

## PRIOR PROVISIONS

A prior section 7304, act Aug. 10, 1956, ch. 1041, 70A Stat. 451, related to examination of vessels by board and striking of unfit vessels from Naval Vessel Register, prior to repeal by Pub. L. 103-160, § 824(b).

**§ 7305. Vessels stricken from Naval Vessel Register: sale**

(a) APPRAISAL OF VESSELS STRICKEN FROM NAVAL VESSEL REGISTER.—The Secretary of the Navy shall appraise each vessel stricken from the Naval Vessel Register under section 7304 of this title.

(b) AUTHORITY TO SELL VESSEL.—If the Secretary considers that the sale of the vessel is in the national interest, the Secretary may sell the vessel. Any such sale shall be in accordance with regulations prescribed by the Secretary for the purposes of this section.

(c) PROCEDURES FOR SALE.—(1) A vessel stricken from the Naval Vessel Register and not subject to disposal under any other law may be sold under this section.

(2) In such a case, the Secretary may—

(A) sell the vessel to the highest acceptable bidder, regardless of the appraised value of the vessel, after publicly advertising the sale of the vessel for a period of not less than 30 days; or

(B) subject to paragraph (3), sell the vessel by competitive negotiation to the acceptable offeror who submits the offer that is most advantageous to the United States (taking into account price and such other factors as the Secretary determines appropriate).

(3) Before entering into negotiations to sell a vessel under paragraph (2)(B), the Secretary shall publish notice of the intention to do so in the Commerce Business Daily sufficiently in advance of initiating the negotiations that all interested parties are given a reasonable opportunity to prepare and submit proposals. The Secretary shall afford an opportunity to participate in the negotiations to all acceptable offerors submitting proposals that the Secretary considers as having the potential to be the most advantageous to the United States (taking into account price and such other factors as the Secretary determines appropriate).

(d) APPLICABILITY.—This section does not apply to a vessel the disposal of which is authorized by subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, if it is to be disposed of under those provisions.

(Added Pub. L. 103-160, div. A, title VIII, § 824(b), Nov. 30, 1993, 107 Stat. 1708; amended Pub. L. 105-85, div. A, title X, § 1021, Nov. 18, 1997, 111 Stat. 1875; Pub. L. 107-217, § 3(b)(28), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 108-136, div. A, title X, § 1045(a)(7), Nov. 24, 2003, 117 Stat. 1612; Pub. L. 111-350, § 5(b)(53), Jan. 4, 2011, 124 Stat. 3847.)

## PRIOR PROVISIONS

A prior section 7305, acts Aug. 10, 1956, ch. 1041, 70A Stat. 451; Dec. 12, 1980, Pub. L. 96-513, title V, § 513(27), 94 Stat. 2933, related to sale of vessels stricken from Naval Vessel Register, prior to repeal by Pub. L. 103-160, § 824(b).

## AMENDMENTS

2011—Subsec. (d). Pub. L. 111-350 substituted “division C (except sections 3302, 3501(b), 3509, 3906, 4710, and

4711) of subtitle I of title 41, if it is to be disposed of under those provisions” for “title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), if it is to be disposed of under subtitle I of title 40 and such title III”.

2003—Subsec. (d). Pub. L. 108-136 inserted “such” before “title III.”

2002—Subsec. (d). Pub. L. 107-217 inserted “subtitle I of title 40 and title III of” before “the Federal Property and Administrative Services Act of 1949” and substituted “(41 U.S.C. 251 et seq.)” for “(40 U.S.C. 471 et seq.)” and “subtitle I of title 40 and title III” for “that Act”.

1997—Subsec. (c). Pub. L. 105-85 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

“(c) PROCEDURES FOR SALE.—(1) A vessel stricken from the Naval Vessel Register and not subject to disposal under any other law may be sold under this section. In such a case, the Secretary may sell the vessel to the highest acceptable bidder, regardless of the appraised value of the vessel, after the vessel is publicly advertised for sale for a period of not less than 30 days.

“(2) If the Secretary determines that the bid prices for a vessel received after advertising under paragraph (1) are not acceptable and that readvertising will serve no useful purpose, the Secretary may sell the vessel by negotiation to the highest acceptable bidder if—

“(A) each responsible bidder has been notified of intent to negotiate and has been given a reasonable opportunity to negotiate; and

“(B) the negotiated price is—

“(i) higher than the highest rejected price of any responsible bidder; or

“(ii) reasonable and in the national interest.”

## EXECUTIVE ORDER NO. 11765

Ex. Ord. No. 11765, Jan. 21, 1974, 39 F.R. 2577, related to sale of vessels of the Navy stricken from Naval Vessel Register pursuant to section 7304 of this title regardless of their appraised value under authority of former subsec. (l) of this section.

**§ 7305a. Vessels stricken from Naval Vessel Register: contracts for dismantling on net-cost basis**

(a) AUTHORITY FOR NET-COST BASIS CONTRACTS.—When the Secretary of the Navy awards a contract for the dismantling of a vessel stricken from the Naval Vessel Register, the Secretary may award the contract on a net-cost basis.

(b) RETENTION BY CONTRACTOR OF PROCEEDS OF SALE OF SCRAP AND REUSABLE ITEMS.—When the Secretary awards a contract on a net-cost basis under subsection (a), the Secretary shall provide in the contract that the contractor may retain the proceeds from the sale of scrap and reusable items removed from the vessel dismantled under the contract.

(c) DEFINITIONS.—In this section:

(1) The term “net-cost basis”, with respect to a contract for the dismantling of a vessel, means that the amount to be paid to the contractor under the contract for dismantling and for removal and disposal of hazardous waste material is discounted by the offeror’s estimate of the value of scrap and reusable items that the contractor will remove from the vessel during performance of the contract.

(2) The term “scrap” means personal property that has no value except for its basic material content.

(3) The term “reusable item” means a demilitarized component or a removable portion

of a vessel or equipment that the Secretary of the Navy has identified as excess to the needs of the Navy but which has potential resale value on the open market.

(Added Pub. L. 108-375, div. A, title X, §1011(a), Oct. 28, 2004, 118 Stat. 2038.)

**§ 7306. Vessels stricken from Naval Vessel Register; captured vessels: conveyance by donation**

(a) **AUTHORITY TO MAKE TRANSFER.**—The Secretary of the Navy may convey, by donation, all right, title, and interest to any vessel stricken from the Naval Vessel Register or any captured vessel, for use as a museum or memorial for public display in the United States, to—

- (1) any State, the District of Columbia, any Commonwealth or possession of the United States, or any municipal corporation or political subdivision thereof; or
- (2) any nonprofit entity.

(b) **LIMITATIONS ON LIABILITY AND RESPONSIBILITY.**—(1) The United States and all departments and agencies thereof, and their officers and employees, shall not be liable at law or in equity for any injury or damage to any person or property occurring on a vessel donated under this section.

(2) Notwithstanding any other law, the Department of Defense, and the officers and employees of the Department of Defense, shall have no responsibility or obligation to make, engage in, or provide funding for, any improvement, upgrade, modification, maintenance, preservation, or repair to a vessel donated under this section.

(c) **TRANSFERS TO BE AT NO COST TO DEPARTMENT OF DEFENSE.**—Any transfer of a vessel under this section, the maintenance and preservation of that vessel as a museum or memorial, and the ultimate disposal of that vessel, including demilitarization of Munitions List items at the end of the useful life of the vessel as a museum or memorial, shall be made at no cost to the Department of Defense.

(d) **APPLICATION OF ENVIRONMENTAL LAWS.**—Nothing in this section shall affect the applicability of Federal, State, interstate, and local environmental laws and regulations, including the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), to the Department of Defense or to a donee.

(e) **DEFINITIONS.**—In this section:

- (1) The term “nonprofit entity” means any entity qualifying as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986.
- (2) The term “Munitions List” means the United States Munitions List created and controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).
- (3) The term “donee” means any entity receiving a vessel pursuant to subsection (a).

(Added Pub. L. 103-160, div. A, title VIII, §824(b), Nov. 30, 1993, 107 Stat. 1709; amended Pub. L. 106-65, div. A, title X, §1011, Oct. 5, 1999, 113 Stat. 739; Pub. L. 107-217, §3(b)(29), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 113-66, div. A, title X,

§1022(a)–(e)(1), Dec. 26, 2013, 127 Stat. 845, 846; Pub. L. 114-92, div. A, title X, §1074(b), Nov. 25, 2015, 129 Stat. 996.)

**REFERENCES IN TEXT**

The Toxic Substances Control Act, referred to in subsec. (d), is Pub. L. 94-469, Oct. 11, 1976, 90 Stat. 2003, which is classified generally to chapter 53 (§2601 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (d), is Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, which is classified principally to chapter 103 (§9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (e)(1), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

**PRIOR PROVISIONS**

A prior section 7306, acts Aug. 10, 1956, ch. 1041, 70A Stat. 452; Nov. 8, 1965, Pub. L. 89-348, §1(10), 79 Stat. 1311; Nov. 2, 1966, Pub. L. 89-718, §42, 80 Stat. 1120; Nov. 29, 1989, Pub. L. 101-189, div. A, title XVI, §1616, 103 Stat. 1602, related to use of vessels stricken from the Naval Vessel Register for experimental purposes, prior to repeal by Pub. L. 103-160, §824(b). See section 7306a of this title.

**AMENDMENTS**

2015—Subsecs. (d) to (f). Pub. L. 114-92 redesignated subsecs. (e) and (f) as (d) and (e), respectively, and struck out former subsec. (d) which related to congressional notice-and-wait period.

2013—Pub. L. 113-66, §1022(e)(1), substituted “Vessels stricken from Naval Vessel Register; captured vessels: conveyance by donation” for “Vessels stricken from Naval Vessel Register; captured vessels: transfer by gift or otherwise” in section catchline.

Subsec. (a). Pub. L. 113-66, §1022(a), amended subsec. (a) generally. Prior to amendment, text read as follows: “Subject to section 113 of title 40, the Secretary of the Navy may transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register, or any captured vessel, to—

“(1) any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof;

“(2) the District of Columbia; or

“(3) any not-for-profit or nonprofit entity.”

Subsec. (b). Pub. L. 113-66, §1022(b), amended subsec. (b) generally. Prior to amendment, text read as follows: “An agreement for the transfer of a vessel under subsection (a) shall include a requirement that the transferee will maintain the vessel in a condition satisfactory to the Secretary.”

Subsec. (c). Pub. L. 113-66, §1022(c), in heading, substituted “Department of Defense” for “United States” and in text, inserted “, the maintenance and preservation of that vessel as a museum or memorial, and the ultimate disposal of that vessel, including demilitarization of Munitions List items at the end of the useful life of the vessel as a museum or memorial,” after “under this section” and substituted “the Department of Defense” for “the United States”.

Subsecs. (e), (f). Pub. L. 113-66, §1022(d), added subsecs. (e) and (f).

2002—Subsec. (a). Pub. L. 107-217 substituted “section 113 of title 40” for “subsections (c) and (d) of section 602 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474)”.

1999—Subsec. (d). Pub. L. 106-65 amended heading and text of subsec. (d) generally. Text read as follows:

“(1) No transfer under this section takes effect unless—