

VESSEL OPERATIONS REVOLVING FUND

VESSEL OPERATIONS REVOLVING FUND; ESTABLISHMENT; USES; LIMITATIONS (46 App. U.S.C. 1241a

(2001)).¹ For working capital for the "Vessel Operations Revolving Fund", which is hereby created for the purpose of carrying out vessel operating functions of the Secretary of Transportation, including charter, operation, maintenance, repair, reconditioning, and betterment of merchant vessels under the jurisdiction of the Secretary of Transportation, \$20,000,000, to remain available until expended.

Notwithstanding any other provision of law, rates for shipping services rendered under said Fund shall be prescribed by the Secretary of Transportation and the Fund shall be credited with all receipts from vessel operating activities conducted thereunder: Provided, That the provisions of sections 1(a), 1(c), 3(c) and 4 of Public Law 17, Seventy-eighth Congress (57 Stat. 45), as amended,² shall be applicable in connection with such operations and to seamen employed through general agents as employees of the United States, who may be employed in accordance with customary commercial practices in the maritime industry, notwithstanding the provisions of any law applicable in terms to the employment of persons by the United States: Provided further, That such sums as may be determined to be necessary by the Secretary of Transportation, with the approval of the Office of Management and Budget, but not exceeding 2 per centum of vessel operating expenses, may be advanced from this Fund to the appropriation "Salaries and expenses" for the purposes of that appropriation in connection with vessel operating functions, but without regard to the limitations on amounts as stated therein: Provided further, That notwithstanding any other provisions of law, the unexpended balances of any working funds or of allocation accounts established, subsequent to January 1, 1951, for the activities provided for under this appropriation, together with receipts heretofore and hereafter received from such activities, may be transferred to and consolidated with this Fund, which shall be available for the purposes of such working funds or allocation accounts.

No money made available to the Department of Transportation, for Maritime Activities, by this or any other Act shall be used in payment for a vessel the title to which is acquired by the Government either by requisition or purchase, or the use of which is taken either by requisition or agreement, or which is insured by the Government and lost while so insured, unless the price or hire to be paid therefor, (except in cases

¹ Enacted as section 801 of the Act of June 2, 1951 (65 STAT. 59), as amended.

² 50 U.S.C. App. 1291(a), (c), 1293(c), 1294.

where section 802 of the Merchant Marine Act, 1936, as amended, is applicable) is computed in accordance with subsection 902(a) of said Act, as that subsection is interpreted by the General Accounting Office.

AVAILABILITY OF VESSEL OPERATIONS REVOLVING FUND; VESSELS INVOLVED IN MORTGAGE FORECLOSURE OR FORFEITURE PROCEEDINGS; REDELIVERY AND LAYUP OF CHARTERED SHIPS; CUSTODY AND HUSBANDING OF GOVERNMENT-OWNED SHIPS (46 App. U.S.C. 1241b (2001)).³ Hereafter the vessel operations revolving fund, created by the Third Supplemental Appropriation Act, 1951, shall be available for necessary expenses incurred, in connection with protection, preservation, maintenance, acquisition, or use of vessels involved in mortgage-foreclosure or forfeiture proceedings instituted by the United States, including payment of prior claims and liens, expenses of sale, or other charges incident thereto; for necessary expenses incident to the redelivery and lay-up, in the United States, of ships now chartered under agreements which do not call for their return to the United States; for activation, repair and deactivation of merchant ships chartered for limited emergency purposes during the fiscal year 1957 under the jurisdiction of the Secretary of Transportation; and for payment of expenses of custody and husbanding of Government-owned ships other than those within reserve fleets.

EXPENSES FOR ACTIVATION, REPAIR AND DEACTIVATION OF MERCHANT SHIPS; RECEIPTS (46 App. U.S.C. 1241c (2001)).⁴ The vessel operations revolving fund created by the Third Supplemental Appropriations Act, 1951, approved June 2, 1951 (Public Law 45, Eighty-second congress; 65 Stat. 52, at 59), shall, beginning July 1, 1956, be available for expenses incurred in connection with the activation, repair, and deactivation of merchant ships chartered under the jurisdiction of the Secretary of Transportation. There shall be credited to such fund all receipts on account of operations after July 1, 1956, under charters of Government-owned ships under the jurisdiction of the Secretary of Transportation.

³ Enacted as part of Maritime Activities set forth in Public Law 84-604, approved June 20, 1956 (70 STAT. 319), the Department of Commerce and Related Agencies Appropriation Act, as amended.

⁴ Enacted as Public Law 84-890, approved August 1, 1956 (70 STAT. 897), as amended.

VESSEL SCRAPPING¹

NATIONAL MARITIME HERITAGE ACT. Section 6 of Public Law 103-451, as amended (16 U.S.C. 5405 (2001)), the National Maritime Heritage Act provides:

SEC. 6. FUNDING (16 U.S.C. 5405 (2001)).

(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 the Act of June 2, 1951 (46 App. U.S.C. 1241a), that is attributable to the sale of obsolete vessels in the National Defense Reserve Fleet that are scrapped or sold under section 508 or 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 or 1160(i)) 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 shall be available to the Secretary to carry out the Program,² as provided in subsection (b).

(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)—

(A) 1/2 shall be used for grants under section 4(b); and

(B) 1/2 shall be used for grants under section 4(c).

(2) *Use for interim projects.* Amounts available for the Program under subsection (a)(1)(C) 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 508 or 510(i) of the Merchant Marine Act, 1936 (46 [App.] U.S.C. 1158 or 1160(i)) are available to the

¹ The Maritime Administration scraps vessels in the National Defense Reserve Fleet under the authority set forth in sections 508 and 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158, 1160(i)).

² Section 7(4) of the Act defines "Program" to mean the National Maritime Heritage Grants Program established under Section 4 of the Act.

Secretary for grants for interim projects approved under section 4(j) of this Act.

(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) 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) 1/2 shall be allocated to the National Trust for expenses incurred in administering grants under section 4(b); and

(ii) 1/2 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 of all vessels described in paragraph (2)—

(A) by September 30, 2006;

(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 508 and 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158, 1160(i)).

(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.

NAVY PILOT SCRAPPING PROGRAM. Section 8124 of Public Law 105-262, approved October 17, 1998 (112 STAT. 2279, 2333), the Department of Defense Appropriations Act, 1999, provides: Sec. 8124. The Secretary of the Navy may carry out a competitively awarded vessel scrapping pilot program during fiscal years 1999 and 2000 using funds made available in this Act under the heading

“Operation and Maintenance, Navy”: Provided, That the Secretary of the Navy shall define the program scope sufficient to gather data on the cost of scrapping Government vessels and to demonstrate cost-effective technologies and techniques to scrap such vessels in a manner that is protective of worker safety and health and the environment.

SCRAPPING OF NDRF VESSELS. Section 3502 of Public Law 106-398 (114 STAT. 1654a-490), the DOD Authorization Act, FY 2001, provides as follows:

SEC. 3502. SCRAPPING OF NATIONAL DEFENSE RESERVE FLEET VESSELS.

* * * * *

(b) **Section 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 the enactment of this Act, 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) **Limitation on Scrapping Before Program.**—

(1) *In General.*—Until the report required by subsection (d)(1) is transmitted to the congressional committees referred to in that subsection, the Secretary may not proceed with the scrapping of any vessel in the National Defense Reserve Fleet except the following:

- (A) DONNER.
- (B) EXPORT COMMERCE.
- (C) BUILDER.
- (D) ALBERT E. WATTS.
- (E) WAYNE VICTORY.
- (F) MORMACDAWN.
- (G) MORMACMOON.
- (H) SANTA ELENA.
- (I) SANTA ISABEL.

- (J) SANTA CRUZ.
- (K) PROTECTOR.
- (L) LAUDERDALE.
- (M) PVT. FRED C. MURPHY.
- (N) BEAUJOLAIS.
- (O) MEACHAM.
- (P) NEACO.
- (Q) WABASH.
- (R) NEMASKET.
- (S) MIRFAK.
- (T) GEN. ALEX M. PATCH.
- (U) AUTHUR M. HUDDALL.
- (V) WASHINGTON.
- (W) SUFFOLK COUNTY.
- (X) CRANDALL.
- (Y) CRILLEY.
- (Z) RIGEL.
- (AA) VEGA.
- (BB) COMPASS ISLAND.
- (CC) EXPORT CHALLENGER.
- (DD) PRESERVER.
- (EE) MARINE FIDDLER.
- (FF) WOOD COUNTY.
- (GG) CATAWBA VICTORY.
- (HH) GEN. NELSON M. WALKER.
- (II) LORAIN COUNTY.
- (JJ) LYNCH.
- (KK) MISSION SANTA YNEZ.
- (LL) CALOOSAHATCHEE.
- (MM) CANISTEO.

(2) **Prioritization.**—The Secretary shall exercise discretion to prioritize for scapping those vessels identified in paragraph (1) that pose the most immediate threat to the environment.

* * * * *

(e) **Report.**—Not later than 1 year after the date of the enactment of this Act, and every 6 months thereafter, the Secretary of Transportation, in coordination with the Secretary of the Navy, shall report to the Committee on Transportation and Infrastructure and the Committee on Resources of

the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committees on Armed Services of the House of Representatives and the Senate on the progress of the vessel scrapping program developed under subsection (d)(1) and on the progress of any other scrapping of obsolete Government-owned vessels.

(f) **Presidential Recommendation.**—The President shall transmit with the report required by subsection (d)(1) a recommendation on—

(1) whether it is necessary to amend to Toxic Substances Control Act (15 U.S.C. 2601 et seq.) or any other environmental statute or regulatory requirements relevant to the disposal of vessels described in section 6(c)(2) of the National Maritime Heritage Act of 1994 (16 U.S.C. 5405(c)(2)) by September 30, 2006; and

(2) any proposed changes to those requirements to carry out such disposals.

NAVY SHIP DISPOSAL PROJECT. Section 318 of Public Law 106-398, approved October 30, 2000 (114 STAT. 1654A-57), the DOD Authorization Act, FY 2001, provides:

SEC. 318. SHIP DISPOSAL PROJECT.

(a) **Continuation of Project; Purpose.**—During fiscal year 2001, the Secretary of the Navy shall continue to carry out the ship disposal project within the United States to permit the Secretary to assemble appropriate data on the cost of scrapping naval vessels.

(b) **Use of Competitive Procedures.**—The Secretary shall use competitive procedures to award all task orders under the primary contracts under the ship disposal project.

(c) **Report.**—Not later than December 31, 2000, the Secretary shall submit to the congressional defense committees a report on the ship disposal project. The report shall contain the following:

(1) A description of the competitive procedures used for the solicitation and award of all task orders under the project.

(2) A description of the task orders awarded under the project.

(3) An assessment of the results of the project as of the date of the report, including the performance of contractors under the project.

(4) The proposed strategy of the Navy for future procurement of ship scrapping activities.

NAVY/MARAD SCRAPPING PROGRAM. Section 8136 of Public Law 106-259, approved August 9, 2000 (114 STAT. 704), the Department of Defense Appropriations Act of 2001, provides:

SEC. 8136. In addition to the amounts provided elsewhere in this Act, the amount of \$10,000,000 is hereby appropriate for “Operation and

Maintenance, Navy", to accelerate the disposal and scrapping of ship of the Navy Inactive Fleet and Maritime Administration National Defense Reserve Fleet: *Provided*, That the Secretary of the Navy and the Secretary of Transportation shall develop criteria for selecting ships for scrapping or disposal based on their potential for causing pollution, creating and environmental hazard and cost of storage: *Provided further*, That the Secretary of the Navy and the Secretary of Transportation shall report to the congressional defense committees no later than June 1, 2001 regarding the total number of vessels currently designated for scrapping, and the schedule and costs for scrapping these vessels.

MERCHANT SHIP SALES ACT OF 1946¹

SEC. 2. DECLARATION OF POLICY (50 U.S.C. App. 1735 (2001)).

(a) It is necessary for the national security and development and maintenance of the domestic and the export and import foreign commerce of the United States that the United States have an efficient and adequate American-owned merchant marine (1) sufficient to carry its domestic water-borne commerce and a substantial portion of its water-borne export and import foreign commerce and to provide shipping service on all routes essential for maintaining the flow of such domestic and foreign water-borne commerce at all times; (2) capable of serving as a naval and military auxiliary in time of war or national emergency; (3) owned and operated under the United States flag by citizens of the United States; (4) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel; and (5) supplemented by efficient American-owned facilities for shipbuilding and ship repair, marine insurance, and other auxiliary services.

(b) It is hereby declared to be the policy of this Act to foster the development and encourage the maintenance of such a merchant marine.

SEC. 3. DEFINITIONS (50 U.S.C. App. 1736 (2001)).

As used in this Act the term—

(a) “Secretary” means the Secretary of Transportation.

(g) “Citizen of the United States” includes a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 2 of the Shipping Act of 1916, as amended. The term “affiliated interest” as used in sections 9 and 10 of this Act includes any person affiliated or associated with a citizen applicant for benefits under this Act who the Secretary, pursuant to rules and regulations prescribed hereunder, determines should be so included in order to carry out the policy and purposes of this Act.

SEC. 5. CHARTER OF VESSELS (50 U.S.C. App. 1738 (2001)).

(c) **Laws Applicable to Charter Hire.** The provisions of sections 708, 709, 710, 712, and 713, of the Merchant Marine Act, 1936, as amended, shall be applicable to charters made under this section.

¹ The term “Citizen of the United States” used throughout the Merchant Ship Sales Act, 1946, is defined in Section 3(g) of that Act. Section 3(g) makes reference to Section 2 of the Shipping Act, 1916. Section 2 (followed by provisions that affect Section 2 citizenship requirements) is located at page 182, *supra*.

(e) Proceedings and Findings; Extension of Charters.

(1) Notwithstanding the provisions of sections 11 and 14 of this Act, as amended, war-built dry-cargo vessels owned by the United States on or after June 30, 1950, may be chartered pursuant to this Act for bare-boat use in any service which, in the opinion of the Maritime Administration, is required in the public interest and is not adequately served, and for which privately owned American flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service. No charters shall be made by the Secretary of Transportation under authority of this subsection until the Maritime Administration shall have given due notice to all interested parties and shall have afforded such parties an opportunity for a public hearing on such charters and shall have certified its findings to the Secretary of Transportation. The Secretary of Transportation is authorized to include in such charters such restrictions and conditions as the Maritime Administration determines to be necessary or appropriate to protect the public interest in respect of such charters and to protect privately owned vessels against competition from vessels chartered under this section: Provided, however, That all such charters shall contain a provision that they will be reviewed annually by the Maritime Administration with recommendations to the Secretary of Transportation, for the purpose of determining whether conditions exist justifying continuance of the charters under the provisions of this subsection.

(2) A charter existing on June 30, 1950, with respect to a war-built dry-cargo vessel may be extended to October 31, 1950, if application is made within ten days after the enactment hereof for the charter of such vessel under subsection (e) of this section and if the Secretary of Transportation deems such extension is justified in accordance with the provisions of section 5(e)(1): Provided, however, That a new voyage under such extended charter shall not be begun after October 31, 1950, unless it has been determined prior to such date, in accordance with the procedure set forth in this subsection, that the continued use of the vessel in the service is required. The Maritime Administration shall conduct all hearings on applications made under the paragraph immediately upon receipt thereof and shall promptly certify its findings to the Secretary of Transportation, provided that all such certifications shall be made not later than October 31, 1950.

(f) Charter of Passenger Vessels.

(1) Notwithstanding the provisions of sections 11 and 14 of this Act, as amended, the Secretary of Transportation may charter any passenger vessel, whether or not war-built, owned by the United States on or after June 30, 1950, pursuant to title VII of the Merchant Marine Act, 1936,

² June 30, 1950.

as amended, and may charter any war-built passenger vessel owned by the United States for use in the domestic trade of the United States, under the conditions prescribed for the charter of war-built cargo vessels in subsection (e) of this section.

(2) Charters existing on June 30, 1950, with respect to passenger vessels may be continued until December 31, 1951, or until expiration thereof by the terms of their provisions.

SEC. 8. EXCHANGE OF VESSELS (50 U.S.C. App. 1741 (2001)).

(d) **Transfer of Substitute Vessels.** In the case of any vessel constructed in the United States after January 1, 1937, which has been taken by the United States for use in any manner, the Secretary, if in its opinion the transfer would aid in carrying out the policies of this Act, is authorized to transfer to the owner of such vessel another vessel which is deemed by the Secretary to be of comparable type with adjustments for depreciation and difference in design or speed, and to the extent applicable, adjustments with respect to the retained vessel as provided for in section 9, and such other adjustments and terms and conditions, including transfer of mortgage obligations in favor of the United States binding upon the old vessel, as the Secretary may prescribe.

SEC. 11. NATIONAL DEFENSE RESERVE FLEET (50 U.S.C. App. 1744 (2001)).

Section 11 provides for the National Defense Reserve Fleet, and is set forth below under that heading.

SEC. 12. RECONVERSION OF VESSELS FOR NORMAL COMMERCIAL OPERATION; APPLICABILITY OF OTHER LAWS TO CONSTRUCTION CONTRACTS; COASTWISE TRADE; DISPOSITION OF MONEYS; GREAT LAKES TRADE (50 U.S.C. App. 1745 (2001)).

(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.