contractor does not agree to the extended operating agreement under paragraph (2); and (2) by amending subsection (c) to read as follows:

“(c) PROCEDURE FOR AWARDED NEW OPERATING AGREEMENTS.--

The Secretary may enter into a new operating agreement with an applicant that meets the requirements of section 53102(c) (for vessels that meet the qualifications of section 53102(b)) on the basis of priority for vessel type established by military requirements of the Secretary of Defense. The Secretary shall allow an applicant at least 30 days to submit an application for a new operating agreement. After consideration of military requirements, priority shall be given to an applicant that is a U.S. citizen under section 50501 of this title. The Secretary may not approve an application without the consent of the Secretary of Defense. The Secretary shall enter into an operating agreement with the applicant or provide a written reason for denying the application.”.

(d) TERMINATION OF OPERATING AGREEMENT.--Section 53104 of title 46, United States Code, is amended--

(1) in subsection (c), by striking paragraph (3); and

(2) in subsection (e), by striking “an operating agreement under this chapter is terminated under subsection (c)(3)”.

(e) TRANSFER OF OPERATING AGREEMENTS AND REPLACEMENT VESSELS.--Section 53105 of title 46, United States Code, is amended--

(1) by amending subsection (e) to read as follows:

“(e) TRANSFER OF OPERATING AGREEMENTS.-- A contractor under an operating agreement may transfer the agreement (including all rights and obligations under the operating agreement) to any person that is eligible to enter into the operating agreement under this chapter if the Secretary and the Secretary of Defense determine that the transfer is in the best interests of the United States. A transaction shall not be considered a transfer of an operating agreement if the same legal entity with the same vessels remains the contracting party under the operating agreement.”; and

(2) by amending subsection (f) to read as follows:

“(f) REPLACEMENT VESSELS.--A contractor may replace a vessel under an operating agreement with another vessel that is eligible to be included in the Fleet under section 53102(b), if the Secretary, in conjunction with the Secretary of Defense, approves the replacement of the vessel.”.

(f) ANNUAL PAYMENTS.--Section 53106 of title 46, United States Code, is amended--

(1) in subsection (a)(1), by striking subparagraph (C) and inserting the following:

“(C) \$3,100,000 for each of fiscal years 2012, 2013, 2014, 2015, 2016, 2017, and 2018;

“(D) \$3,500,000 for each of fiscal years 2019, 2020, and 2021; and

“(E) \$3,700,000 for each of fiscal years 2022, 2023, 2024, and 2025.”;

(2) in subsection (c)(3)(C), by striking “a LASH vessel” and inserting “a lighter aboard ship vessel”; and

(3) by striking subsection (f).

(g) EMERGENCY PREPAREDNESS.--Section 53107(b)(1) of title 46, United States Code, is amended to read as follows:

“(1) IN GENERAL.--An Emergency Preparedness Agreement under this section shall require that a contractor for a vessel covered by an operating agreement under this chapter shall make commercial transportation resources (including services) available, upon request by the Secretary of Defense during a time of war or national emergency, or whenever the Secretary of Defense determines that it is necessary for national security or contingency operation (as that term is defined in section 101 of Title 10, United States Code).”.

(h) REPEAL OF AGE RESTRICTION SPECIAL RULE --Section 53109 of title 46, United States Code, is repealed.

(i) AUTHORIZATION OF APPROPRIATIONS .--Section 53111 of title 46, United States Code, is amended--

(1) by striking "and" at the end of paragraph (2); and

(2) by striking paragraph (3) and inserting the following:

“(3) \$186,000,000 for each of fiscal years 2012, 2013, 2014, 2015, 2016, 2017, and 2018;

“(4) \$210,000,000 for each of fiscal years 2019, 2020, and 2021; and

“(5) \$222,000,000 for each fiscal year thereafter through fiscal year 2025.”.

(j) EFFECTIVE DATE OF AMENDMENTS.--The amendments made by--

(1) paragraphs (2), (3), and (4) of section 201(a) of Title II of this Act take effect on December 31, 2014; and

(2) section 8(f)(2) of this Act take effect on December 31, 2014.

(k) CONFORMING AMENDMENT.--The analysis of chapter 531 of title 46, United States Code, is amended--

(1) by striking the item relating to section 53109.

SECTION-BY-SECTION ANALYSIS

SECTION 1. Short Title; Table of Contents.

Section 1 states the title of the Act as the “Maritime Administration Enhancement Act of 2012”. It also contains a table of contents setting forth the provisions contained in the bill.

TITLE I--MARITIME ADMINISTRATION AUTHORIZATION

SEC. 101. Application of Federal Acquisition Regulations.

Section 101 would clarify that the appropriate version of the Federal Acquisition Regulations to be applied to a contract for purchase of recycling services is the version in effect at the time that the contract is awarded, rather than the version that existed at the date of enactment of Public Law 106-398.

SEC. 102. Procurement of Ship Disposal.

Section 102 would include ship disposal and ship disposal related contracts in MARAD’s exemption from the federal procurement law. It would also eliminate the qualifier “merchant” before the word “vessels,” making it consistent with MARAD’s disposal authority for “merchant vessels and vessels capable of being converted to merchant use,” under section 548 of title 40, United States Code. The provision would also clarify that MARAD is exempt from the Federal Property Administrative Services Act and the Federal Acquisition Regulation, which is necessary because federal acquisition laws have expanded beyond the Federal Property Administrative Services Act. The greater flexibility created by this provision would facilitate efficient disposal for recycling of vessels at the Suisun Bay Reserve Fleet and other fleets. For example, the provision would make clear that MARAD may use a general agent to acquire drydocking services, hull cleaning, ship recycling services and towing services. This would greatly assist in expediting acquisition of such services in exigent circumstances.

SEC. 103. Non-monetary Recognition Award Authority.

Section 103 would authorize MARAD to provide non-monetary recognition awards in support of the United States merchant marine. MARAD’s Office of Environment, for example, would be able to confer “Green Awards” on ship owners and operators who operate and/or maintain their vessels in a manner beneficial to the environment. These non-monetary awards would be based on objective and comparable subjective factors. The provision would enable MARAD to encourage practices beneficial to our Nation’s economic and national security, as well as encourage the operation of U.S.-flag vessels in an environmentally friendly manner. Employees of the Federal Government would not be eligible to receive such non-monetary awards.

SEC. 104. Research and Development.

Section 104 would eliminate the prohibition against using appropriated funds for research and development, unless specifically authorized by law. This prohibition has resulted in uncertainty regarding what constitutes research and development. Specifically, the prohibition affects development incident to necessary research performed by faculty at the United States Merchant Marine Academy (USMMA) in connection with maintaining their professional qualifications. The prohibition could also negatively affect the development of cooperative agreements for research and development related to environmental and other marine program issues in which MARAD is an interested party.

SEC. 105. Limitation of National Defense Reserve Fleet Vessels to Those Over 1,500 Gross Tons.

Section 105 would clarify that vessels in the National Defense Reserve Fleet (NDRF) are to be 1,500 gross tons or greater and those vessels that the Secretary determines are appropriate to be included in the NDRF. This clarification is consistent with MARAD's current responsibility for disposing of vessels, as the same gross tonnage figure is used to describe that authority. Additionally, the provision would provide MARAD with the flexibility to more efficiently dispose of vessels smaller than 1,500 gross tons through the vessel sales processes provided by the General Services Administration. The provision would also give the Secretary the option of determining the best practical options for the disposal of smaller vessels.

SEC. 106. Donation of Historical Property.

Section 106 would provide the Secretary with limited authority to donate property for historical purposes, other than vessels and real property, belonging to MARAD, provided that the Secretary determines that such property is not needed. Various historical groups have expressed an interest in obtaining documents and maritime artifacts in MARAD's possession pertaining to vessels that have been recycled. The provision would permit MARAD to donate equipment, items of historical value, and other tangible items from vessels no longer needed by the Agency instead of providing these items as a long-term loan. Property no longer used for the purpose for which it was conveyed would revert to the Secretary, at the Secretary's discretion. Donations made pursuant to this authority would advance the objectives of the National Historic Preservation Act.

SEC. 107. Donation of Excess Fuel to Maritime Academies.

Section 107 would authorize MARAD, with the concurrence of the owner of the fuel or excess equipment, to donate excess fuel on NDRF vessels to the State Maritime Academies to carry out training. In the case of Ready Reserve Force Vessels, the owner of the vessels and fuel would be the Secretary of Navy. The State Maritime Academies increasingly suffer from growing budget shortfalls that affect their ability to purchase fuel for use aboard training vessels. Authorizing MARAD to donate excess fuel to these maritime education institutions for purposes of carrying out training of officers for the merchant marine would foster the maintenance of a U.S. merchant marine manned by qualified personnel.

SEC. 108. Disposal of Surplus Vessels.

Section 108 would enhance MARAD's authority to efficiently dispose of surplus vessels by allowing MARAD to enter into agreements with other Federal agencies to become the disposal agent for their vessels, regardless of the size and classification of the vessels. Currently, MARAD is the exclusive vessel disposal authority within the Federal Government for merchant type vessels or vessels capable of conversion to merchant type vessels that are over 1,500 gross tons. Federal agencies, including the U.S. Coast Guard, have approached MARAD expressing an interest in having MARAD dispose of their ships. MARAD has the expertise to properly and efficiently arrange for such disposals, however, the current statute only authorizes MARAD to dispose of surplus vessels over a certain size and of a certain type. Expanding MARAD's disposal authority to include smaller and non-surplus vessels would enable MARAD to maintain and dispose of more vessels, as the need arose, and at the request and agreement of other Federal entities. MARAD would be authorized to dispose of vessels of less than 1,500 gross tons only after completion of the required utilization and donation screening by the General Services Administration.

SEC. 109. Clarification of Heading.

Section 109 would change the title of section 57103 of title 46, United States Code, from "Sale of Obsolete Vessels in National Defense Reserve Fleet" to "Donation of Non-Retention Vessels in the National Defense Reserve Fleet." This amendment would clarify section 57103's purpose, which does not include authority for the sale of vessels. This would be a purely technical correction.

SEC. 110. Authority to Accept Gifts and Voluntary Services.

Section 110 would allow MARAD to accept gifts of service in addition to gifts of service which may be accepted for the benefit of the United States Merchant Marine Academy (USMMA). Currently, the Secretary of Transportation is authorized to accept gifts of services in carrying out aviation duties, and MARAD may accept gifts of services only for the USMMA. As Federal Government budgets become increasingly tightened, it would be beneficial to allow MARAD to accept gifts of services that do not result in the replacement of Federal employees and inherently Governmental functions. For example, this authority would allow MARAD to accept volunteer services during national emergencies. MARAD would only be able to accept gifts of service when such acceptance is determined to be appropriate by the Maritime Administrator.

SEC. 111. Use of Cost of Education Provided by Student Incentive Payments.

Section 111 would allow MARAD to deposit the cost of student incentive payments (SIP) recovered from State academy cadets/graduates who have failed to comply with their service obligations into MARAD's Operations and Training appropriation to use for future student incentive payments. Although the Administration may currently recoup the cost of SIP paid to State maritime academy students who do not fulfill their service obligation, funds

recouped are placed in the Treasury's miscellaneous receipts fund. This provision would allow MARAD to use (as no-year money) the money recouped for future SIP payments, possibly providing a larger funding source for SIP payments and greater incentive for enrollment in the program. MARAD has begun the initial process to recoup SIP funds from cadets who have recently defaulted, and will be anticipating approximately \$350,000 from about 18 students.

SEC. 112. Recovery of Cost of Education Provided to USMMA Graduates.

Although the Administration may currently recoup the cost of education for USMMA students who do not fulfill their service obligation, funds recouped are placed in the Treasury's miscellaneous receipts fund. Section 112 would allow MARAD to use (as no-year money) the money recouped. These funds could then be used by MARAD to further the mission of USMMA to educate U.S. merchant mariners, the purpose for which the funds were originally appropriated. MARAD is currently processing the recoupment related to five USMMA students, approximately totaling between \$700,000 and \$1,000,000.

SEC. 113. Reimbursement of Educational Costs by Foreign Students.

Section 113 would provide MARAD with the authority to recover and retain fees received for the cost of education of foreign students at the USMMA. Although the Administration is charged with recouping the cost of educating foreign students at the USMMA, funds recouped are placed in the Treasury's miscellaneous receipts fund. This provision would allow MARAD to use the money recouped (as no-year money) for purposes consistent with the mission of the USMMA. There are currently 25 foreign students, for which the total billed this academic year is \$189,000.

SEC. 114. Transfer of Vessels into the National Defense Reserve Fleet.

When the Coast Guard was transferred to the Department of Homeland Security, the statute authorizing the armed forces to transfer vessels to the Secretary of Transportation was amended by deleting reference to the "Secretary of Transportation" and inserting references to the "Secretary of the Department of Homeland Security." Section 114 would clarify MARAD's authority to receive vessels from the armed services and other Federal entities. MARAD has been approached by other agencies with regard to disposal of their obsolete vessels, and this clarification would enhance the Administration's ability to efficiently dispose of obsolete Government vessels.

SEC. 115. Amendments to National Defense Reserve Fleet.

Section 115 would provide MARAD with flexibility in determining when to conduct activations and sea trials of vessels in the NDRF. This would give MARAD the flexibility to determine what is necessary to maintain each NDRF vessel's mobilization and readiness status. Currently, statute specifies the exact number of days necessary for readiness and the number of months for conduct of sea trials. This amendment would allow MARAD to determine the

requirements necessary to maintain vessel readiness, thus maximizing funding while ensuring readiness in accord with Department of Defense readiness needs.

SEC. 116. Offshore LNG terminals for Export of Natural Gas.

Section 118 would authorize MARAD to issue licenses for offshore Liquid Natural Gas (LNG) terminals for the export of natural gas or oil. MARAD currently has authority to issue licenses for offshore LNG terminals for the import of natural gas or oil. Expanding MARAD's authority to licenses for LNG terminals used for export would provide a safe and secure method for the export of emerging natural gas markets and would benefit U.S. energy companies. This amendment could result in increased revenue for U.S. exporters and foster employment for the U.S.-flag fleet. The Department of Energy (DOE) and the U.S. Coast Guard concur with the change to the Deepwater Port Act. It is anticipated that there would be no conflict between the proposed amendment of section 1502(9)(A) and DOE's current authority over the export of natural gas under section 3 of the Natural Gas Act, 15 USC 717b. MARAD would have authority to license facilities used for natural gas exports from deepwater ports, while DOE's authority would apply to the authorization of the export of natural gas as a commodity. This distinction between authority over export facilities and authority over exports of natural gas as a commodity is consistent with current law affecting exports of natural gas from onshore LNG terminals.

In the case of onshore LNG terminals, the Federal Energy Regulatory Commission (FERC) presently has exclusive jurisdiction to license the facilities, while DOE has jurisdiction to authorize export of the commodity. DOE and FERC have developed a complementary working relationship that expedites the review of applications that are based on a common set of facts. It is anticipated that a similar working relationship would be developed with MARAD should the proposed amendment of section 1502(9)(A) be enacted.

SEC. 117. Authority to Waive Navy Reserve Service Obligations for Officers Serving on Department of Transportation Vessels.

Section 117 would provide the Maritime Administrator with flexibility in enforcing the requirement that a deck or engineer officer aboard an NDRF vessel be a member of the Navy Reserve. Providing the Maritime Administrator with the authority to waive this requirement would give MARAD the discretion to waive the requirement in instances where it is determined not to be appropriate, thus facilitating crewing necessities aboard NDRF vessels.

SEC. 118. Reserve Service Obligations for State Academy Graduates.

Section 118 would assist MARAD in enforcing and fostering the performance of service obligations entered into by State Academy graduates. The amendment would also clarify the intent of the requirement that after accepting a reserve appointment, the individual must meet all participation requirements and remain in good standing in the reserves. Lastly, the provision would change the reference to the Navy program in which the individual is to participate to

accurately reflect the current name of the program, namely the Strategic Sealift Officer Program.

SEC. 119. Service Obligation for United States Merchant Marine Academy Graduates.

Section 119 would assist MARAD in enforcing and fostering the performance of service obligations entered into by graduates of the USMMA. The amendment would also clarify the intent of the requirement that after accepting such a reserve appointment, the individual must meet all participation requirements and remain in good standing in the reserves. This requirement would enhance MARAD's ability to assist the Navy in enforcing compliance with reserve participation requirements. The amendment would clarify that a graduate must maintain a valid Transportation Worker Identification Card (TWIC) as part of the license endorsement requirement. Without a valid TWIC card, graduates would be limited in the types of vessels aboard which they could serve. The amendment would change the reference to the former Merchant Marine Reserve Navy program to that of the current program, the Strategic Sealift Officer Program. The amendment would also update terminology to match recent changes made by the Coast Guard when it discontinued issuing licenses and commenced issuing merchant mariner credentials.

SEC. 120. Maritime and Environment Technology Assistance Program.

Section 120 would create a program that seeks to identify, evaluate, demonstrate and improve upon promising technologies that facilitate compliance with United States and international environmental laws and standards, and disseminate the results to the public. The program would use MARAD vessels as analysis and testing platforms and also utilize partnership and cooperative efforts with academic, public and non-governmental entities. Proving how effective certain technologies are is likely to be economically valuable to vessel operators, therefore evaluating developing technology should prove to be a very cost-effective way to encourage technology adoption by industry. The provision would also allow MARAD to collect fees for the purposes of the program and its administration.

TITLE II--MARITIME SECURITY PROGRAM MODERNIZATION

SEC. 201. Extension of Maritime Security Fleet Program.

Section 201 would authorize the Secretary to extend existing operating agreements in the Maritime Security Program through September 30, 2025. Currently, the existing agreements are renewed automatically on a yearly basis through fiscal year 2015, subject to the availability of appropriations. For those operating agreements where the contractor does not wish to enter into an extension, the Secretary would be authorized to award the operating agreement to a new contractor on the basis of military need for the new vessel in conjunction with the Secretary of Defense.

Section 201 would also clarify the procedure for awarding new MSP Operating Agreements. It would specify that primary consideration for determining priority for the award of new Agreements would be based on vessel type as established by military requirements of the Secretary of Defense. After consideration of military requirements, priority would be given to applicants that are U.S. citizens under section 50501 of title 46, United States Code.

Section 201 would authorize the requested appropriations for the Maritime Security Program for years 2016 through 2025. The requests are as follows: \$186 million per year for years 2012 through 2018; \$210 million per year in years 2019 through 2021; and \$222 million per year in years 2022 through 2025. Additionally, this provision would authorize the requested appropriations to escalate payments per vessel per year for the years 2016 through 2025. The requests are as follows: \$3.1 million for each vessel for each fiscal year 2016 through 2018; \$3.5 million for each vessel for each fiscal year 2019 through 2021; and \$3.7 million for each vessel for each fiscal year 2022 through 2025. The higher payments spread over ten years are necessary to induce these militarily useful vessels to remain under United States flag and contribute to the United States economy and jobs.

This provision would also clarify the definition for foreign commerce in chapter 531 of title 46, United States Code, by eliminating an obsolete restriction on foreign-to-foreign trade that was originally used in the operating-differential subsidy program.

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