

§ 56305. Vessel encumbrances

(a) IN GENERAL.—The existence of an encumbrance on a vessel does not prevent the requisition of the vessel under this chapter.

(b) DEPOSIT IN TREASURY.—

(1) IN GENERAL.—If an encumbrance exists, the Secretary of Transportation may deposit part of the compensation or advance of compensation to be paid under this chapter (but not more than the total amount of all encumbrances) in a fund in the Treasury. The Secretary shall publish notice of the creation of the fund in the Federal Register.

(2) AVAILABILITY OF AMOUNTS DEPOSITED.—Amounts deposited in the fund shall be available to pay the compensation or any of the encumbrances (including encumbrances stipulated to in a court of the United States or a State) existing at the time the vessel was requisitioned.

(c) CIVIL ACTION.—

(1) IN GENERAL.—Within 6 months after publication of notice under subsection (b), the holder of an encumbrance may bring a civil action in admiralty, according to the principles of libels in rem, against the fund.

(2) VENUE.—The action must be brought in the district court of the United States—

(A) from whose custody the vessel was or may be requisitioned; or

(B) in whose district the vessel was located when it was requisitioned.

(3) SERVICE OF PROCESS.—Service of process shall be made on the appropriate United States Attorney, the Attorney General, and the Secretary, in the manner provided by the Federal Rules of Civil Procedure (28 App. U.S.C.). Notice of the action shall be given to all interested persons as ordered by the court.

(4) AS BETWEEN PRIVATE PARTIES.—The action shall proceed and be determined according to the principles of law and the rules of practice applicable in like cases between private parties.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1655.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
56305	46 App.:1242(d) (last par.).	June 29, 1936, ch. 858, title IX, §902(d) (last par.), as added Mar. 24, 1943, ch. 26, §3(d), 57 Stat. 49; Pub. L. 97–31, §12(131), Aug. 6, 1981, 95 Stat. 165.

In this section, the words “encumbrance” and “encumbrances” are substituted for “any valid claim by way of mortgage or maritime claim or attachment lien” and “any valid claim by way of mortgage or maritime lien or attachment lien” to eliminate unnecessary words.

In subsection (b)(1), the words “The Secretary shall publish notice of the creation of the fund in the Federal Register” are added for clarity, based on language barring a civil action not brought within 6 months after publication of such a notice.

In subsection (c)(1), the words “Within 6 months after publication of notice under subsection (b)” are substituted for “prior to June 30, 1943, or within six months after the first such deposit with the Treasurer and publication of notice thereof in the Federal Register, whichever date is later” for clarity and to eliminate obsolete language.

Subsection (c)(3) is substituted for “and such suit shall be commenced in the manner provided by section 742 of this Appendix and service of process shall be made in the manner therein provided by service upon the United States attorney and by mailing by registered mail to the Attorney General and the Secretary of Transportation and due notice shall under order of the court be given to all interested persons” because the relevant sentences in 46 App. U.S.C. 742 were struck by an amendment in 1996. See generally *Henderson v. United States*, 517 U.S. 654, 116 S. Ct. 1638 (1996).

In subsection (c)(4), the words “any decree in said suit shall be paid out of the first and all subsequent deposits of compensation” and “any decree shall be subject to appeal and revision as now provided in other cases of admiralty and maritime jurisdiction” are omitted as surplus.

§ 56306. Use and transfer of vessels

(a) IN GENERAL.—The Secretary of Transportation may repair, recondition, reconstruct, operate, or charter for operation, a vessel acquired under this chapter.

(b) TRANSFER TO OTHER AGENCIES.—The Secretary may transfer the possession or control of a vessel acquired under this chapter to another department or agency of the United States Government on terms and conditions approved by the President. The department or agency shall promptly reimburse the Secretary for expenditures for just compensation, purchase price, charter hire, repairs, reconditioning, or reconstruction.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1656.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
56306	46 App.:1242(e).	June 29, 1936, ch. 858, title IX, §902(e); as added Aug. 7, 1939, ch. 555, §3, 53 Stat. 1256; Pub. L. 97–31, §12(131), Aug. 6, 1981, 95 Stat. 165.

In this section, the word “vessel” is substituted for “property” for consistency in the chapter.

In subsection (b), the words “Such reimbursements shall be deposited in the construction fund established by section 1116 of this Appendix” are omitted as impliedly repealed by 46 App. U.S.C. 1119 as amended in 1967.

§ 56307. Return of vessels

When a vessel requisitioned for use but not ownership is returned to the owner, the Secretary of Transportation shall—

(1) return the vessel in a condition at least as good as when taken, less ordinary wear and tear; or

(2) pay the owner an amount sufficient to recondition the vessel to that condition, less ordinary wear and tear.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1656.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
56307	46 App.:1242(a) (4th sentence).	June 29, 1936, ch. 858, title IX, §902(a) (4th sentence), 49 Stat. 2015; Pub. L. 97–31, §12(131), Aug. 6, 1981, 95 Stat. 165.

The words “requisitioned for use but not ownership” are substituted for “taken and used under authority of

this section, but the ownership thereof is not required by the United States” to eliminate unnecessary words.

**CHAPTER 565—ESSENTIAL VESSELS
AFFECTED BY NEUTRALITY ACT**

- Sec.
56501. Definition.
56502. Adjusting obligations and arranging maintenance.
56503. Types of adjustments and arrangements.
56504. Changes in adjustments and arrangements.

§ 56501. Definition

In this chapter, the term “essential vessel” means a vessel that is—

- (1)(A) security for a mortgage indebtedness to the United States Government; or
- (B) constructed under this subtitle or required by a contract under this subtitle to be operated on a certain essential foreign trade route; and
- (2) necessary in the interests of commerce and national defense to be maintained in condition for prompt use.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1656.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
56501	46 App.:1242a(a).	June 29, 1940, ch. 442, subdiv. (a), 54 Stat. 684.

§ 56502. Adjusting obligations and arranging maintenance

(a) GENERAL AUTHORITY.—On written application, the Secretary of Transportation may adjust obligations and arrange for maintenance of an essential vessel as provided in this chapter if the Secretary determines, after any investigation or proceeding the Secretary considers desirable, that—

- (1) the operation of the vessel in the service, route, or line to which it is assigned under this subtitle, or in which it otherwise would be operated, is not—
 - (A) lawful under the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or a proclamation issued under that Act; or
 - (B) compatible with maintaining the availability of the vessel for national defense and commerce;
- (2) it is not feasible under existing law to employ the vessel in any other service or operation in foreign or domestic trade (except temporary or emergency operation under section 56503(b)(5) of this title); and
- (3) the applicant, because of the restrictions of the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or the withdrawal of vessels for national defense under paragraph (1), is not earning or will not earn a reasonable return on the capital necessarily employed in its business.

(b) EFFECTIVE PERIOD.—Adjustments and arrangements under subsection (a) shall continue in effect only as long as the circumstances described in subsection (a) continue to exist.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1657.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
56502	46 App.:1242a(b), (e).	June 29, 1940, ch. 442, subdvs. (b), (e), 54 Stat. 684, 686; Pub. L. 97-31, §12(132), Aug. 6, 1981, 95 Stat. 165.

The text of 46 App. U.S.C. 1242a(b) (1st sentence) is omitted as surplus. The text of 46 App. U.S.C. 1242a(e) is omitted as obsolete.

REFERENCES IN TEXT

The Neutrality Act of 1939, referred to in subsec. (a)(1)(A), (3), is act Nov. 4, 1939, ch. 2, 54 Stat. 4, which is classified generally to subchapter II (§441 et seq.) of chapter 9 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 441 of Title 22 and Tables.

§ 56503. Types of adjustments and arrangements

(a) SUSPENSION REQUIREMENTS.—An adjustment or arrangement under this chapter shall include suspension of—

- (1) the requirement to operate the vessel in foreign trade under the applicable operating-differential or construction-differential subsidy contract or mortgage or other agreement; and
- (2) the right to operating-differential subsidy for the vessel.

(b) DISCRETIONARY ADJUSTMENTS AND ARRANGEMENTS.—To the extent the Secretary of Transportation considers appropriate to carry out the purposes of this subtitle, an adjustment or arrangement under this chapter may include any of the following:

- (1) Lay-up of the vessel by the owner or in the custody of the Secretary, with payment or reimbursement by the Secretary of necessary and proper expenses (including reasonable overhead and insurance) or a fixed periodic allowance instead of payment or reimbursement.
- (2) Postponement, for not more than the total period of the lay-up, of the maturity date of each installment of the principal of obligations to the United States Government for the vessel (regardless of whether the maturity date is during a lay-up period), or rearrangement of those maturities.
- (3) Postponement or cancellation of interest accruing on the obligations during a lay-up period.
- (4) Extension, for not more than the total period of the lay-up, of the 20-year life limitation for the vessel and other limitations and provisions of this subtitle based on a 20-year life.
- (5) Provision for temporary or emergency employment of the vessel (instead of lay-up) as may be practicable, with such arrangements for management of the vessel, payment of expenses, and application of the proceeds of the employment, as the Secretary may approve, with any period of operation being included as part of the lay-up period.
- (6) Payment to the Secretary, on termination of the arrangements with the applicant, of the applicant’s net profits (earned