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57103.	Donation of nonretention vessels in the National Defense Reserve Fleet.
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## AMENDMENTS

2017—Pub. L. 115–91, div. C, title XXXV, §3502(b)(9), Dec. 12, 2017, 131 Stat. 1911, added item 57100.

2012—Pub. L. 112–213, title IV, §408(b), Dec. 20, 2012, 126 Stat. 1571, substituted “Donation of nonretention vessels in the National Defense Reserve Fleet” for “Sale of obsolete vessels in National Defense Reserve Fleet” in item 57103.

**§ 57100. 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. Vessels in the National Defense Reserve Fleet, including vessels loaned to State maritime academies, shall be considered public vessels of the United States.

(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 section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242);<sup>1</sup> 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 Territory 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, United States Code, 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, United States Code, 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 8680 of title 10 shall apply to

<sup>1</sup> See References in Text note below.

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.

(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>2</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.

(g) VESSEL STATUS.—A vessel in the National Defense Reserve Fleet determined by the Maritime Administration to be of insufficient value to remain in the National Defense Reserve Fleet shall remain a vessel within the meaning of that term in section 3 of title 1, United States Code, and subject to the rights and responsibilities of a vessel under admiralty law at least until such time as the vessel is delivered to a dismantling facility or is disposed of otherwise from the National Defense Reserve Fleet.

(Added and amended Pub. L. 115-91, div. C, title XXXV, §3502(a)(3), (b)(6), Dec. 12, 2017, 131 Stat. 1910; Pub. L. 115-232, div. A, title VIII, §809(q), Aug. 13, 2018, 132 Stat. 1844.)

<sup>2</sup> So in original.

#### REFERENCES IN TEXT

Section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242), referred to in subsec. (b)(1), is section 902 of act June 29, 1936, ch. 858, 49 Stat. 2015, which was classified to section 1242 of the former Appendix to this title prior to repeal and restatement as chapter 563 of this title by Pub. L. 109-304, §§8(c), 19, Oct. 6, 2006, 120 Stat. 1654, 1713.

#### CODIFICATION

Section, as added and amended by Pub. L. 115-91, is based on act 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; Pub. L. 114-328, div. C, title XXXV, §3504, Dec. 23, 2016, 130 Stat. 2776, which was formerly classified to section 4405 of Title 50, War and National Defense, before being transferred to this chapter and renumbered as this section.

#### AMENDMENTS

2018—Subsec. (d)(1). Pub. L. 115-232 substituted “section 8680 of title 10” for “section 7310 of title 10, United States Code.”

2017—Pub. L. 115-91, §3502(b)(6)(A), inserted section enumerator and catchline.

Pub. L. 115-91, §3502(a)(3), transferred section 11 of act Mar. 8, 1946, to this chapter and renumbered it as this section. See Codification note above.

Subsec. (a). Pub. L. 115-91, §3502(b)(6)(A), inserted heading.

Subsec. (b). Pub. L. 115-91, §3502(b)(6)(B), inserted heading.

Subsec. (e). Pub. L. 115-91, §3502(b)(6)(C), inserted heading and struck out “of title 46, United States Code” after “section 3703a” in text.

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of Title 10, Armed Forces.

#### 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 outporting 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 46 U.S.C. 57100(c)(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.”

**§ 57101. Placement of vessels in National Defense Reserve Fleet**

(a) IN GENERAL.—Any vessel acquired by the Maritime Administration of 1,500 gross tons or more or such other vessels as the Secretary of Transportation determines are appropriate shall be placed in the National Defense Reserve Fleet.

(b) REMOVAL FROM FLEET.—A vessel placed in the Fleet under subsection (a) may not be traded out or sold from the Fleet, except as provided in section 57102, 57103, or 57104 or chapter 533, 537, 573, or 575 of this title.

(c) AUTHORITY OF FEDERAL ENTITIES TO TRANSFER VESSELS.—All Federal entities are authorized to transfer vessels to the National Defense Reserve Fleet without reimbursement subject to the approval of the Secretary of Transportation and the Secretary of the Navy with respect to Ready Reserve Force vessels and the Secretary of Transportation with respect to all other vessels.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1658; Pub. L. 112-213, title IV, §§406, 407, Dec. 20, 2012, 126 Stat. 1571; Pub. L. 115-91, div. C, title XXXV, §3502(b)(7), Dec. 12, 2017, 131 Stat. 1911.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
57101 .....	46 App.:1160(j).	June 29, 1936, ch. 858, title V, §510(j), as added Pub. L. 89-254, §2, Oct. 10, 1965, 79 Stat. 980; Pub. L. 97-31, §12(91), Aug. 6, 1981, 95 Stat. 161.

In subsection (a), the words “vessel acquired by the Maritime Administration” are substituted for “vessel heretofore or hereafter acquired under this section, or otherwise acquired by the Maritime Administration of the Department of Transportation under any other authority” to eliminate unnecessary words.

In subsection (b), the words “except as provided in section 57102, 57103, or 57104 or chapter 533, 537, 573, or 575 of this title” are substituted for “except as provided for in subsections (g) and (i) of this section. This limitation shall not affect the rights of the Secretary of Transportation to dispose of a vessel as provided in other sections of this subchapter or in subchapters VII or XI of this chapter” because of the restatement.

AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91, which directed striking out “maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 App. 1744)”, was executed by striking out “maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744)” before period at end, to reflect the probable intent of Congress.

2012—Subsec. (a). Pub. L. 112-213, §406, inserted “of 1,500 gross tons or more or such other vessels as the Secretary of Transportation determines are appropriate” after “Administration”.

Subsec. (c). Pub. L. 112-213, §407, added subsec. (c).

**§ 57102. Disposition of vessels not worth preserving**

(a) IN GENERAL.—If the Secretary of Transportation determines that a vessel owned by the Maritime Administration is of insufficient value for commercial or military operation to warrant its further preservation, the Secretary may scrap the vessel or sell the vessel for cash.

(b) SELLING PROCEDURE.—The sale of a vessel under subsection (a) shall be made on the basis of competitive sealed bids, after an appraisal and due advertisement. The purchaser does not have to be a citizen of the United States. The purchaser shall provide a surety bond, with a surety approved by the Secretary, to ensure that the vessel will not be operated in the foreign trade of the United States at any time within 10 years after the sale, in competition with a vessel owned by a citizen of the United States and documented under the laws of the United States.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1658.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
57102 .....	46 App.:1158(a).	June 29, 1936, ch. 858, title V, §508(a), 49 Stat. 2000; Pub. L. 97-31, §12(89), Aug. 6, 1981, 95 Stat. 161; Pub. L. 108-136, title XXXV, §3512(1), Nov. 24, 2003, 117 Stat. 1789.

In subsection (a), the words “vessel owned by the Maritime Administration” are substituted for “vessel transferred to the Maritime Administration of the Department of Transportation by section 1112 of this Appendix, or hereafter acquired” to eliminate unnecessary words.

In subsection (b), the words “The sale of a vessel under section (a) shall be made on the basis of competitive sealed bids, after an appraisal and due advertisement. The purchaser does not have to be a citizen of the United States.” are substituted for “after appraisal and due advertisement, and upon competitive sealed bids, either to citizens of the United States or to aliens” for clarity. The words “provide a surety bond, with a surety approved by the Secretary, to ensure