

NATIONAL DEFENSE RESERVE FLEET READY RESERVE FORCE

BASIC STATUTORY AUTHORITY.

SEC. 11. NATIONAL DEFENSE RESERVE FLEET (50 U.S.C. App. 1744 (2002)).

(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 section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); 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; or

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

(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 least once every twenty-four 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

(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.

(e) **Exemption of Fleet from 46 U.S.C. 3703a.** Vessels in the National Defense Reserve Fleet are exempt from the provisions of section 3703a of title 46, United States Code.

2

CERTAIN LAWS AFFECTING THE NATIONAL DEFENSE RESERVE FLEET

DISPOSAL OF CERTAIN NDRF VESSELS.

1. National Defense Authorization Act for Fiscal Year 2000. Public Law 105 - 261, approved October 17, 1998 (112 STAT. 1920), contains the following sections:

Sec. 3602. Authority to Convey National Defense Reserve Fleet Vessel.

(a) **Authority To Convey.** _The Secretary of Transportation may convey all right, title, and interest of the United States Government in and to the vessel M/V BAYAMON (United States official number 530007) to a purchaser for use as a self-propelled floating trade exposition to showcase United States technology, industrial products, and services.

(b) Terms of Conveyance. _

(1) *Delivery of vessel.* _ In carrying out subsection (a), the Secretary shall deliver the vessel _

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(2) *Required conditions.* _ The Secretary may not convey a vessel under this section unless _

(A) competitive procedures are used for sales under this section;

(B) the vessel is sold for not less than the fair market value of the vessel in the United States, as determined by the Secretary of Transportation;

(C) the recipient agrees that any repair, except for emergency repairs, restoration, or reconstruction work for the vessel will be performed in the United States;

(D) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(E) the recipient provides sufficient evidence to the Secretary that it has adequate financial resources in the form of cash, liquid assets, or a written loan commitment to complete the reconstruction of the vessel.

(3) *Additional terms.* _ The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **Proceeds.** _ Any amounts received by the United States as proceeds from the sale of the M/V BAYAMON shall be deposited in the Vessel Operations Revolving Fund established by section 801 of the Act of June 2, 1951 (65 Stat. 59; 46 U.S.C. App. 1241a) and shall be available and expended in accordance with section 6(a) of the National Maritime Heritage Act (16 U.S.C. App. 5405(a)).

Sec. 3603. Authority to Convey Certain National Defense Reserve Fleet Vessels.

(a) **Authority To Convey.** _ The Secretary of Transportation may convey all right, title, and interest of the United States Government in and to the vessels BENJAMIN ISHERWOOD (TAO-191) and HENRY ECKFORD (TAO-192) to a purchaser for the limited purpose of reconstruction of those vessels for sale or charter to a North Atlantic Treaty Organization country for full use as an oiler.

(b) Terms of Conveyance. _

(1) *Delivery of vessel.* _ In carrying out subsection (a), the Secretary shall deliver the vessel _

(A) at the place where the vessel is located on the date of the conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(2) *Required conditions.* _ The Secretary may not convey a vessel under this section unless _

(A) competitive procedures are used for sales under this section;

(B) the vessel is sold for not less than the fair market value of the vessel in the United States, as determined by the Secretary of Transportation;

(C) the recipient agrees that any repair, except for emergency repairs, restoration, or reconstruction work for the vessel will be performed in the United States;

(D) the recipient agrees to hold the Government harmless for any claims arising from defects in the vessel or from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date;

(E) the recipient provides sufficient evidence to the Secretary that it has adequate financial resources in the form of cash, liquid assets, or a written loan commitment to complete the reconstruction of the vessel; and

(F) with respect to the vessel, the recipient remains subject to all laws and regulations governing the export of military items, including the requirements administered by the Department of State regarding export licenses and certification of nontransfer end use.

(3) *Additional terms.* _ The Secretary may require such additional terms in connection with a conveyance authorized by this section as the Secretary considers appropriate.

(c) **Proceeds.** _ Any amounts received by the United States as proceeds from the sale of a vessel under this section shall be deposited in the Vessel Operations Revolving Fund established by section 801 of the Act of June 2, 1951 (65 Stat. 59; 46 U.S.C. App. 1241a) and shall be available and expended in accordance with section 6(a) of the National Maritime Heritage Act (16 U.S.C. App. 5405(a)).

Sec. 3605. Conveyance of NDRF Vessel Ex-USS LORAIN COUNTY.

(a) **Authority To Convey.** _ The Secretary of Transportation may convey all right, title, and interest of the Federal Government in and to the vessel ex-USS LORAIN COUNTY (LST-1177) to the Ohio War Memorial, Inc., located in Sandusky, Ohio (in this section referred to as the _recipient_), for use as a memorial to Ohio veterans.

(b) **Terms of Conveyance.** _

(1) *Delivery of vessel.* _ In carrying out subsection (a), the Secretary shall deliver the vessel _

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) *Required conditions.* _ The Secretary may not convey a vessel under this section unless _

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and (B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least \$100,000.

(3) *Additional terms.* _ The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **Other Unneeded Equipment.** _The Secretary may convey to the recipient of the vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

2. Coast Guard Authorization Act of 1998. Public Law 105_383, approved November 13, 1998 (112 STAT. 3441), contains the following provision:

Sec. 427. Authority to Convey National Defense Reserve Fleet Vessels.

(a) **Authority to Convey.**-Notwithstanding any other law, the Secretary of Transportation (referred to in this section as _the Secretary) may convey all right, title, and interest of the Federal Government in and to either or both of the vessels . . . S.S. HATTIESBURG VICTORY (United States official number 248651) to The Victory Ship, Inc., located in Tampa, Florida (in this section referred to as the _recipient_), and the recipient may use each vessel conveyed only as a memorial to the Victory class of ships.

(b) **Terms of Conveyance** _

(1) *Delivery of Vessel.*-In carrying out subsection (a), the Secretary shall deliver a vessel-

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) *Required Conditions.*-The Secretary may not convey a vessel under this section unless-

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and (B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least \$100,000.

(3) *Additional Terms.*-The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **Other Unneeded Equipment.** -The Secretary may convey to the recipient of any vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

3. DOD Authorization Act for FY 2003. Section 3502 of Public Law 107-314, approved December 2, 2002 (116 STAT. 2458), provides:

Sec. 3502. Authority to Convey Vessel USS SPHINX (ARL_24).

(a) **In General.** Notwithstanding any other law, the Secretary of Transportation may convey the right, title, and interest of the United States Government in and to the vessel USS SPHINX (ARL_24), to the Dunkirk Historical Lighthouse and Veterans Park 116 STAT. 2753 PUBLIC LAW 107_314_DEC. 2, 2002 Museum (a not-for-profit corporation, in this section referred to as the __recipient__) for use as a military museum, if_

(1) the recipient agrees to use the vessel as a nonprofit military museum;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government when the Secretary requires use of the vessel by the Government;

(4) the recipient agrees that when the recipient no longer requires the vessel for use as a military museum_

(A) the recipient will, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

(B) if the Board of Trustees of the recipient has decided to dissolve the recipient according to the laws of the State of New York, then_

(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code, or to the Federal Government or a State or local government for a public purpose; and

(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes;

(5) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, or lead paint after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3) or (4); and

(6) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least \$100,000.

(b) **Delivery of Vessel.** If a conveyance is made under this section, the Secretary shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, and without cost to the Government.

(c) **Other Unneeded Equipment.** The Secretary may also convey any unneeded equipment from other vessels in the National Defense Reserve Fleet in order to restore the USS SPHINX (ARL_24) to museum quality.

(d) **Retention of Vessel In NDRF.** The Secretary shall retain in the National Defense Reserve Fleet the vessel authorized to be conveyed under subsection (a), until the earlier of_

- (1) 2 years after the date of the enactment of this Act; or
- (2) the date of conveyance of the vessel under subsection (a).

VESSEL REPAIR AND MAINTENANCE PILOT PROGRAM. Section 16 of Public Law 104-239, approved October 8, 1996 (110 STAT. 3138), the Maritime Security Act of 1996, provides:

Sec. 16. Vessel Repair and Maintenance Pilot Program.

(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, 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 drydocking) 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)) 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; and

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

CONVEYANCE OF EQUIPMENT. Section 1009 of Public Law 104-324, approved October 19, 1996 (110 STAT. 3959), the Coast Guard Authorization Act of 1996, provides:

Sec. 1009. Conveyance of Equipment.

The Secretary of Transportation may convey any unneeded equipment from other vessels in the National Defense Reserve Fleet to the JOHN W. BROWN and other qualified United States memorial ships in order to maintain their operating condition.

LIMITED DOUBLE HULL EXEMPTION.

Section 1103 of Public Law 104-324, approved October 19, 1996 (110 STAT. 3966), the Coast Guard Authorization Act of 1996, amended 46 U.S.C. 3703a(b) in part by the addition of a paragraph (6) to exclude from the double hull requirement: (6) a vessel in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).

EXISTING TANK VESSEL RESEARCH. Section 1134 of Public Law 104-324, approved October 19, 1996 (110 STAT. 3984), the Coast Guard Authorization Act of 1996, provides:

(a) **Funding.** The Secretary of Transportation shall take steps to allocate funds appropriated for research, development, testing, and evaluation, including the combination of funds from any source available and authorized for this purpose, to ensure that any Government-sponsored project intended to evaluate double hull alternatives that provide equal or greater protection to the marine environment, or interim solutions to remediate potential environmental damage resulting from oil spills from existing tank vessels, commenced prior to the date of enactment of this section, is fully funded for completion by the end of fiscal year 1997. Any vessel construction or repair necessary to carry out the purpose of this section must be performed in a shipyard located in the United States.

(b) **Use of Public Vessels.** The Secretary may provide vessels owned by, or demise chartered to, and operated by the Government and not engaged in commercial service, without reimbursement, for use in and the support of projects sponsored by the Government for research, development, testing, evaluation, and demonstration of new or improved technologies that are effective in preventing or mitigating oil discharges and protecting the environment.