

## REFERENCES IN TEXT

This Act, referred to in subsec. (d), is act Mar. 8, 1946, ch. 82, 60 Stat. 41, known as the Merchant Ship Sales Act of 1946, which is classified principally to this chapter. Section 9 of the Act was formerly classified to section 1742 of the former Appendix to this title, prior to repeal by Pub. L. 94-412, title V, §501(g), Sept. 14, 1976, 90 Stat. 1258. For complete classification of this Act to the Code, see Short Title note set out under section 4401 of this title and Tables.

## CODIFICATION

Section was formerly classified to section 1741 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

## AMENDMENTS

1989—Subsecs. (a) to (c). Pub. L. 101-225 struck out subsecs. (a) to (c) which related to allowance as credit on purchase price and vessels acceptable, amount of allowance, and transfers in settlement of claims, respectively.

1981—Pub. L. 97-31 substituted “Secretary” for “Commission” wherever appearing.

**§ 4405. National Defense Reserve Fleet****(a) Fleet components**

The Secretary of Transportation shall maintain a National Defense Reserve Fleet, including any vessel assigned by the Secretary to the Ready Reserve Force component of the fleet, consisting of those vessels owned or acquired by the United States Government that the Secretary of Transportation, after consultation with the Secretary of the Navy, determines are of value for national defense purposes and that the Secretary of Transportation decides to place and maintain in the fleet.

**(b) Permitted uses**

Except as otherwise provided by law, a vessel in the fleet may be used—

(1) for an account of an agency of the United States Government in a period during which vessels may be requisitioned under chapter 563 of title 46; or

(2) on the request of the Secretary of Defense, and in accordance with memoranda of agreement between the Secretary of Transportation and the Secretary of Defense, for—

(A) testing for readiness and suitability for mission performance;

(B) defense sealift functions for which other sealift assets are not reasonably available; and

(C) support of the deployment of the United States armed forces in a military contingency, for military contingency operations, or for civil contingency operations upon orders from the National Command Authority;

(3) for otherwise lawfully permitted storage or transportation of non-defense-related cargo as directed by the Secretary of Transportation with the concurrence of the Secretary of Defense;

(4) for training purposes to the extent authorized by the Secretary of Transportation with the concurrence of the Secretary of Defense;

(5) on a reimbursable basis, for charter to the government of any State, locality, or Ter-

ritory of the United States, except that the prior consent of the Secretary of Defense for such use shall be required with respect to any vessel in the Ready Reserve Force or in the National Defense Reserve Fleet which is maintained in a retention status for the Department of Defense; or

(6) for civil contingency operations and Maritime Administration promotional and media events, in accordance with subsection (f).

**(c) Ready Reserve Force management****(1) Minimum requirements**

To ensure the readiness of vessels in the Ready Reserve Force component of the National Defense Reserve Fleet, the Secretary of Transportation shall, at a minimum—

(A) maintain all of the vessels in a manner that will enable each vessel to be activated within a period specified in plans for mobilization of the vessels;

(B) activate and conduct sea trials on each vessel at a frequency that is considered by the Secretary to be necessary;

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

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

(E) notwithstanding section 2109 of title 46, have each vessel inspected by the Secretary of the department in which the Coast Guard is operating to determine if the vessel meets the safety standards that would apply under part B of subtitle II of that title if the vessel were not a public vessel.

**(2) Vessel managers****(A) Eligibility for contract**

A person, including a shipyard, is eligible for a contract for the management of a vessel in the Ready Reserve Force if the Secretary determines, at a minimum, that the person has—

(i) experience in the operation of commercial-type vessels or public vessels owned by the United States Government; and

(ii) the management capability necessary to operate, maintain, and activate the vessel at a reasonable price.

**(B) Contract requirement**

The Secretary of Transportation shall include in each contract for the management of a vessel in the Ready Reserve Force a requirement that each seaman who performs services on any vessel covered by the contract hold the license or merchant mariner's document that would be required under chapter 71 or chapter 73 of title 46 for a seaman performing that service while operating the vessel if the vessel were not a public vessel.

**(d) Applicability of limitations on overhaul, repair, and maintenance in foreign shipyards****(1) Application of limitation**

The provisions of section 7310 of title 10 shall apply to vessels specified in subsection (b), and

to the Secretary of Transportation with respect to those vessels, in the same manner as those provisions apply to vessels specified in subsection (b) of such section, and to the Secretary of the Navy, respectively.

**(2) Covered vessels**

Vessels specified in this paragraph are vessels maintained by the Secretary of Transportation in support of the Department of Defense, including any vessel assigned by the Secretary of Transportation to the Ready Reserve Force that is owned by the United States.

**(e) Exemption from tank vessel construction standards**

Vessels in the National Defense Reserve Fleet are exempt from the provisions of section 3703a of title 46.

**(f) Use of NDRF vessels for civil contingency operations and promotional and media events**

With the concurrence of the Secretary of Defense, the Secretary of Transportation may allow the use of vessels in the National Defense Reserve Fleet (NDRF) for civil contingency operations requested by another Federal agency, and for Maritime Administration promotional and media events relating to demonstration projects and research and development supporting the Administration's mission, if the Secretary of Transportation determines such use is in the best interest of the Government after considering the following factors:

**(1) Availability**

The availability of NDRF or Ready Reserve Force (RRF) resources and the impact of such use on NDRF and RRF mission support to the defense and homeland security requirements of the Government.

**(2) Interference**

Whether the such<sup>1</sup> use of vessels will support the mission of the Maritime Administration and not significantly interfere with NDRF vessel maintenance, repair, safety, readiness, and resource availability.

**(3) Safety**

Whether safety precautions will be taken, including indemnification of liability when applicable.

**(4) Cost**

Whether any costs incurred by such use will be funded as a reimbursable transaction between Federal agencies, as applicable.

**(5) Other matters**

Any other matters the Maritime Administrator considers appropriate.

(Mar. 8, 1946, ch. 82, §11, 60 Stat. 49; June 28, 1947, ch. 161, §1, 61 Stat. 190; Feb. 27, 1948, ch. 78, §1(a), 62 Stat. 38; Feb. 28, 1949, ch. 12, 63 Stat. 9; June 29, 1949, ch. 281, §1, 63 Stat. 349; June 30, 1950, ch. 427, §2, 64 Stat. 308; Pub. L. 97-31, §12(157), Aug. 6, 1981, 95 Stat. 167; Pub. L. 101-115, §6, Oct. 13, 1989, 103 Stat. 693; Pub. L. 101-225, title III, §307(12), Dec. 12, 1989, 103 Stat. 1925; Pub. L.

102-241, §57, Dec. 19, 1991, 105 Stat. 2234; Pub. L. 102-587, title VI, §6205(a), Nov. 4, 1992, 106 Stat. 5094; Pub. L. 104-106, div. A, title X, §1014(b), Feb. 10, 1996, 110 Stat. 424; Pub. L. 104-239, §9, Oct. 8, 1996, 110 Stat. 3133; Pub. L. 109-364, div. C, title XXXV, §3503, Oct. 17, 2006, 120 Stat. 2516; Pub. L. 110-181, div. C, title XXXV, §§3513, 3516, Jan. 28, 2008, 122 Stat. 594, 595; Pub. L. 112-81, div. C, title XXXV, §3502, Dec. 31, 2011, 125 Stat. 1716; Pub. L. 112-213, title IV, §410, Dec. 20, 2012, 126 Stat. 1572.)

CODIFICATION

Section was formerly classified to section 1744 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

In subsec. (b)(1), "chapter 563 of title 46" substituted for "section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242)" on authority of Pub. L. 109-304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted chapter 563 of Title 46, Shipping.

AMENDMENTS

2012—Subsec. (c)(1)(B) to (D), Pub. L. 112-213 amended subpars. (B) to (D) generally. Prior to amendment, subpars. (B) to (D) read as follows:

"(B) activate and conduct sea trials on each vessel at least once every 30 months;

"(C) maintain in an enhanced activation status those vessels that are scheduled to be activated within 5 days;

"(D) locate those vessels that are scheduled to be activated within 5 days near embarkation ports specified for those vessels; and"

2011—Subsec. (b)(6), Pub. L. 112-81, §3502(1), added par. (6).

Subsec. (f), Pub. L. 112-81, §3502(2), added subsec. (f). 2008—Subsec. (b)(5), Pub. L. 110-181, §3513, added par. (5).

Subsec. (c)(1)(B), Pub. L. 110-181, §3516, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "activate and conduct sea trials on each vessel at least once every twenty-four months;"

2006—Subsec. (d), Pub. L. 109-364 added subsec. (d).

1996—Subsec. (b)(2), Pub. L. 104-239, §9(1), substituted "of the Secretary of Defense" for "of the Secretary of the Navy".

Subsecs. (c), (d), Pub. L. 104-239, §9(2), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "The Secretary of Transportation shall not require bid, payment, performance, payment and performance, or completion bonds from contractors for repair, alteration, or maintenance of vessels of the National Defense Reserve Fleet unless—

"(1) required by law; or

"(2) the Secretary determines, after investigation, that the imposition of such bonding requirements would not preclude any responsible potential bidder or offeror from competing for award of the contract."

Subsec. (e), Pub. L. 104-106 added subsec. (e).

1992—Subsec. (b), Pub. L. 102-587 amended subsec. (b) to read as if it had not been repealed by Pub. L. 101-225. See 1989 Amendment note below.

1991—Subsec. (d), Pub. L. 102-241 added subsec. (d).

1989—Pub. L. 101-225 struck out subsec. (b) as it appeared after a general amendment by Pub. L. 101-115, see below. See also 1992 Amendment note above.

Pub. L. 101-115 amended section generally. Prior to amendment, section read as follows:

"(a) The Secretary of Transportation shall place in a national defense reserve (1) such vessels owned by the Department of Transportation as, after consultation with the Secretary of the Army and the Secretary of the Navy, he deems should be retained for the national defense, and (2) all vessels owned by the Department of Transportation on June 30, 1950, for the sale of which a contract has not been made by that time, except those determined by the Secretary of Transportation to be of

<sup>1</sup> So in original.

insufficient value for commercial and national defense purposes to warrant their maintenance and preservation, and except those vessels, the contracts for the construction of which are made after September 2, 1945, under the provisions of the Merchant Marine Act, 1936, as amended. A vessel under charter on March 1, 1948, shall not be placed in the reserve until the termination of such charter. Unless otherwise provided for by law, all vessels placed in such reserve shall be preserved and maintained by the Secretary of Transportation for the purpose of national defense. A vessel placed in such reserve shall in no case be used for any purpose whatsoever except that any such vessel may be used for account of any agency or department of the United States during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936, as amended, and that any such vessel may be used under a bare-boat charter entered into pursuant to authority vested in the Secretary of Transportation on July 1, 1950, or granted to the Secretary of Transportation after such date.

“(b) Any war-built vessel may be made available by the Secretary of Transportation to any State maintaining a marine school or nautical branch in accordance with the Act of July 29, 1941 (Public Law 191, Seventy-seventh Congress; 55 Stat. 607).”

1981—Subsec. (a). Pub. L. 97-31 substituted “Secretary of Transportation” first three times it appears for “Commission” and last two times it appears for “Secretary of Commerce”; “Department of Transportation” for “it”; and “he” for “it”.

Subsec. (b). Pub. L. 97-31 substituted “Secretary of Transportation” for “Commission”.

1950—Subsec. (a). Act June 30, 1950, amended subsec. (a) to provide that a vessel placed in reserve may not be used for any purpose whatsoever except (1) for the account of any Federal agency or department during the period in which vessels may be requisitioned under section 1242 of Title 46 and (2) and any such vessel may be used under a bare-boat charter entered into pursuant to the authority vested in the Secretary of Commerce.

1949—Subsec. (a). Joint Res. June 29, 1949, extended provisions of section from June 30, 1949, to June 30, 1950. Joint Res. Feb. 28, 1949, extended provisions of section from Mar. 1, 1949, to June 30, 1949.

1948—Subsec. (a). Act Feb. 27, 1948, extended provisions of section from Mar. 1, 1948, to Mar. 1, 1949.

1947—Subsec. (a). Act June 28, 1947, extended provisions of section from Dec. 31, 1947, to Mar. 1, 1948.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-587, title VI, §6205(a), Nov. 4, 1992, 106 Stat. 5094, provided in part that: “The effective date of this subsection [amending this section] is December 12, 1989.”

#### 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.

#### VESSEL REPAIR AND MAINTENANCE PILOT PROGRAM

Pub. L. 104-239, §16, Oct. 8, 1996, 110 Stat. 3138, provided that:

“(a) IN GENERAL.—The Secretary of Transportation shall conduct a pilot program to evaluate the feasibility of using renewable contracts for the maintenance and repair of outported vessels in the Ready Reserve Force to enhance the readiness of those vessels. Under the pilot program, the Secretary, subject to the availability of appropriations and within 6 months after the date of the enactment of this Act [Oct. 8, 1996], shall award 9 contracts for this purpose.

“(b) USE OF VARIOUS CONTRACTING ARRANGEMENTS.—In conducting a pilot program under this section, the Secretary of Transportation shall use contracting arrangements similar to those used by the Department of Defense for procuring maintenance and repair of its vessels.

“(c) CONTRACT REQUIREMENTS.—Each contract with a shipyard under this section shall—

“(1) subject to subsection (d), provide for the procurement from the shipyard of all repair and maintenance (including activation, deactivation, and dry-docking) for 1 vessel in the Ready Reserve Force that is outported in the geographical vicinity of the shipyard;

“(2) be effective for 1 fiscal year; and

“(3) be renewable, subject to the availability of appropriations, for each subsequent fiscal year through fiscal year 1998.

“(d) LIMITATION OF WORK UNDER CONTRACTS.—A contract under this section may not provide for the procurement of operation or manning for a vessel that may be procured under another contract for the vessel to which section 11(d)(2) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1774(d)(2)) [probably means “(50 U.S.C. App. 1744(d)(2))”, now 50 U.S.C. 4405(d)(2)] applies.

“(e) GEOGRAPHIC DISTRIBUTION.—The Secretary shall seek to distribute contract awards under this section to shipyards located throughout the United States.

“(f) REPORTS.—The Secretary shall submit to the Congress—

“(1) an interim report on the effectiveness of each contract under this section in providing for economic and efficient repair and maintenance of the vessel included in the contract, no later than 20 months after the date of the enactment of this Act [Oct. 8, 1996]; and

“(2) a final report on that effectiveness no later than 6 months after the termination of all contracts awarded pursuant to this section.”

#### § 4406. Reconversion of vessels for normal commercial operation; applicability of other laws to construction contracts; coastwise trade; disposition of moneys; Great Lakes trade

(a) The Secretary is authorized to reconvert or restore for normal operation in commercial services and to convert for operation on the Great Lakes, including the Saint Lawrence River and Gulf, and their connecting waterways, including removal of national defense or war-service features, any vessel authorized to be sold or chartered under this Act. The Secretary is authorized to make such replacements, alterations, or modifications with respect to any vessel authorized to be sold or chartered under this Act, and to install therein such special features, as may be necessary or advisable to make such vessel suitable for commercial operation on trade routes or services or comparable as to commercial utility to other such vessels of the same general type.

(b) to (e) Repealed. Pub. L. 101-225, title III, §307(12), Dec. 12, 1989, 103 Stat. 1925.

(Mar. 8, 1946, ch. 82, §12, 60 Stat. 49; Sept. 28, 1950, ch. 1093, §§1, 2, 64 Stat. 1078; Pub. L. 97-31, §12(158), Aug. 6, 1981, 95 Stat. 168; Pub. L. 101-225, title III, §307(12), Dec. 12, 1989, 103 Stat. 1925.)

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