

Calendar No. 505

115TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 115-292

MARITIME AUTHORIZATION AND
ENHANCEMENT ACT FOR FISCAL YEAR 2019

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2717



JULY 9, 2018.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

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

R E P O R T

[To accompany S. 2717]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2717) to reauthorize provisions relating to the Maritime Administration, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of this legislation is to do the following: support national defense and the United States Merchant Marine by authorizing the Maritime Administration (MARAD) for fiscal year (FY) 2019, including the National Security Multi-Mission Vessel Program; implement Department of Transportation (DOT) Office of Inspector General (OIG) recommendations to improve protections and incident reporting related to sexual assault and harassment; improve merchant mariner training for cadets by providing additional opportunities for on-the-job experience via the Sea Year program and by supporting State Maritime Academy training vessels; and create new opportunities for domestic ship recycling by streamlining the import process.

BACKGROUND AND NEEDS

MARAD was established in 1950 to foster, promote, and develop the merchant marine industry of the United States. MARAD, an operating administration within the DOT, is tasked with the fol-

lowing: administering the Maritime Security Program (MSP) to support 60 U.S.-flag vessels in the movement of cargo on international waters, thereby supporting military sealift capacity in times of war or national emergency; managing the Ready Reserve Force, funded by the Department of Defense; managing disposal of the National Defense Reserve Fleet (NDRF) when ships are no longer deemed useful for defense or missions; promoting U.S.-flag vessels by monitoring cargo preference requirements; overseeing the U.S. Merchant Marine Academy (USMMA) to educate future U.S. mariners; administering loan and grant programs, including the Maritime Loan Guarantee Program (Title XI Program) and Assistance to Small Shipyards Program; promoting port infrastructure development and congestion mitigation in the transportation system through education and coordination; informing the Department of Homeland Security on the availability of coastwise-qualified vessels supporting State maritime academies; and other functions.

THE UNITED STATES MERCHANT MARINE ACADEMY (USMMA) AND
STATE MARITIME ACADEMIES

Overseen by MARAD, the USMMA is a Federal service academy that has been training merchant mariners for more than 70 years, offering baccalaureate degrees specializing in engineering and maritime transportation. In exchange for a tuition waiver and room and board, a graduate incurs certain service obligations. On June 23, 2016, the Middle States Commission on Higher Education (MSCHE) placed the USMMA's accreditation under warning status due to the USMMA's failure to meet several of the MSCHE's accreditation standards.¹ One standard was related to sexual misconduct response provisions, and the remaining issues were related to independence in governance, budgeting, and administrative functions.

SEXUAL ASSAULT AND SEXUAL HARASSMENT PREVENTION

The Committee included provisions in the National Defense Authorization Act (NDAA) for FY 2009 that require the Secretary of Transportation (Secretary) and the USMMA to implement policies that would address sexual assault and harassment at the USMMA.² An October 2014 DOT Inspector General (IG) report noted deficiencies in the USMMA's effort.³ All nine of the report's recommendations have been resolved and closed, but student surveys, focus group results, and accreditation board findings have caused increased focus on these sexual assault and harassment issues at the USMMA.

In response, the Committee included provisions in the NDAA for FY 2018⁴ requiring MARAD to ensure each student participating in the Sea Year program is provided or has access to a functional

¹The Middle States Commission on Higher Education (MSCHE), "Statement of Accreditation Status." (<http://www.msche.org/Documents/SAS/494/Statement%20of%20Accreditation%20Status.htm>).

²P.L. 110-417.

³U.S. Department of Transportation, "Better Program Management and Oversight are Required for USMMA's Efforts to Address Sexual Assault and Harassment," 2014. (<https://www.oig.dot.gov/sites/default/files/USMMA%20Sexual%20Assault%20and%20Sexual%20Harassment%20Audit%20Report%5E10-23-14.pdf>).

⁴P.L. 115-91.

satellite communication device. The law prohibits the denial of the use of such device whenever the student determines that use is necessary to prevent or report sexual harassment or assault. The NDAA for FY 2018 also requires actions at the USMMA to address sexual harassment, dating violence, domestic violence, sexual assault, and stalking. These actions include minimum training requirements for staff, minimum procedures for handling reports, minimum requirements to combat retaliation, minimum training requirements for cadets, requirements for sexual assault response coordinators, access to an emergency helpline, requirements for protection of USMMA cadets onboard commercial vessels, and training requirements for sexual assault investigators.

In March 2018, the DOT IG reported on the effectiveness of the USMMA's Sexual Assault Prevention and Response program.⁵ They found that MARAD and the USMMA have made progress implementing recommendations from past studies and action plans, but have missed target dates and lack a risk-based approach to prioritization. The USMMA reported completion of 62 of 138 recommendations derived from past studies and action plans, including those necessary to maintain its accreditation. The report found that the USMMA's lack of full compliance with its procedures, particularly for sexual harassment, limits its ability to respond to incidents and report to Congress. For example, the USMMA lacks documentation related to reports of sexual harassment, which impacts its ability to provide survivor services and accurately assess its progress in addressing sexual harassment. The DOT IG made recommendations to improve the program's effectiveness.

The National Security Multi-Mission Vessel (NSMV) Program, also known as the School Ship Replacement Program, is charged with replacing training ships for the USMMA and the six State Maritime Academies (SMAs). In accordance with section 51504 of title 46, United States Code, six National Defense Reserve Fleet training ships are on loan from MARAD to each of the six SMAs under a custodial agreement. While the MARAD FY 2018 and FY 2019 budget requests did not include funds for replacement of the training ships, the White House issued an Addendum to the FY 2019 Budget requesting \$300 million for the retrofitting of two used cargo vessels in order to replace two of the existing, aging SMA vessels.⁶ The Consolidated Appropriations Act, 2018 included \$300 million for the NSMV Program to construct and design a new SMA training vessel.⁷

MANAGEMENT OF THE MARITIME ADMINISTRATION

In 2017, MARAD contracted with the National Academy of Public Administration (NAPA) to undertake an independent review of the agency's core functions, its role within the DOT, and its benefit to the Nation. The report on the independent review found that MARAD has broad statutory missions directed toward maritime in-

⁵ U.S. Department of Transportation, "Gaps in USMMA's Sexual Assault Prevention and Response Program Limit Its Effectiveness," 2018. (<https://www.oig.dot.gov/sites/default/files/USMMA%20SAPR%20Final%20Report.pdf>).

⁶ Addendum to the FY 2019 Budget Request, February 12, 2018. (<https://www.whitehouse.gov/wp-content/uploads/2018/02/Addendum-to-the-FY-2019-Budget.pdf>).

⁷ P.L. 115-141.

dustry support, mariner training, and national security.⁸ The report also found that programs are generally directed toward ensuring that the country has a sufficient number of U.S.-flag vessels and U.S.-citizen qualified mariners. The report offered 27 recommendations, all of which MARAD committed to giving full consideration.⁹

The Maritime Workforce Working Group (MWWG) is required by section 3517 of the NDAA for FY 2017.¹⁰ The purpose of the group is to produce a report assessing the number of citizen mariners available to crew the surge sealift fleet in times of national emergency, and to determine whether the Coast Guard's Merchant Mariner Licensing and Documentation System is valuable to MARAD for assessing the number of qualified mariners. The report, released in September 2017, found there were sufficient mariners to crew the Ready Reserve Force for a short-term surge. For a long-term surge, the report found approximately 20 percent more mariners would be needed to sustain the surge fleet and concurrently operate the commercial fleet.¹¹

For years in which required by the NDAA for FY 2017, MARAD may submit to the Committee a combined document including both the Biennial Assessment of the Ship Disposal Program and the annual Vessel Operating Revolving Fund (VORF) Transactions Report. The Committee also encourages MARAD to consider consolidating additional public ship disposal reports not mandated by Congress, such as the Office of Ship Disposal Programs Annual Report, into this combined yearly report and to make this document publicly available on MARAD's website.

SUMMARY OF PROVISIONS

If enacted, S. 2717, the Maritime Authorization and Enhancement Act for Fiscal Year 2019, would do the following:

- Support national defense and the United States Merchant Marine by reauthorizing MARAD, including the National Security Multi-Mission Vessel Program.
- Address DOT OIG recommendations to improve protections and incident reporting related to sexual assault and harassment.
- Improve merchant mariner training for cadets by providing additional opportunities for on-the-job experience via the Sea Year program and by supporting State Maritime Academy training vessels.
- Create new opportunities for domestic ship recycling by streamlining the import process.

LEGISLATIVE HISTORY

MARAD is traditionally reauthorized annually as part of the defense authorization bill. MARAD was last authorized on December

⁸National Academy of Public Administration. 2017. Maritime Administration: Defining Its Mission, Aligning Its Programs, and Meeting Its Objectives. (https://www.napawash.org/uploads/Academy_Studies/11.27.17_MARAD_FINAL_Report.pdf).

⁹Maritime Administration. Statement from Maritime Administration Report. on the National Academy of Public Administration Report. (https://www.marad.dot.gov/newsroom/news_release/2017/statement-from-maritime-administration-on-the-national-academy-of-public-administration-pendingdraftworkflow/).

¹⁰P.L. 113-328.

¹¹Maritime Administration. Maritime Workforce Working Group Report. 2017. (<https://www.marad.dot.gov/wp-content/uploads/pdf/MWWG-Report-to-Congress-FINALR3.pdf>).

12, 2017, as part of the NDAA for FY 2018; the agency was reauthorized for FY 2018.

On April 24, 2018, the Committee’s Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security held a maritime transportation oversight hearing entitled, “Maritime Transportation: Opportunities and Challenges,” that, among other topics, examined opportunities and challenges for MARAD and the USMMA. Mark H. Buzby, Maritime Administrator and Rear Admiral James Helis, Superintendent of the USMMA, testified on the challenges facing the U.S. maritime sector and opportunities to ensure its long-term viability and the implementation of the requirements of the NDAA for FY 2017 for the improvement of sexual assault and harassment prevention and response at the USMMA.

On April 25, 2018, the Committee met in open Executive Session and, by a voice vote, ordered S. 2717 to be reported favorably with an amendment (in the nature of a substitute). Senator Fischer offered an amendment (in nature of a substitute) that was adopted. An additional amendment from Senator Baldwin was also adopted; the amendment would add certain Buy America provisions to the assistance for shipyards grant program.

ESTIMATED COSTS

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

S. 2717—Maritime Authorization and Enhancement Act for Fiscal Year 2019

Summary: S. 2717 would reauthorize programs administered by the Maritime Administration (MARAD), which oversees the nation’s merchant marine—the civilian mariners and fleet of U.S. vessels engaged primarily in waterborne commerce. CBO estimates that implementing S. 2717 would cost \$500 million over the 2019–2023 period, assuming appropriation of the authorized amounts.

S. 2717 also would permanently extend MARAD’s authority to issue war risk insurance to certain vessels. Enacting that provision would affect direct spending; therefore pay-as-you-go procedures would apply, but CBO estimates that any such effects would be negligible in any year. Enacting the bill would not affect revenues.

CBO estimates that enacting S. 2717 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 2717 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 2717 is shown in the following table. The costs of the legislation fall primarily within budget function 400 (transportation).

	By fiscal year, in millions of dollars—						
	2018	2019	2020	2021	2022	2023	2019–2023
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
Authorization Level	0	500	0	0	0	0	500
Estimated Outlays	0	219	126	114	41	0	500

Basis of estimate: For this estimate, CBO assumes that S. 2717 will be enacted near the start of fiscal year 2019.

S. 2717 would authorize appropriations totaling \$500 million in 2019 for programs administered by MARAD, including:

- \$300 million to plan, design, and construct training vessels through the National Security Multi-Mission Vessel Program;
- \$69 million for the U.S. Merchant Marine Academy;
- \$60 million for operations and program support provided by MARAD's headquarters;
- \$33 million to guarantee loans used to construct or modernize U.S. vessels or shipyards;
- \$32 million to provide financial and other support to state maritime academies; and
- \$6 million to dispose of vessels in the National Defense Reserve Fleet.

By comparison, funding provided to MARAD for those activities in 2018 totals \$554 million. Assuming appropriation of the amounts authorized under S. 2717, CBO estimates that implementing the bill would cost \$219 million in 2019 and \$500 million over the 2019–2023 period. That estimate is based on historical spending patterns for MARAD.

This estimate does not include spending for the Maritime Security Program, through which MARAD maintains a core fleet of privately owned U.S. flag ships operating in international commerce that are also available to provide additional capacity to support the Department of Defense during war and national emergencies. S. 2717 would authorize \$300 million for that program in 2019—the same amount that is already authorized for that year under current law. As a result, this estimate includes no additional spending related to that program, which would fall within budget function 050 (defense).

Pay-As-You-Go considerations: S. 2717 would permanently extend MARAD's authority to issue war risk insurance to certain vessels. Under current law, MARAD is authorized, through 2020, to provide such insurance to owners of private vessels (in exchange for premiums) and to indemnify (at no cost) vessels operating on behalf of the U.S. government. Because any spending for claims related to such insurance would not be contingent on further legislation, enacting the proposed extension would increase direct spending. However, using information from MARAD, CBO estimates that, on average, expected costs for claims stemming from both the premium and nonpremium lines of insurance issued to vessels (including offsetting receipts from premiums charged to owners of private vessels) would be negligible in any year.

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 2717 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: S. 2717 contains no intergovernmental or private-sector mandates as defined in UMRA.

Previous CBO estimate: On May 18, 2018, CBO transmitted a cost estimate for H.R. 5515, the National Defense Authorization Act for Fiscal Year 2019, as reported by the House Committee on Armed Services on May 15, 2018. H.R. 5515 would authorize appropriations for MARAD that total \$565 million—\$65 million more than the amounts authorized under S. 2717; as a result, our estimate of MARAD-related spending under H.R. 5515 is higher. Both bills would permanently extend the agency’s authority to issue war risk insurance for certain vessels; our estimates of the budgetary effects stemming from those provisions are the same.

Estimate prepared by: Federal Costs: Megan Carroll; Mandates: Jon Sperl.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

This measure, as reported, would not create any new programs or impose any new significant regulatory requirements, and, therefore, would not subject any individuals or businesses to new significant regulations.

This measure would set new Buy America requirements for the Assistance to Small Shipyards Program, though MARAD has included Buy America requirements in grant requirements prior to this statutory change. The program funds grants for an estimated 10 to 15 shipyards per year.

This measure would affect students at the USMMA by making improvements to the policy on sexual harassment and sexual assault. This measure would authorize funding to begin recapitalization of the fleet of school ships that are used by the State Maritime Academies in Texas, Maine, Massachusetts, New York, and California. Students at these academies would be affected.

This measure would allow streamlined import of marine vessels containing regulated levels of polychlorinated biphenyls for recycling in U.S. shipyards, and would affect both vessel importers and ship recyclers by allowing them increased opportunities for vessel recycling.

ECONOMIC IMPACT

Enactment of this legislation is not expected to have any significant adverse impacts on the Nation’s economy. It should have a positive impact by increasing the number of ships recycled in United States shipyards.

PRIVACY

S. 2717 will not have any adverse impact on the privacy of individuals.

PAPERWORK

S. 2717 would not impose substantial paperwork burden on individuals or businesses. Where the bill does require additional paperwork for vessel importers, this would be offset by the benefits of increased opportunity for the U.S. ship recycling industry. In addition, the bill would expand requirements on MARAD to ensure it maintains data to conduct annual assessments of the effectiveness of its policies, procedures, and training on sexual assault and harassment and to ensure data regarding sexual harassment are included in the USMMA's annual report on the subject. It would also require MARAD to submit a report to Congress describing its program in implementing and completing each of the recommendations made in the DOT OIG's report identifying gaps in the USMMA's Sexual Assault Prevention and Response Program. Finally, it would require MARAD to submit to Congress a report on the impediments to the application of the Uniform Code of Military Justice at the USMMA.

CONGRESSIONALLY DIRECTED SPENDING

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

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title; table of contents.

This section would provide that the bill may be cited as the "Maritime Authorization and Enhancement Act for Fiscal Year 2019", and includes a table of contents.

Section 2. Authorization of the Maritime Administration.

This section would authorize appropriations for FY 2019 to DOT for programs associated with maintaining the United States merchant marine, including the USMMA, the SMAs, the National Security Multi-Mission Vessel Program, MARAD operations and programs, the ship disposal program, and the maritime guaranteed loan program.

Section 3. Concurrent jurisdiction.

This section would allow the Secretary of Transportation to relinquish, at the Secretary's discretion, certain jurisdiction over the USMMA to local law enforcement, as necessary, to enable concurrent jurisdiction with the State of New York. Such authority would allow local law enforcement to prosecute crimes, such as sexual assault, in lieu of Federal law enforcement.

Section 4. United States Merchant Marine Academy policy on sexual harassment, dating violence, domestic violence, sexual assault, and stalking.

This section would require the USMMA policy on sexual harassment and sexual assault to include procedures for maintaining the data necessary to conduct annual assessments of the effectiveness of its policies, procedures, and training. It would also expand retal-

iation protections to include USMMA personnel. It would clarify that data regarding sexual harassment are required to be included in the USMMA's annual report on sexual assault and harassment. This section is based on recommendations from the DOT OIG's Report identifying gaps in the USMMA's Sexual Assault Prevention and Response Program.

Section 5. Report on implementation of recommendations for the United States Merchant Marine Academy Sexual Assault Prevention and Response Program.

This section would require the Maritime Administrator to submit to Congress a report describing the progress of MARAD in implementing and completing each of the recommendations made in the DOT OIG's report identifying gaps in the USMMA's Sexual Assault Prevention and Response Program.

Section 6. Report on the application of the UCMJ to the United States Merchant Marine Academy.

This section would require the Maritime Administrator to submit to Congress a report on the impediments to the application of the Uniform Code of Military Justice at the USMMA.

Section 7. Electronic records on mariner availability to meet national security needs.

This section would require the Secretary of Homeland Security to coordinate with the Secretary of Transportation to ensure that, to the extent feasible, electronic records provide information on mariner availability to meet national security needs for credentialed mariners crewing strategic sealift vessels.

Section 8. Small shipyard grants.

This section would require the Maritime Administrator to post a notice of funding opportunity regarding small shipyard grants not more than 15 days after the date of enactment of the relevant appropriations Act for the fiscal year.

Section 9. Domestic ship recycling facilities.

This section would establish a streamlined process for obtaining consent from the Environmental Protection Agency to import vessels containing regulated levels of polychlorinated biphenyls into the United States for recycling.

Section 10. Sea Year on contracted vessels.

This section would allow the Secretary of Transportation to meet USMMA cadet Sea Year training needs by requiring two USMMA cadets, if available, to be placed on each MSP and Military Sealift Command vessel. This section would allow the Secretary or the Commander of the Military Sealift Command to waive the requirements if such placement would create an undue burden on the vessel. These requirements would not affect the discretion of the Secretary to determine whether to place a USMMA cadet on a vessel; the Secretary would retain discretion to determine whether a cadet is available to be placed on an MSP or MSC vessel. These requirements also would not affect the authority of the Coast Guard regarding a vessel security plan approved under section 70103 of title

46, United States Code, or the discretion of the master of the vessel to ensure the safety of all crew members.

Section 11. GAO report on national maritime strategy.

This section would require the Comptroller General to submit to Congress a report on national maritime strategy, including the following: key challenges, if any, to ensuring that the U.S. marine transportation system and merchant marine are sufficient to support U.S. economic and defense needs; the extent to which a national maritime strategy incorporates desirable characteristics of successful national strategies; and the extent to which Federal efforts to establish national maritime strategy are duplicative or fragmented.

Section 12. Department of Transportation Inspector General report on Title XI Program.

This section would require the DOT OIG to submit to Congress a report on the financial controls and protections included in the policies and procedures of the DOT for approving loan applications for the Title XI Program.

Section 13. Multiyear contracts.

This section would clarify that nothing in the existing contracting authority for the National Security Multi-Mission Vessel Program, as codified in the NDAA for FY 2017, may be construed to prohibit MARAD from entering into a multiyear contract for the procurement of up to five new vessels within the National Security Multi-Mission Vessel Program.

Section 14. Use of State academy training vessels.

This section would require the Maritime Administrator, upon consultation with the SMAs, to implement a program of vessel capacity sharing among the SMAs as necessary to ensure that training needs of each academy are met. The Committee included ship sharing language for the SMAs to ensure that none of the programs go without training billets for their cadets. However, this is not a sustainable long-term solution and the Committee urges MARAD to consider alternative ways to immediately address the critical lack of a suitable training vessel in the Gulf of Mexico, such as procurement of a domestic or international vessel to convert for training billets.

Section 15. Permanent authority of the Secretary of Transportation to issue vessel war risk insurance.

This section would amend chapter 539 of title 46, United States Code, to make permanent the authority of the Secretary to provide vessel war risk insurance. This authority has been in place since 1950.

Section 16. Buy America.

This section would make changes to the Assistance to Small Shipyards Program. This section would provide for the reallocation of unused small shipyard grants to fund other qualifying grants. This section would establish certain Buy America requirements.

MARAD has already included a Buy America provision in recent grant agreements for this program.

Section 17. Navigation system study and report.

This section would require the Maritime Administrator to conduct a comprehensive study of the Great Lakes-Saint Lawrence Seaway navigation system to examine the current state of the system and make recommendations for improvements.

Section 18. Miscellaneous.

This section would clarify the definition of commercial vessel for the purposes of USMMA training requirements and streamline sexual assault training recordkeeping. This section would limit certain training recordkeeping to those persons who are required to have such training. The section also would allow the Secretary of Commerce to waive bond requirements for certain vessel repairs, similar to authority already granted the Secretary of Transportation. These requirements currently require an annual congressional waiver, which has been granted for several years. This section would remove certain funding limitations for the SMAs, consistent with overall appropriation levels, as long as the academies meet certain admission requirements.

CHANGES IN EXISTING LAW

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

TITLE 40. PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE II. PUBLIC BUILDINGS AND WORKS

PART A. GENERAL

CHAPTER 31. GENERAL

SUBCHAPTER III. BONDS

§ 3134. Waivers for certain contracts

(a) **MILITARY.**—The Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of Transportation may waive this subchapter with respect to cost-plus-a-fixed fee and other cost-type contracts for the construction, alteration, or repair of any public building or public work of the Federal Government and with respect to contracts for manufacturing, producing, furnishing, constructing, altering, repairing, processing, or assembling vessels, aircraft, munitions, materiel, or supplies for the Army, Navy, Air Force, or Coast Guard, respectively, regardless of the terms of the contracts as to payment or title.

(b) **TRANSPORTATION.**—The Secretary of Transportation may waive this subchapter with respect to contracts for the construction, alteration, or repair of vessels when the contract is made under sections 1535 and 1536 of title 31 or subtitle V of title 46, regardless of the terms of the contracts as to payment or title.

(c) *NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.*—*The Secretary of Commerce may waive this subchapter with respect to contracts for the construction, alteration, or repair of vessels, regardless of the terms of the contracts as to payment or title, when the contract is made under the Act entitled “An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes”, approved August 6, 1947 (33 U.S.C. 883a et seq.).*

TITLE 46. SHIPPING

SUBTITLE II. VESSELS AND SEAMEN

PART E. MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

CHAPTER 75. GENERAL PROCEDURES FOR LICENSING, CERTIFICATION, AND DOCUMENTATION

§ 7502. Records

(a) The Secretary shall maintain records, including electronic records, on the issuances, denials, suspensions, and revocations of licenses, certificates of registry, merchant mariners’ documents, and endorsements on those licenses, certificates, and documents.

(b) The Secretary may prescribe regulations requiring a vessel owner or managing operator of a commercial vessel, or the employer of a seaman on that vessel, to maintain records of each individual engaged on the vessel subject to inspection under chapter 33 on matters of engagement, discharge, and service for not less than 5 years after the date of the completion of the service of that individual on the vessel. The regulations may require that a vessel owner, managing operator, or employer shall make these records available to the individual and the Coast Guard on request.

(c) *The Secretary shall coordinate with the Secretary of Transportation to ensure that, to the extent feasible, electronic records provide information on mariner availability and respective credentials to meet national security needs for credentialed mariners crewing strategic sealift vessels.*

[(c)](d) A person violating this section, or a regulation prescribed under this section, is liable to the United States Government for a civil penalty of not more than \$5,000.

TITLE 46. SHIPPING

SUBTITLE V. MERCHANT MARINE

PART B. MERCHANT MARINE SERVICE

CHAPTER 513. UNITED STATES MERCHANT MARINE ACADEMY

§ 51307. Places of training

[The Secretary]

(a) *IN GENERAL.*—*The Secretary of Transportation may provide for the training of cadets at the United States Merchant Marine Academy—*

(1) on vessels **[owned or subsidized by]** *owned, subsidized by, or contracted with* the United States Government, *including in accordance with subsections (b), (c), and (d);*

(2) on other documented vessels, with the permission of the owner;

(3) in shipyards or plants and with industrial or educational organizations; and

(4) on any other vessel considered by the Secretary to be necessary or appropriate or in the national interest.

(b) *MARITIME SECURITY PROGRAM VESSELS.*—Subject to subsection (d), the Secretary shall require an operator of a vessel participating in the Maritime Security Program under chapter 531 of this title to carry on each Maritime Security Program vessel 2 United States Merchant Marine Academy cadets, if available, on each voyage.

(c) *MILITARY SEALIFT COMMAND VESSELS.*—Subject to subsection (d), the Secretary and Commander of the Military Sealift Command shall require an operator of a vessel contracted for service for the United States Navy's Military Sealift Command to carry on each such vessel 2 United States Merchant Marine Academy cadets, if available, on each voyage, if the vessel—

(1) is flagged in the United States; and

(2) is rated at 10,000 gross tons or higher.

(d) *WAIVER.*—If it is determined at any time by the Secretary or the Commander of the Military Sealift Command that cadets from the United States Merchant Marine Academy would place an undue burden on a vessel or vessel operator, the Secretary or Commander may waive the requirements described in subsection (b) or (c).

§ 51318. Policy on sexual harassment, dating violence, domestic violence, sexual assault, and stalking

(a) **REQUIRED POLICY.**—

(1) **IN GENERAL.**—The Secretary of Transportation shall direct the Superintendent of the United States Merchant Marine Academy to prescribe a policy on sexual harassment, dating violence, domestic violence, sexual assault, and stalking applicable to the cadets and other personnel of the Academy.

(2) **MATTERS TO BE SPECIFIED IN POLICY.**—The policy on sexual harassment, dating violence, domestic violence, sexual assault, and stalking prescribed under this subsection shall include—

(A) a program to promote awareness *and prevention* of the incidence of rape, acquaintance rape, domestic violence, dating violence, stalking, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel;

(B) *procedures for documenting, tracking, and maintaining the data required to conduct the annual assessments to determine the effectiveness of the policies, procedures, and training program of the Academy with respect to sexual harassment, dating violence, domestic violence, sexual assault, and stalking involving cadets or other Academy personnel, as required by subsection (c);*

[(B)](C) procedures that a cadet or other Academy personnel should follow in the case of an occurrence of sexual harassment, dating violence, domestic violence, sexual assault, or stalking, including—

(i) specifying the person or persons to whom an alleged occurrence of sexual harassment, dating violence, domestic violence, sexual assault, or stalking, should be reported by the victim and the options for confidential reporting;

(ii) specifying any other person whom the victim should contact; and

(iii) procedures on the preservation of evidence potentially necessary for proof of a criminal sexual offense;

(D) procedures for investigating sexual harassment, dating violence, domestic violence, sexual assault, or stalking involving a cadet or other Academy personnel to determine whether disciplinary action is necessary;

[(C)](E) a procedure for disciplinary action in cases of alleged criminal sexual assault involving a cadet or other Academy personnel;

[(D)](F) any other sanction authorized to be imposed in a substantiated case of sexual harassment, dating violence, domestic violence, sexual assault, or stalking involving a cadet or other Academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible;

[(E)](G) procedures through which—

(i) questions regarding sexual harassment, dating violence, domestic violence, sexual assault, or stalking can be confidentially asked and confidentially answered;

(ii) victims can report incidents of sexual harassment, dating violence, domestic violence, sexual assault, or stalking confidentially; and

(iii) the privacy of victims of sexual harassment, dating violence, domestic violence, sexual assault, or stalking will be protected; and

[(F)](H) required training on the policy for all cadets and other Academy personnel, including the specific training required for personnel who process allegations of sexual harassment, dating violence, domestic violence, sexual assault, or stalking involving Academy personnel.

(3) MINIMUM TRAINING REQUIREMENTS FOR CERTAIN INDIVIDUALS REGARDING SEXUAL HARASSMENT, DATING VIOLENCE, DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING.—

(A) REQUIREMENT.—The Maritime Administrator shall direct the Superintendent of the United States Merchant Marine Academy to develop a mandatory training program at the Academy for each individual who is involved in implementing the Academy's student disciplinary grievance procedures, including each individual who is responsible for—

(i) resolving complaints of reported sexual harassment, dating violence, domestic violence, sexual assault, and stalking;

(ii) resolving complaints of reported violations of the sexual misconduct policy of the Academy; or

(iii) conducting an interview with a victim of sexual harassment, dating violence, domestic violence, sexual assault, or stalking.

(B) CONSULTATION.—The Superintendent shall develop the training program described in subparagraph (A) in consultation with national, State, or local sexual assault, dating violence, domestic violence, or stalking victim advocacy, victim services, or prevention organizations.

(C) ELEMENTS.—The training required by subparagraph (A) shall include the following:

(i) Information on working with and interviewing persons subjected to sexual harassment, dating violence, domestic violence, sexual assault, or stalking.

(ii) Information on particular types of conduct that would constitute sexual harassment, dating violence, domestic violence, sexual assault, or stalking, regardless of gender, including same-sex sexual harassment, dating violence, domestic violence, sexual assault, or stalking.

(iii) Information on consent and the effect that drugs or alcohol may have on an individual's ability to consent.

(iv) Information on the effects of trauma, including the neurobiology of trauma.

(v) Training regarding the use of trauma-informed interview techniques, which means asking questions of an individual who has been a victim of sexual harassment, dating violence, domestic violence, sexual assault, or stalking in a manner that is focused on the experience of the victim, does not judge or blame the victim, and is informed by evidence-based research on the neurobiology of trauma.

(vi) Training on cultural awareness regarding how dating violence, domestic violence, sexual assault, or stalking may impact midshipmen differently depending on their cultural background.

(vii) Information on sexual assault dynamics, sexual assault perpetrator behavior, and barriers to reporting.

(D) IMPLEMENTATION.—

(i) DEVELOPMENT AND APPROVAL SCHEDULE.—The training program required by subparagraph (A) shall be developed not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2018.

(ii) COMPLETION OF TRAINING.—Each individual who is required to complete the training described in subparagraph (A) shall complete such training not later than—

(I) 270 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2018; or

(II) 180 days after starting a position with responsibilities that include the activities described in clause (i), (ii), or (iii) of subparagraph (A).

(4) AVAILABILITY OF POLICY.—The Secretary shall ensure that the policy developed under this subsection is available to—

- (A) all cadets and employees of the Academy; and
- (B) the public.

(5) CONSULTATION AND ASSISTANCE.—In developing the policy under this subsection, the Secretary may consult with or receive assistance from such Federal, State, local, and national organizations and subject matter experts as the Secretary considers appropriate.

(6) CONSISTENCY WITH THE HIGHER EDUCATION ACT OF 1965.—The Secretary shall ensure that the policy developed under this subsection meets the requirements set out in section 485(f)(8) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(8)).

(b) DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—The Maritime Administrator shall ensure that the development program of the Academy includes a section that—

(A) describes the relationship between honor, respect, and character development and the prevention of sexual harassment, dating violence, domestic violence, sexual assault, and stalking at the Academy;

(B) includes a brief history of the problem of sexual harassment, dating violence, domestic violence, sexual assault, and stalking in the merchant marine, in the Armed Forces, and at the Academy; and

(C) includes information relating to reporting sexual harassment, dating violence, domestic violence, sexual assault, and stalking, victims' rights, and dismissal for offenders.

(2) MINIMUM REQUIREMENTS TO COMBAT RETALIATION.—

(A) REQUIREMENT FOR PLAN.—Not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2018, the Maritime Administrator shall direct the Superintendent of the United States Merchant Marine Academy to implement and maintain a plan to combat retaliation against cadets at the Academy *and other Academy personnel* who report sexual harassment, dating violence, domestic violence, sexual assault, or stalking.

(B) VIOLATION OF CODE OF CONDUCT.—The Superintendent shall consider an act of retaliation against a cadet at the Academy who reports sexual harassment, dating violence, domestic violence, sexual assault, or stalking as a Class I violation of the Midshipman Regulations of the Academy or equivalent code of conduct.

(C) RETALIATION DEFINITION.—The Superintendent shall work with the sexual assault prevention and response staff of the Academy to define “retaliation” for purposes of this subsection.

(3) MINIMUM RESOURCE REQUIREMENTS.—

(A) IN GENERAL.—The Maritime Administrator shall ensure the staff at the Academy are provided adequate and appropriate sexual harassment, dating violence, domestic violence, sexual assault, and stalking prevention and re-

sponse training materials and resources. Such resources shall include staff as follows:

- (i) Sexual assault response coordinator.
- (ii) Prevention educator.
- (iii) Civil rights officer.
- (iv) Staff member to oversee Sea Year.

(B) COMMUNICATION.—The Director of the Office of Civil Rights of the Maritime Administration shall create and maintain a direct line of communication to the sexual assault response staff of the Academy that is outside of the chain of command of the Academy.

(4) MINIMUM TRAINING REQUIREMENTS.—The Superintendent shall ensure that all cadets receive training on the sexual harassment, dating violence, domestic violence, sexual assault, and stalking prevention and response sections of the development program of the Academy, as described in paragraph (1), as follows:

(A) An initial training session, which shall occur not later than 7 days after a cadet's initial arrival at the Academy.

(B) Additional training sessions, which shall occur biannually following the cadet's initial training session until the cadet graduates or leaves the Academy.

(c) * * *

(d) ANNUAL REPORT.—

(1) IN GENERAL.—For each Academy program year, the Superintendent shall submit to the Secretary a report that provides information about sexual harassment and sexual assault involving cadets or other Academy personnel.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include, for the Academy program year covered by the report—

(A) the number of sexual assaults, rapes, and other sexual offenses, *including sexual harassment*, involving cadets or other Academy personnel that have been reported to Academy officials;

(B) the number of the reported cases described in subparagraph (A) that have been substantiated;

(C) the policies, procedures, and training implemented by the Superintendent and the leadership of the Academy in response to incidents of sexual harassment and sexual assault involving cadets and other Academy personnel; and

(D) a plan for the actions that will be taken in the following Academy program year regarding prevention of, and response to, incidents of sexual harassment and sexual assault involving cadets and other Academy personnel.

(3) SURVEY AND FOCUS GROUP RESULTS.—

(A) SURVEY RESULTS.—Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that program year under subsection (c)(2).

(B) FOCUS GROUP RESULTS.—Each report under paragraph (1) for an Academy program year in which the Secretary is not required to conduct the survey described in

subsection (c)(2) shall include the results of the focus group conducted in that program year under subsection (c)(3).

(4) REPORTING REQUIREMENT.—

(A) BY THE SUPERINTENDENT.—For each incident of sexual harassment or sexual assault reported to the Superintendent, the Superintendent shall provide to the Secretary and the Board of Visitors of the Academy a report that includes—

(i) the facts surrounding the incident, except for any details that would reveal the identities of the people involved; and

(ii) the Academy's response to the incident.

(B) BY THE SECRETARY.—~~【The Secretary】~~ *Not later than January 15 of each year, the Secretary* shall submit a copy of each report received under subparagraph (A) and the Secretary's comments on the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(e) * * *

§ 51322. Protection of cadets from sexual assault onboard vessels

(a) RIDING GANGS.—

(1) CERTIFICATION OF COMPLIANCE.—The Maritime Administrator shall require the owner or operator of any commercial vessel that is carrying a cadet from the United States Merchant Marine Academy to certify compliance of the vessel with the International Convention for Safety of Life at Sea, 1974 (32 UST 47) and section 8106 of this title.

(2) INFORMATION FOR CADETS.—The Maritime Administrator shall ensure that the Academy informs cadets preparing for Sea Year of the obligations that vessel owners and operators have to provide for the security of individuals aboard a vessel under United States law, including chapter 81 and section 70103(c) of this title.

(b) CHECKS OF COMMERCIAL VESSELS.—

(1) REQUIREMENT.—Not less frequently than biennially, staff of the Academy or staff of the Maritime Administration shall conduct both random and targeted unannounced checks of not less than 10 percent of the commercial vessels that host a cadet from the Academy.

(2) REMOVAL OF STUDENTS.—If staff of the Academy or staff of the Maritime Administration determine that a commercial vessel is in violation of the sexual assault policy developed by the Academy through a check conducted under paragraph (1), the staff may—

(A) remove any cadet of the Academy from the vessel; and

(B) report the violation to the owner or operator of the vessel.

~~【(c) MAINTENANCE OF SEXUAL ASSAULT TRAINING RECORDS.—The Maritime Administrator shall require the owner or operator of a commercial vessel, or the seafarer union for a commercial vessel,~~

to maintain records of sexual assault training for the crew and passengers of any vessel hosting a cadet from the Academy.】

(c) *MAINTENANCE OF SEXUAL ASSAULT TRAINING RECORDS.*—*The Maritime Administrator shall require the owner or operator of a commercial vessel, or the seafarer union for a commercial vessel, to maintain records of sexual assault training for any person required to have such training.*

(d) *SEA YEAR SURVEY.*—

(1) *REQUIREMENT.*—*The Maritime Administrator shall require each cadet from the Academy, upon completion of the cadet’s Sea Year, to complete a survey regarding the environment and conditions during the Sea Year of the vessel to which the cadet was assigned.*

(2) *AVAILABILITY.* *THE MARITIME ADMINISTRATOR SHALL MAKE AVAILABLE TO THE PUBLIC FOR EACH YEAR.*—

(A) *the questions used in the survey required by paragraph (1); and*

(B) *the aggregated data received from such surveys.*

CHAPTER 515. STATE MARITIME ACADEMY SUPPORT PROGRAM

§ 51504. Use of training vessels

(a) * * *

[(g) *REMOVING VESSELS FROM SERVICE AND VESSEL SHARING.*—*The Secretary may not—*

【(1) *take a vessel, currently in use as a training vessel under this section, out of service to implement an alternative program (including vessel sharing) unless the vessel is incapable of being maintained in good repair as required by subsection (d); or*

【(2) *implement a program requiring a State maritime academy to share its training vessel with another State maritime academy, except with the express consent of Congress.*】

(g) *VESSEL CAPACITY SHARING.*—

(1) *IN GENERAL.*—*Not later than 90 days after the date of enactment of the Maritime Authorization and Enhancement Act for Fiscal Year 2019, the Secretary, acting through the Maritime Administrator, shall upon consultation with the maritime academies, and to the extent feasible with the consent of the maritime academies, implement a program of vessel sharing, requiring maritime academies to share training capacity vessels provided by the Secretary among maritime academies, as necessary to ensure that training needs of each academy are met.*

(2) *PROGRAM OF VESSEL CAPACITY SHARING.*—*For purposes of this subsection, a program of vessel capacity sharing shall include—*

(A) *ways to maximize the available underway training capacity available in the fleet of training vessels;*

(B) *coordinating the dates and duration of training cruises with the academic calendars of maritime academies;*

(C) *coordinating academic programs designed to be implemented aboard training vessels among maritime academies; and*

(D) *identifying ways to minimize costs.*

(3) *EVALUATION.*—Not later than 30 days after the beginning of each fiscal year, the Secretary, acting through the Maritime Administrator, shall evaluate the vessel capacity sharing program under this subsection to determine the optimal utilization of State maritime training vessels, and modify the program as necessary to improve utilization.

§ 51505. Annual payments for maintenance and support

(a) *PAYMENT AGREEMENTS.*—The Secretary of Transportation may make an agreement (effective for not more than 4 years) with the following academies to provide annual payments to those academies for their maintenance and support:

(1) One State maritime academy in each State that satisfies section 51506(a) of this title.

(2) Each regional maritime academy that satisfies section 51506(a) of this title.

(b) *PAYMENTS.*—

(1) *IN GENERAL.*—Subject to paragraph (2), an annual payment to an academy under subsection (a) shall be at least equal to the amount given to the academy for its maintenance and support by the State in which it is located, or, for a regional maritime academy, by all States cooperating to sponsor the academy.

(2) *MAXIMUM.*—The amount under paragraph (1) may not be more than \$25,000. However, if the academy satisfies section 51506(b) of this title, the amount shall be—

[(A) \$100,000 for a State maritime academy; and

[(B) \$300,000 for fiscal year 2006, \$400,000 for fiscal year 2007, and \$500,000 for fiscal year 2008 and each fiscal year thereafter for a regional maritime academy.]

(2) *MAXIMUM.*—The amount under paragraph (1) may not be more than \$25,000, unless the academy satisfies section 51506(b) of this title.

PART C. FINANCIAL ASSISTANCE PROGRAMS

CHAPTER 539. WAR RISK INSURANCE

【§ 53912. Expiration date

【The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter expires on December 31, 2020.】

CHAPTER 541. MISCELLANEOUS

§ 54101. Assistance for small shipyards

(a) *ESTABLISHMENT OF PROGRAM.*—Subject to the availability of appropriations, the Administrator of the Maritime Administration shall execute agreements with shipyards to provide assistance—

(1) in the form of grants, loans, and loan guarantees to small shipyards for capital improvements; and

(2) for maritime training programs to foster technical skills and operational productivity relating to shipbuilding, ship repair, and associated industries.

(b) *AWARDS.*—

(1) IN GENERAL.—In providing assistance under the program, the Administrator shall consider projects that foster—

(A) efficiency, competitive operations, and quality ship construction, repair, and reconfiguration; and

(B) employee skills and enhanced productivity related to shipbuilding, ship repair, and associated industries.

(2) TIMING OF GRANT NOTICE.—*The Administrator shall post a Notice of Funding Opportunity regarding grants awarded under this section not more than 15 days after the date of enactment of the appropriations Act for the fiscal year concerned.*

[(2)](3) TIMING OF GRANTS.—The Administrator shall award grants under this section not later than 120 days after the date of the enactment of the appropriations Act for the fiscal year concerned.

[(3)](4) REUSE OF UNEXPENDED GRANT FUNDS.—Notwithstanding [paragraph (2)] *paragraph (3)*, amounts awarded as a grant under this section that are not expended by the grantee shall remain available to the Administrator for use for grants under this section.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Assistance provided under this section may be used to—(A) make capital and related improvements in small shipyards; and

(B) provide training for workers in shipbuilding, ship repair, and associated industries.

(2) ADMINISTRATIVE COSTS.—Not more than 2 percent of amounts made available to carry out the program may be used for the necessary costs of grant administration.

(3) BUY AMERICA.—

(A) IN GENERAL.—*Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated to carry out this chapter unless any steel, iron, and manufactured products used in the project authorized under this chapter are produced in the United States.*

(B) EXCEPTION.—*The provisions of subparagraph (A) shall not apply where the Secretary finds—*

(i) that their application would be inconsistent with the public interest;

(ii) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) that inclusion of domestic material will increase the cost of the overall project by more than 25 percent.

(d) PROHIBITED USES.—Grants awarded under this section may not be used to construct buildings or other physical facilities or to acquire land.

(e) MATCHING REQUIREMENTS; ALLOCATION.—

(1) FEDERAL FUNDING.—Federal funds for any eligible project under this section shall not exceed 75 percent of the total cost of such project.

(2) ALLOCATION OF FUNDS.—The Administrator may not award more than 25 percent of the funds appropriated to carry out this section for any fiscal year to any small shipyard in one geographic location that has more than 600 employees.

(f) APPLICATIONS.—

(1) IN GENERAL.—To be eligible for assistance under this section, an applicant shall submit an application, in such form, and containing such information and assurances as the Administrator may require, within 60 days after the date of enactment of the appropriations Act for the fiscal year concerned.

(2) MINIMUM STANDARDS FOR PAYMENT OR REIMBURSEMENT.—Each application submitted under paragraph (1) shall include—

(A) a comprehensive description of—

- (i) the need for the project;
- (ii) the methodology for implementing the project;
- and
- (iii) any existing programs or arrangements that can be used to supplement or leverage assistance under the program.

(B) [Not enacted]

(3) PROCEDURAL SAFEGUARDS.—The administrator, in consultation with the office of the inspector general, shall issue guidelines to establish appropriate accounting, reporting, and review procedures to ensure that—

- (A) grant funds are used for the purposes for which they were made available;
- (B) grantees have properly accounted for all expenditures of grant funds; and
- (C) grant funds not used for such purposes and amounts not obligated or expended are returned.

(4) PROJECT APPROVAL REQUIRED.—The administrator may not award a grant under this section unless the administrator determines that—

- (A) sufficient funding is available to meet the matching requirements of subsection (e);
- (B) the project will be completed without unreasonable delay; and
- (C) the recipient has authority to carry out the proposed project.

(g) AUDITS AND EXAMINATIONS.—All grantees under this section shall maintain such records as the Administrator may require and make such records available for review and audit by the Administrator.

(h) SMALL SHIPYARD DEFINED.—In this section, the term “small shipyard” means a shipyard facility in one geographic location that does not have more than 1,200 employees.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Maritime Administration for each of fiscal years 2018, 2019, and 2020 to carry out this section \$35,000,000.

FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION
ACT FOR FISCAL YEAR 2001

[Public Law 106-398]

SEC. 3502. SCRAPPING OF NATIONAL DEFENSE RESERVE FLEET VESSELS

[54 U.S.C. 308704 note]

(a) [Reserved].

(b) **SELECTION OF SCRAPPING FACILITIES.**—The Secretary of Transportation may scrap obsolete vessels pursuant to section 6(c)(1) of the National Maritime Heritage Act of 1994 (16 U.S.C. 5405(c)(1)) through qualified scrapping facilities, using the most expeditious scrapping methodology and location practicable. Scrapping facilities shall be selected under that section on a best value basis consistent with the Federal Acquisition Regulation, as in effect on the date of contract award, without any predisposition toward foreign or domestic facilities taking into consideration, among other things, the ability of facilities to scrap vessels—

- (1) at least cost to the Government;
- (2) in a timely manner;
- (3) giving consideration to worker safety and the environment; and
- (4) in a manner that minimizes the geographic distance that a vessel must be towed when towing a vessel poses a serious threat to the environment.

(c) **SCRAPPING OF IMPORTED VESSELS.**—

(1) **IN GENERAL.**—*Notwithstanding any other provision of law, domestic ship scrapping facilities selected by the Secretary of Transportation in accordance with subsection (b) may import into the United States, for the purpose of dismantling, marine vessels that contain regulated levels of polychlorinated biphenyls that are integral to a vessel's structure, equipment, or systems necessary for its operation.*

(2) **NO TSCA PRIOR AUTHORIZATION REQUIRED.**—*In lieu of rulemaking by the Administrator of the Environmental Protection Agency under section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)), imports of vessels containing regulated levels of polychlorinated biphenyls shall be subject to prior notification and consent in accordance with this subsection.*

(3) **NOTIFICATION.**—

(A) **CONTENTS.**—*An importer of 1 or more vessels containing regulated levels of polychlorinated biphenyls shall submit a notification to the Environmental Protection Agency not less than 75 days before a vessel is imported into the United States under this subsection. The import notification may cover up to one year of shipments of vessels containing regulated levels of polychlorinated biphenyls being sent to the same ship scrapping facility, and shall contain, at a minimum, the following items:*

- (i) *The name, contact name, address, telephone number, e-mail address, and EPA Identification Number (if applicable) of the ship scrapping facility and the recognized trader, if the ship scrapping facility is not the importer.*

(ii) *The name, contact name, address, telephone number, e-mail address, and EPA Identification Number (if applicable) of each facility where polychlorinated biphenyls or hazardous materials contained on a vessel will be stored and disposed of, including any polychlorinated biphenyls storage or disposal facility approved under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).*

(iii) *The types of polychlorinated biphenyls or polychlorinated biphenyls items expected to be removed from the vessels.*

(iv) *The number of vessels proposed for import and maximum tonnage.*

(v) *The period of time covered by the import notice (not to exceed one year) and the start and end dates of shipment.*

(B) *FORM.—Each notice under this paragraph shall be clearly marked “PCB Waste Import Notice” and shall be submitted to the Environmental Protection Agency in such form and manner as the Environmental Protection Agency may require.*

(C) *REVISED NOTIFICATION.—If an importer wishes to change any of the information specified on the original notification, the importer must submit a revised notification, containing notification of the changes, to the Environmental Protection Agency.*

(4) *CONSENT.—*

(A) *IN GENERAL.—An importer shall not import vessels containing regulated levels of polychlorinated biphenyls until the importer has received consent from the Administrator of the Environmental Protection Agency.*

(B) *TERMS.—Importers shall only import vessels under the terms of the consent issued by the Administrator of the Environmental Protection Agency under this paragraph and subject to the condition that the facility shall establish a valid written contract, chain of contracts, or equivalent arrangements with other United States facilities, where applicable, to manage the polychlorinated biphenyls and hazardous waste expected to be removed from the vessel or vessels.*

(5) *REPORT TO THE ENVIRONMENTAL PROTECTION AGENCY.—Any ship scrapping facility authorized by this subsection to import vessels containing regulated levels of polychlorinated biphenyls shall file with the Administrator of the Environmental Protection Agency, not later than April 1 of each year, a report providing, for each vessel imported in accordance with this subsection, the following information:*

(A) *The vessel name and approximated tonnage.*

(B) *Registration number and flag of the vessel.*

(C) *The date of import.*

(D) *The types, quantities, and final destination of all polychlorinated biphenyls and hazardous waste removed.*

(E) *The EPA-issued consent number under which the vessel was imported.*

(6) *APPLICABLE LAWS.*—Once a vessel has been imported pursuant to this subsection, the manufacturing, processing, distribution in commerce, use, and disposal of any polychlorinated biphenyls and hazardous waste contained on the vessel shall be carried out in accordance with applicable Federal, State, and local laws and regulations.

(7) *AUTHORITY.*—The Administrator of the Environmental Protection Agency may promulgate additional standards or procedures for the import of ships that contain regulated levels of polychlorinated biphenyls and hazardous waste, for the purpose of recycling, under this subsection, if—

(A) the benefits of such additional standards or procedures exceed the costs of those standards or procedures;

(B) not later than 180 days prior to promulgating such additional standards or procedures, the Administrator of the Environmental Protection Agency submits a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives demonstrating compliance with subparagraph (A) and the reasons such standards or procedures are necessary; and

(C) the Administrator of the Environmental Protection Agency receives the concurrence of the Maritime Administrator on any such additional standards or procedures.

[(c)](d) *COMPREHENSIVE MANAGEMENT PLAN.*—

(1) *REQUIREMENT TO DEVELOP PLAN.*—The Secretary of Transportation shall prepare, publish, and submit to the Congress by not later than 180 days after the date of the enactment of this Act a comprehensive plan for management of the vessel disposal program of the Maritime Administration in accordance with the recommendations made in the Government Accountability Office in report number GAO-05-264, dated March 2005.

(2) *CONTENTS OF PLAN.*—The plan shall—

(A) include a strategy and implementation plan for disposal of obsolete National Defense Reserve Fleet vessels (including vessels added to the fleet after the enactment of this paragraph) in a timely manner, maximizing the use of all available disposal methods, including dismantling, use for artificial reefs, donation, and Navy training exercises;

(B) identify and describe the funding and other resources necessary to implement the plan, and specific milestones for disposal of vessels under the plan;

(C) establish performance measures to track progress toward achieving the goals of the program, including the expeditious disposal of ships commencing upon the date of the enactment of this paragraph;

(D) develop a formal decisionmaking framework for the program; and

(E) identify external factors that could impede successful implementation of the plan, and describe steps to be taken to mitigate the effects of such factors.

[(d)](e) *IMPLEMENTATION OF MANAGEMENT PLAN.*—

(1) *REQUIREMENT TO IMPLEMENT.*—Subject to the availability of appropriations, the Secretary shall implement the vessel dis-

posal program of the Maritime Administration in accordance with—

- (A) the management plan submitted under subsection (c); and
 - (B) the requirements set forth in paragraph (2).
- (2) UTILIZATION OF DOMESTIC SOURCES.—In the procurement of services under the vessel disposal program of the Maritime Administration, the Secretary shall—
- (A) use full and open competition; and
 - (B) utilize domestic sources to the maximum extent practicable.

[(e)](f) FAILURE TO SUBMIT PLAN.—

(1) PRIVATE MANAGEMENT CONTRACT FOR DISPOSAL OF MARITIME ADMINISTRATION VESSELS.—The Secretary of Transportation, subject to the availability of appropriations, shall promptly award a contract using full and open competition to expeditiously implement all aspects of disposal of obsolete National Defense Reserve Fleet vessels.

(2) APPLICATION.—This subsection shall apply beginning 180 days after the date of the enactment of this subsection, unless the Secretary of Transportation has submitted to the Congress the comprehensive plan required under subsection (c).

[(f)](g) BRIEFINGS.—The Maritime Administrator shall, upon request, provide briefings to the Committee on Transportation and Infrastructure, the Committee on Natural Resources, and the Committee on Armed Services of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate, on the progress made in recycling vessels, problems encountered with recycling vessels, issues relating to vessel recycling, and other issues relating to vessel recycling and disposal.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL
YEAR 2017

[Public Law 114-328]

SEC. 3514. SEA YEAR COMPLIANCE

[54 U.S.C. 51318 note]

(a) VESSEL OPERATOR REQUIREMENTS.—[Not later than]

(1) Not later than 90 days after the date of the enactment of this Act, the Maritime Administrator, in consultation with operators of commercial vessels of the United States, shall establish—

[(1)](A) criteria that vessel operators must meet in order to participate in the Sea Year program of the United States Merchant Marine Academy that addresses sexual harassment, sexual assault, and other inappropriate conduct; and

[(2)](B) a process for verifying compliance with the criteria.

(2) For the purposes of this section, vessels operated by any of the following entities shall not be considered commercial vessels:

- (A) Any entity or agency of the United States.*
- (B) The government of a State or territory.*
- (C) Any political subdivision of a State or territory.*
- (D) Any other municipal organization.*

(b) PROVISION OF SATELLITE PHONE.—

(1) IN GENERAL.—The Maritime Administrator shall ensure that each cadet from the United States Merchant Marine Academy who is participating in the Sea Year program is provided a functional satellite communication device. A cadet may not be denied from using the device whenever the student determines that use of the device is necessary to prevent or report sexual harassment or sexual assault.

(2) CHECK-IN.—Not less often than once each week during a cadet's participation in the Sea Year program, the cadet shall check-in with designated personnel at the Academy via the satellite communication device provided under paragraph (1). A text message sent via the satellite device shall meet the requirement for a weekly check-in for purposes of this paragraph.

