

## REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (j), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 5405. Funding****(a) Availability of funds from sale and scrapping of obsolete vessels****(1) In general**

Notwithstanding any other provision of law, the amount of funds credited in a fiscal year to the Vessel Operations Revolving Fund established by section 50301(a) of title 46 that is attributable to the sale of obsolete vessels in the National Defense Reserve Fleet that are scrapped or sold under section 57102, 57103, or 57104 of title 46 shall be available until expended as follows:

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

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

(C) The remainder, whether collected before or after October 28, 2009, shall be available to the Secretary to carry out the Program, as provided in subsection (b) of this section or, if otherwise determined by the Maritime Administrator, for use in the preservation and presentation to the public of maritime heritage property of the Maritime Administration.

**(2) Application**

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

**(b) Use of amounts for Program****(1) In general**

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

(A) ½ shall be used for grants under section 5403(b) of this title; and

(B) ½ shall be used for grants under section 5403(c) of this title.

**(2) Use for interim projects**

Amounts available for the Program under subsection (a)(1)(C) of this section that are the

proceeds of any of the first 8 obsolete vessels in the National Defense Reserve Fleet that are sold or scrapped after July 1, 1994, under section 57102, 57103, or 57104 of title 46 are available to the Secretary for grants for interim projects approved under section 5403(j) of this title.

**(3) Administrative expenses****(A) In general**

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

**(B) Allocation**

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

(i) ½ shall be allocated to the National Trust for expenses incurred in administering grants under section 5403(b) of this title; and

(ii) ½ shall be allocated as appropriate by the Secretary to the National Park Service and participating State Historic Preservation Officers.

**(c) Disposals of vessels****(1) Requirement**

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

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

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

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

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

(C) in accordance with the plan of the Department of Transportation for disposal of those vessels and requirements under sections 57102 to 57104 of title 46.

**(2) Vessels described**

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

(A) are not assigned to the Ready Reserve Force component of that fleet; and

(B) are not specifically authorized or required by statute to be used for a particular purpose.

**(d) Treatment of amounts available**

Amounts available under this section shall not be considered in any determination of the amounts available to the Department of the Interior.

(Pub. L. 103-451, §6, Nov. 2, 1994, 108 Stat. 4776; Pub. L. 105-85, div. A, title X, §1026(c), Nov. 18,

1997, 111 Stat. 1878; Pub. L. 106-398, §1 [div. C, title XXXV, §3502(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-490; Pub. L. 110-181, div. C, title XXXV, §3514, Jan. 28, 2008, 122 Stat. 594; Pub. L. 111-84, div. C, title XXXV, §3509, Oct. 28, 2009, 123 Stat. 2721; Pub. L. 111-383, div. A, title X, §1075(n), Jan. 7, 2011, 124 Stat. 4378.)

#### CODIFICATION

“Section 50301(a) of title 46” substituted in subsec. (a)(1) for “Act of June 2, 1951 (46 App. U.S.C. 1241a)”, “section 57102, 57103, or 57104 of title 46” substituted in subsec. (a)(1) for “section 508 or 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 or 1160(i))” and in subsec. (b)(2) for “section 508 or 510(i) of the Merchant Marine Act, 1936 (46 U.S.C. 1158 or 1160(i))”, and “sections 57102 to 57104 of title 46” substituted in subsec. (c)(1)(C) for “sections 508 and 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158, 1160(i))”, on authority of Pub. L. 109-304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted sections 50301 and 57102 to 57104 of Title 46, Shipping.

#### AMENDMENTS

2011—Subsec. (a)(1)(C). Pub. L. 111-383 substituted “October 28, 2009” for “the date of enactment of the Maritime Administration Authorization Act of 2010”.

2009—Subsec. (a)(1)(C). Pub. L. 111-84 added subpar. (C) and struck out former subpar. (C) which read as follows: “The remainder shall be available to the Secretary to carry out the Program, as provided in subsection (b) of this section.”

2008—Subsec. (c)(1). Pub. L. 110-181, §3514(1), inserted “(either by sale or purchase of disposal services)” after “shall dispose” in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 110-181, §3514(2), added subpar. (A) and struck out former subpar. (A) which read as follows: “by September 30, 2006;”.

2000—Subsec. (c)(1)(A). Pub. L. 106-398, §1 [div. C, title XXXV, §3502(a)(1)], substituted “2006” for “2001”.

Subsec. (c)(1)(B). Pub. L. 106-398, §1 [div. C, title XXXV, §3502(a)(2)], added subpar. (B) and struck out former subpar. (B) which read as follows: “in a manner that maximizes the return on the vessels to the United States; and”.

1997—Subsec. (a)(1). Pub. L. 105-85, §1026(c)(1), inserted “or 1160(i)” after “1158” in introductory provisions.

Subsec. (b)(2). Pub. L. 105-85, §1026(c)(1), (2), inserted “or 1160(i)” after “1158” and substituted “first 8” for “first 6”.

Subsec. (c)(1)(A). Pub. L. 105-85, §1026(c)(3), substituted “2001” for “1999”.

#### PILOT PROGRAM ON EXPORT OF OBSOLETE VESSELS FOR DISMANTLEMENT AND RECYCLING

Pub. L. 107-314, div. C, title XXXV, §3504(c), (d), Dec. 2, 2002, 116 Stat. 2755, 2756, provided that:

“(c) PILOT PROGRAM ON EXPORT OF OBSOLETE VESSELS FOR DISMANTLEMENT AND RECYCLING.—(1)(A) The Secretary of Transportation, Secretary of State, and Administrator of the Environmental Protection Agency shall jointly carry out one or more pilot programs through the Maritime Administration to explore the feasibility and advisability of various alternatives for exporting obsolete vessels in the National Defense Reserve Fleet for purposes of the dismantlement and recycling of such vessels.

“(B) The pilot programs shall be carried out in accordance with applicable provisions of law and regulations.

“(2)(A) The pilot programs under paragraph (1) shall be carried out during fiscal year 2003.

“(B) The pilot programs shall include a total of not more than four vessels.

“(C) The authority provided by this subsection is in addition to any other authority available to Maritime Administration for exporting obsolete vessels in the National Defense Reserve Fleet.

“(3) Activities under the pilot programs under paragraph (1) shall include the following:

“(A) Exploration of the feasibility and advisability of a variety of alternatives (developed for purposes of the pilot programs) for exporting obsolete vessels in the National Defense Reserve Fleet for purposes of the dismantlement and recycling of such vessels.

“(B) Response by the Maritime Administration to proposals from the international ship recycling industry for innovative and cost-effective disposal solutions for obsolete vessels in the National Defense Reserve Fleet, including an evaluation of the feasibility and advisability of such proposals.

“(C) Demonstration of the extent to which the cost-effective dismantlement or recycling of obsolete vessels in the National Defense Reserve Fleet can be accomplished abroad in [a] manner that appropriately addresses concerns regarding worker health and safety and the environment.

“(D) Opportunities to transfer abroad processes, methodologies, and technologies for ship dismantlement and recycling in order to support the pilot programs and to improve international practices and standards for ship dismantlement and recycling.

“(E) Exploration of cooperative efforts with foreign governments (under a global action program on ship recycling or other program) in order to foster economically and environmentally sound ship recycling abroad.

“(4) The Secretary of Transportation shall submit to Congress a report on the pilot programs under paragraph (1) through the existing ship disposal reporting requirements in section 3502 of Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [section 1 [div. C, title XXXV, §3502] of Pub. L. 106-398, which amended this section and enacted provisions set out below]. The report shall include a description of the activities under the pilot programs, and such recommendations for further legislative or administrative action as the Secretary considers appropriate.

“(d) CONSTRUCTION.—Nothing in this section shall be construed to establish a preference for the reefing or export of obsolete vessels in the National Defense Reserve Fleet over other alternatives available to the Secretary for the scrapping of such vessels under section 3502(d)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.”

#### SCRAPPING OF NATIONAL DEFENSE RESERVE FLEET VESSELS

Pub. L. 106-398, §1 [div. C, title XXXV, §3502(b)-(f)], Oct. 30, 2000, 114 Stat. 1654, 1654A-490 to 1654A-492, as amended by Pub. L. 109-163, div. C, title XXXV, §3505(a), Jan. 6, 2006, 119 Stat. 3551; Pub. L. 112-81, div. C, title XXXV, §3504, Dec. 31, 2011, 125 Stat. 1717; Pub. L. 112-239, div. C, title XXXV, §3502, Jan. 2, 2013, 126 Stat. 2222, provided that:

“(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) 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 [probably should be “this subsection”, Jan. 6, 2006] 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) IMPLEMENTATION OF MANAGEMENT PLAN.—

“(1) REQUIREMENT TO IMPLEMENT.—Subject to the availability of appropriations, the Secretary shall implement the vessel disposal 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) 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 [Jan. 6, 2006], unless the Secretary of Transportation has submitted to the Congress the comprehensive plan required under subsection (c).

“(f) 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.”

### § 5406. Definitions

In this chapter:

#### (1) Committee

The term “Committee” means the Maritime Heritage Grants Advisory Committee established under section 5404 of this title.

#### (2) National Trust

The term “National Trust” means the National Trust for Historic Preservation created by section 468 of this title.

### (3) Private nonprofit organization

The term “private nonprofit organization” means any person that is exempt from taxation under section 501(a) of title 26 and described in section 501(c)(3) of title 26.

### (4) Program

The term “Program” means the National Maritime Heritage Grants Program established by section 5403(a) of this title.

### (5) Secretary

The term “Secretary” means the Secretary of the Interior.

### (6) State Historic Preservation Officer

The term “State Historic Preservation Officer” means a State Historic Preservation Officer appointed pursuant to paragraph (1)(A) of section 470a(b) of this title by the Governor of a State having a State Historic Preservation Program approved by the Secretary under that section.

(Pub. L. 103-451, §7, Nov. 2, 1994, 108 Stat. 4777.)

### § 5407. Regulations

The Secretary, after consultation with the National Trust, the National Conference of State Historic Preservation Officers, and appropriate members of the maritime heritage community, shall promulgate appropriate guidelines, procedures, and regulations within 1 year after November 2, 1994, to carry out the chapter, including regulations establishing terms of office for the initial membership of the Committee, direct grant and subgrant priorities, the method of solicitation and review of direct grant and subgrant proposals, criteria for review of direct grant and subgrant proposals, administrative requirements, reporting and recordkeeping requirements, and any other requirements the Secretary considers appropriate.

(Pub. L. 103-451, §8, Nov. 2, 1994, 108 Stat. 4778.)

### § 5408. Savings provision

The authorities contained in this chapter shall be in addition to, and shall not be construed to supercede or modify those contained in the National Historic Preservation Act (16 U.S.C. 470—470x-6).

(Pub. L. 103-451, §9, Nov. 2, 1994, 108 Stat. 4778.)

#### REFERENCES IN TEXT

The National Historic Preservation Act, referred to in text, is Pub. L. 89-665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§470 et seq.) of chapter 1A of this title. For complete classification of this Act to the Code, see section 470 of this title and Tables.

### § 5409. Designation of America’s National Maritime Museum

#### (a) In general

America’s National Maritime Museum is comprised of those museums designated by law to be museums of America’s National Maritime Museum on the basis that they—

(1) house a collection of maritime artifacts clearly representing the Nation’s maritime heritage; and