

(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 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 when the arrangements were in effect) in excess of 10 percent a year on the capital necessarily employed in the applicant's business, as reimbursement for obligations postponed or canceled and expenses incurred or paid by the Secretary under this section.

(c) Laid-Up Vessels.--Capital of the applicant represented by a vessel of the applicant laid-up or operated under this section shall be included in capital necessarily employed in the applicant's business under subsection (b)(6) of this section. The Secretary may require a vessel laid-up or operated under this section to be security for reimbursement.

Sec. 57504. Changes in adjustments and arrangements

The Secretary of Transportation may change an adjustment or arrangement made under this chapter as the Secretary considers necessary to carry out this chapter.

PART H--WAR RISK INSURANCE

CHAPTER 581--WAR RISK INSURANCE

Sec.

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Sec. 58101. Definitions

In this chapter--

(1) "cargo" includes a loaded or empty container on a vessel.

(2) "transportation in the waterborne commerce of the United States" includes the operation of a vessel in the fisheries, except a vessel used only for sport fishing.

(3) "war risks" includes, to the extent the Secretary of Transportation decides,

(A) any part of a loss excluded from marine insurance under a free of capture and seizure clause or an analogous clause; and

(B) any other loss from hostile acts, including confiscation, expropriation, nationalization, or deprivation.

Sec. 58102. Authority to provide insurance

(a) General Authority.--The Secretary of Transportation may provide insurance and reinsurance against loss or damage from war risks as provided by this chapter if--

(1) the Secretary believes that insurance adequate for the needs of the waterborne commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do insurance business in a State of the United States;

(2) the Secretary has consulted with interested agencies as the President may require;

(3) the President approves; and

(4) the vessel, for which the insurance or reinsurance is provided, is available to the United States Government in time of war or national emergency.

(b) Risk as Basis.--To the extent practicable, insurance and reinsurance provided under this chapter shall be based on consideration of the risk involved.

Sec. 58103. Insurable property, persons, and interests

(a) General Authority.--The Secretary of Transportation may provide insurance and reinsurance under this chapter for the following:

(1) A vessel, including a vessel under construction, that is--

(A) a documented vessel; or

(B) an undocumented vessel owned or chartered by, or made available to, the United States Government.

(2) A watercraft, including a tug or barge, owned by a citizen of the United States and used in essential water transportation or in the fisheries, except a watercraft used only for sport fishing.

(3) A foreign vessel--

(A) owned only by citizens of the United States;

(B) when engaged in transportation in the waterborne commerce of the United States; or

(C) when engaged in other transportation by water, or in other services, that the Secretary considers to be in the defense or economic interests of the United States.

(4) Cargo transported or to be transported on a vessel referred to in clause (1) or (2) of this subsection, including express and registered mail.

(5) Cargo owned by a citizen or resident of the United States.

(6) Cargo imported to, or exported from, the United States under a purchase or sales contract, and cargo bought or sold by a citizen or resident of the United States under a purchase or sales contract, if the contract provides that the risk of loss by war risks or the obligation to provide insurance against war risks is on a citizen or resident of the United States.

(7) Cargo transported between ports in the United States.

(8) Disbursements, including advances to masters and general average disbursements, and freight and passage money of a vessel referred to in clause (1) or (2) of this subsection.

(9) The personal effects of an individual on a vessel referred to in clause (1) or (2) of this subsection.

(10) An individual on a vessel referred to in clause (1) or (2) of this subsection for--

(A) loss of life;

(B) injury; or

(C) detention by an enemy of the United States after capture.

(11) Statutory and contractual obligations and liabilities of a vessel referred to in clause (1) or (2) of this subsection or of the owner or charterer of such a vessel, of a nature customarily covered by insurance.

(b) Considerations for Foreign Vessels.--In deciding whether to provide insurance or reinsurance under subsection (a)(2) of this section, the Secretary shall consider the characteristics, employment, and general management of the vessel by the owner or charterer.

(c) Non-War Risks.--When the Secretary provides insurance under subsection (a)(8)-(10) of this section, the insurance may include risks that are not war risks to the extent--

(1) the insurance involves liabilities related to the individuals on a vessel referred to in subsection (a)(1) or (2) of this section; and

(2) the Secretary considers advisable.

Sec. 58104. Liability insurance for persons involved in war or defense efforts

(a) General Authority.--The Secretary of Transportation may provide insurance and reinsurance under this chapter against legal liability that a person may incur in providing services or facilities for a vessel if, in the opinion of the Secretary, the insurance or reinsurance--

(1) is required in carrying out war or defense efforts of the United States; and

(2) cannot be obtained at reasonable rates or on reasonable terms and conditions from approved companies authorized to do insurance business in a State of the United States.

(b) Limitations.--Employer liability insurance and worker compensation insurance against legal liability to employees may not be provided under this section.

Sec. 58105. Agency insurance

(a) General Authority.--With the approval of the President, or an official designated by the President, an agency may obtain from the Secretary of Transportation insurance or reinsurance provided under this chapter, except as provided in sections 1 and 2 of the Government Losses in Shipment Act (40 U.S.C. 721, 722).

(b) Premium Waivers.--With the approval of the President, or an official designated by the President, the Secretary may provide insurance or reinsurance under this chapter at the request of the Secretary of Defense, or such other agencies as the President may prescribe, without payment of an insurance premium if the agency agrees to indemnify the Secretary against loss covered by the insurance or reinsurance. The Secretary of Defense, or such other agencies as the President may prescribe, may make such an indemnity agreement.

(c) Presidential Approval.--The signature of the President (or of an official designated by the President) on the agreement shall be treated as an expression of the approval required under this section.

Sec. 58106. Hull insurance valuation

(a) Stated Valuation.--The valuation in a hull insurance policy for actual or constructive total loss of the insured vessel shall be a stated valuation determined by the Secretary of Transportation. The stated valuation--

(1) shall exclude National Defense features paid for by the United States Government; and

(2) may not be more than the amount that would be payable if the ownership of the vessel had been requisitioned under chapter 573 of this title at the time the insurance attached under the policy.

(b) Rejecting Stated Valuation.--Within 60 days after the insurance attaches under a policy referred to in subsection (a) of this section or within 60 days after the Secretary determines the valuation, whichever is later, the insured is entitled to reject the valuation and pay, at the rate provided in the policy, premiums based on the asserted valuation the insured specifies at the time of rejection. However, the asserted valuation is not binding on the Government in any subsequent action on the policy.

(c) Amount of Claim.--If a vessel is actually or constructively totally lost and the insured under a policy referred to in subsection (a) of this section has not rejected the stated valuation determined by the Secretary, the amount of a claim compromised, settled, adjudged, or paid may not be more than the stated valuation. However, if the insured has rejected the valuation, the insured--

(1) as a tentative advance only, shall be paid 75 percent of the stated valuation; and

(2) is entitled to bring a civil action against the Government in a court having jurisdiction of the claim to recover a valuation equal to the just compensation the court determines would have been payable if the ownership of the vessel had been requisitioned under chapter 573 of this title at the time the insurance attached under the policy.

(d) Adjusting Premiums.--If a court makes a determination as provided under subsection (c)(2) of this section, premiums paid under the policy shall be adjusted based on the court's determination and the rates provided for in the policy.

Sec. 58107. Reinsurance

(a) General Authority.--To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may provide reinsurance to a company authorized to do insurance business in a State of the United States. The Secretary may obtain reinsurance from such a company for any insurance provided by the Secretary under this chapter.

(b) Rates.--The Secretary may not provide reinsurance at rates less than, nor obtain reinsurance at rates more than, the rates established by the Secretary on the same or similar risks or the rates charged by the insurance company for the insurance reinsured, whichever is more advantageous to the Secretary. However, the Secretary may pay the insurance company for the costs of services and facilities the company provides, in an amount the Secretary considers reasonable according to good business practice. The payment to the company may not include any amount for soliciting or stimulating insurance business.

Sec. 58108. War risk insurance revolving fund

(a) General.--There is a war risk insurance revolving fund in the Treasury.

(b) Amounts in Fund.--There shall be deposited in the fund--

(1) amounts appropriated to the fund;

(2) any amount received in carrying out this chapter; and

(3) interest and benefits accruing from investments made under subsection (d) of this section.

(c) Payment of Amounts.--Amounts in the fund are available to carry out this chapter. On request of the Secretary of Transportation, the Secretary of the Treasury shall pay out of the fund amounts to carry out this chapter, including amounts for liabilities incurred by the United States Government under this chapter.

(d) Investment and Reinvestment.--On request of the Secretary of Transportation, the Secretary of the Treasury may invest or reinvest any part of the amounts in the fund in securities of the Government and securities whose principal and interest are guaranteed by the Government.

Sec. 58109. Administrative

(a) General Authority.--In carrying out this chapter, the Secretary of Transportation may--

(1) issue insurance policies that the Secretary considers proper and fix and change the amounts of insurance and premium rates;

(2) prescribe by regulation vessel location reporting requirements for an insured vessel;

(3) collect an annual fee in an amount calculated to cover the expenses of processing applications for insurance, employing underwriting agents, and appointing experts;

(4) compromise, settle, and pay claims and judgments arising out of an insurance claim;

(5) carry out the duties and powers of the Secretary under this chapter consistent with commercial practice in the marine insurance business;

(6) without regard to those provisions of title 5 governing appointments in the competitive service, appoint and prescribe the duties and powers of experts in marine insurance; and

(7) with the consent of the head of an agency, use information, services, facilities, and officers and employees of that agency.

(b) Insurance Brokers.--Except as provided in subsection (c) of this section, the Secretary may not pay an insurance broker or other person acting in a similar capacity consideration because of that person's participation in arranging insurance when the Secretary directly insures any of the risk under the insurance.

(c) Underwriting Agents.--(1) The Secretary may, and when the Secretary finds it practical to do so shall, retain a domestic insurance company or group of domestic insurance companies, authorized to do marine insurance business in a State of the United States, as the underwriting agent for the Secretary. The Secretary may allow the company or group reasonable compensation for services provided as the underwriting agent. Compensation may include an amount for expenses reasonably incurred as the underwriting agent, but may not include any amount for soliciting or stimulating insurance business.

(2) The Secretary may use the services of the underwriting agent to adjust claims under this chapter. However, a claim may be paid only after approval by the Secretary.

Sec. 58110. Additional insurance privately obtained

With the approval of the Secretary of Transportation, a person having an insurable interest in a vessel may obtain insurance on the vessel with other underwriting agents in addition to the insurance with the Secretary. The Secretary is not entitled to the benefit of the additional insurance.

Sec. 58111. Civil actions for losses

(a) General.--When there is a disagreement about a loss insured under this chapter, a civil action in admiralty may be brought against the United States Government in the district court of the United States for the district in which the plaintiff or the plaintiff's agent resides. If the plaintiff has no residence in the United States, the action may be brought in the United States District Court for the District of Columbia or in the district court for any district in which the Attorney General agrees to accept service. Any person who may have an interest in the insurance may be made a party, either initially or on the motion of either party.

(b) Exclusive Remedy.--A civil action against the Government under this section is exclusive of any other action by reason of the same subject matter against an officer, employee, or agent employed or retained by the Government under this chapter.

(c) Time Limit on Bringing Actions.--A civil action under this section must be brought within 2 years after the cause of action arose. However, the filing of a claim with the Secretary of Transportation suspends the running of this limitations period until the Secretary denies the claim, and for 60 days thereafter. The Secretary is deemed to have denied the claim if the Secretary does not act on the claim within 6 months after the claim is filed, unless the Secretary for good cause shown agrees with the claimant on a different period for the Secretary to act on the claim.

(d) Procedure.--A civil action under this section shall be heard and decided under chapter 309 of this title.

(e) Interpleader.--When the Secretary acknowledges the indebtedness of the Government under the insurance and there is a dispute about the persons entitled to receive payment, the Government may bring a civil action interpleading those persons. The action shall be brought in the United States District Court for the District of Columbia or in the district court for the district in which any of those persons resides. A person not residing or found in the district may be made a party by service in any reasonable manner the court directs. If the court is satisfied that unknown persons might make a claim under the insurance, the court may direct service on those unknown persons by publication in the Federal Register. Judgment after service by publication in the Register discharges the Government from further liability to all persons.

Sec. 58112. Expiration date

The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter expires on June 30, 2005.

PART I--GOVERNMENT-OWNED MERCHANT VESSELS

CHAPTER 591--GENERAL AUTHORITY

Sec.

59101. Acquisition of existing vessels.

59102. Maintenance, repair, and remodeling of vessels.

59103. Vessels for other agencies.

Sec. 59101. Acquisition of existing vessels

(a) General Authority.--The Secretary of Transportation may acquire an existing vessel that the Secretary considers necessary to establish, maintain, improve, or be a replacement on, an essential service, route, or line in the foreign commerce of the United States if--

(1) the vessel was built in the United States; and

(2) the Secretary of the Navy has certified to the Secretary of Transportation that the vessel is suitable for economical and speedy conversion into a naval or military auxiliary or otherwise suitable for use by the United States Government in time of war or national emergency.

(b) Price.--The price paid for a vessel acquired under this section shall be based on a reasonable valuation. However, the price may not exceed by more than 5 percent the cost of the vessel to the owner (excluding any construction-differential subsidy and the cost of national defense features paid by the Secretary) plus the actual cost previously expended to recondition the vessel, less depreciation based on a 25-year life for a dry-cargo or passenger vessel and a 20-year life for a tanker or other liquid bulk carrier vessel.

(c) Documentation.--An undocumented vessel acquired under this section shall be documented as soon as practicable.

Sec. 59102. Maintenance, repair, and remodeling of vessels

The Secretary of Transportation may maintain, repair, remodel, and improve vessels owned by the United States Government and in the possession or under the control of the Secretary, to equip them adequately for use in commerce.

Sec. 59103. Vessels for other agencies

(a) General Authority.--The Secretary of Transportation may construct, reconstruct, repair, and equip, by contract or otherwise, vessels or parts of vessels for

another agency, to the extent the other agency is authorized by law to do so for its own account.

(b) Effect on Contract Authorization.--An obligation incurred or expenditure made by the Secretary under this section does not affect any contract authorization of the Secretary, but instead shall be charged against the existing appropriation or contract authorization of the agency.

CHAPTER 593--VESSEL TRADE-IN PROGRAM

Sec.

59301. Definitions.

59302. Authority to acquire vessels.

59303. Utility value and tonnage requirements.

59304. Eligible acquisition dates.

59305. Determination of trade-in allowance.

59306. Payment of trade-in allowance.

59307. Recognition of gain for tax purposes.

59308. Use of vessels at least 25 years old.

Sec. 59301. Definitions

In this chapter--

(1) "new vessel" means a vessel--

(A) constructed under this subtitle and acquired within 2 years after being completed; or

(B) constructed in a domestic shipyard on private account and not under this subtitle, and documented under chapter 121 of this title.

(2) "obsolete vessel" means a vessel that--

(A) the Secretary of Transportation decides in the public interest should be replaced because of its age, obsolescence, or other factors;

(B) is of at least 1,350 gross tons; and

(C) has been owned only by citizens of the United States for at least 3 years immediately before its acquisition under this chapter.

Sec. 59302. Authority to acquire vessels

To promote the building of new, safe, and efficient vessels to carry the waterborne domestic and foreign commerce of the United States, the Secretary of

Transportation may acquire an obsolete vessel in exchange for an allowance of credit toward the cost of building or buying a new vessel as provided in this chapter.

Sec. 59303. Utility value and tonnage requirements

(a) Utility Value.--The utility value of a new vessel to be acquired under this chapter for operation in the domestic or foreign commerce of the United States may not be substantially less than that of the obsolete vessel acquired in exchange under this chapter.

(b) Tonnage.--If the Secretary of Transportation finds that the new vessel will have a utility value at least equal to that of the obsolete vessel, the new vessel may be of lesser gross tonnage than the obsolete vessel. However, the gross tonnage of the new vessel must be at least one-third the gross tonnage of the obsolete vessel.

Sec. 59304. Eligible acquisition dates

At the option of the owner, the acquisition of an obsolete vessel under this chapter shall occur--

- (1) when the owner makes a contract to build or buy a new vessel; or
- (2) within 5 days of the actual date of delivery of the new vessel to the owner.

Sec. 59305. Determination of trade-in allowance

(a) General Requirements and Considerations.--The Secretary of Transportation shall determine the trade-in allowance for an obsolete vessel acquired under this chapter when the Secretary acquires the vessel. The allowance shall be the fair value of the vessel. In determining the value, the Secretary shall consider--

- (1) the scrap value of the obsolete vessel in domestic and foreign markets;
- (2) the depreciated value based on a 20-year or 25-year life, whichever applies to the obsolete vessel; and
- (3) the market value of the obsolete vessel for operation in world commerce or in the domestic or foreign commerce of the United States.

(b) Use of Obsolete Vessels.--If acquisition of the obsolete vessel occurs when the owner makes a contract to build the new vessel, and the owner uses the obsolete vessel pending delivery of the new vessel, the Secretary shall reduce the trade-in allowance by an amount representing the fair value of that use. The Secretary shall establish the rate for use of the obsolete vessel when the contract to build the new vessel is made.

Sec. 59306. Payment of trade-in allowance

(a) Acquisition at Time of Contract.--If acquisition of an obsolete vessel under this chapter occurs when the owner makes a contract to construct or buy a new vessel, the Secretary of Transportation shall apply the trade-in allowance to the purchase price of the new vessel rather than paying it to the owner. If the new vessel is constructed under this subtitle, the Secretary may apply the trade-in allowance to the required cash payments on conditions the Secretary may prescribe. If the new vessel is not constructed under this subtitle, the Secretary shall pay the trade-in allowance to the shipbuilder constructing the vessel for the account of the owner when the Secretary acquires the obsolete vessel.

(b) Acquisition at Time of Delivery.--If acquisition of the obsolete vessel occurs when the new vessel is delivered to the owner, the Secretary shall deposit the trade-in allowance in the owner's capital construction fund.

Sec. 59307. Recognition of gain for tax purposes

The owner of an obsolete vessel does not recognize a gain under the income tax laws of the United States when the vessel is transferred to the Secretary of Transportation in exchange for a trade-in allowance under this chapter. The basis of the new vessel acquired with the allowance is the same as the basis of the obsolete vessel--

(1) increased by the difference between the cost of the new vessel and the trade-in allowance of the obsolete vessel; and

(2) decreased by the amount of loss recognized on the transfer.

Sec. 59308. Use of vessels at least 25 years old

An obsolete vessel acquired under this chapter that is or becomes at least 25 years old may not to be used for commercial operation. However, the vessel may be used--

(1) during a period in which vessels may be requisitioned under chapter 573 of this title; or

(2) except as otherwise provided in this subtitle, on commerce routes serving only the foreign commerce of the United States.

CHAPTER 595--BUILD-CHARTER-SELL PROGRAM

SUBCHAPTER I--GENERAL

Sec.

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- 59505. Sale price of vessels.

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SUBCHAPTER I--GENERAL

Sec. 59501. General authority

Subject to approval of the President, when the Secretary of Transportation believes that the development and maintenance of a sufficient merchant marine is not being achieved under the assistance program in part C of this subtitle, the Secretary may carry out a program for--

(1) construction, reconstruction, and reconditioning, in shipyards of the United States (including navy shipyards), vessels as necessary to achieve the development and maintenance of a sufficient merchant marine; and

(2) demise chartering or selling vessels acquired by the Secretary to citizens of the United States for operation on foreign commerce routes as provided in this chapter.

Sec. 59502. Contracts

(a) Private Builders.--A contract for the building, rebuilding, or reconditioning of a vessel by a private builder under this chapter, including the awarding and performance of the contract, is subject to the provisions in chapter 535 of this title on contracts for the building of vessels by a private builder. The Secretary of Transportation may allocate contracts as provided in section 53515 of this title.

(b) Navy Yard.--If the Secretary cannot make a satisfactory contract with a private builder for the building, rebuilding, or reconditioning of a vessel under this chapter, the Secretary may have the vessel built, rebuilt, or reconditioned in a navy yard.

Sec. 59503. Status of vessels built for the United States Government

A vessel built for the United States Government under this chapter is the property of the Government and not subject to any liens. When operated by a private party under a demise charter from the Government, the vessel is deemed not to be a public vessel.

Sec. 59504. Operation of vessels on foreign commerce routes

The Secretary of Transportation shall arrange for vessels constructed under this chapter to be operated on commerce routes--

- (1) serving only the foreign commerce of the United States;
- (2) necessary for the development and maintenance of the commerce of the United States and the national defense; and
- (3) not being served adequately by existing documented vessels privately owned and operated by citizens of the United States.

Sec. 59505. Sale price of vessels

(a) Vessels To Be Operated in Foreign Commerce.--The Secretary of Transportation may not sell, for operation in foreign commerce, a vessel built under this chapter for an amount that is less than the estimated foreign construction cost (exclusive of national defense features) determined on the date the construction contract is made, less depreciation based on--

- (1) a 25-year life for dry-cargo and passenger vessels; and
- (2) a 20-year life for tankers and other bulk liquid carrier vessels.

(b) Vessels To Be Operated in Domestic Commerce.--The Secretary may not sell, for operation in domestic commerce, a vessel built under this chapter for an amount that is less than the cost of construction in the United States (exclusive of national defense features), less depreciation based on--

- (1) a 25-year life for dry-cargo and passenger vessels; and
- (2) a 20-year life for tankers and other bulk liquid carrier vessels.

SUBCHAPTER II--DEMISE CHARTER PROVISIONS

Sec. 59511. Demise charter requirement

(a) General Requirement.--The Secretary of Transportation may award only a demise charter under this chapter, subject to all usual conditions contained in a demise charter.

(b) Charter Term.--The charter shall be for a term the Secretary considers to be in the best interest of the United States Government and the merchant marine.

Sec. 59512. Competitive bidding

The Secretary of Transportation may award a charter under this chapter only on the basis of competitive bidding. Bids shall be solicited by public advertisement. A solicitation of bids shall--

- (1) identify and describe the vessel being offered for charter;
- (2) identify the commerce route involved, the voyages required, and the duration of the charter;
- (3) state the information required by section 59519(b) of this title;
- (4) state that the Secretary may reject all bids; and
- (5) include other information the Secretary considers necessary.

Sec. 59513. Qualified bidders

(a) Considerations.--In deciding whether a bidder is qualified under this chapter, the Secretary of Transportation shall consider--

- (1) the bidder's financial resources, credit standing, and practical experience in operating vessels; and
- (2) other factors a prudent business person would consider in entering into a transaction involving a large capital investment.

(b) Disqualifications.--The Secretary may not find a bidder qualified if the bidder appears to lack sufficient capital, credit, or experience to operate the vessel successfully over the period covered by the charter.

Sec. 59514. Minimum bids

(a) General Requirements.--The minimum bid that the Secretary of Transportation may accept for the charter of a vessel under this chapter is the sum of--

(1) 4 percent of the vessel's foreign construction cost as estimated by the Secretary;

(2) a percentage (determined under subsection (b) of this section) of the annual depreciation based on the estimated foreign construction cost and--

(A) a 25-year life for dry-cargo and passenger vessels; and

(B) a 20-year life for tankers and other bulk liquid carrier vessels;
and

(3) an allowance the Secretary considers adequate to cover administrative costs.

(b) Annual Depreciation Percentage.--The percentage referred to in subsection (a)(2) this section shall be determined by the Secretary of the Treasury, considering the current average market yield on outstanding marketable obligations of the United States Government of maturities comparable to the term of the charter, adjusted to the nearest one-eighth percent.

Sec. 59515. Awarding charters

(a) Highest Qualified Bidders.--The Secretary of Transportation shall award a charter under this chapter to the highest qualified bidder, unless the Secretary considers the bid too low. The Secretary may consider a bid too low even though it satisfies the minimum required by section 59514 of this title.

(b) Highest Bid Too Low.--If the Secretary considers the bid of the highest qualified bidder too low, the Secretary may reject all bids and either solicit new bids or operate the vessel until conditions appear more favorable to solicit new bids.

(c) Reason for Rejection.--On request of a bidder, the reason for rejection shall be stated in writing to the bidder.

Sec. 59516. Performance bond

The Secretary of Transportation shall require a charterer under this chapter to provide a performance bond in an amount the Secretary considers sufficient to secure the faithful performance of the terms of the charter, including indemnity against liens on the chartered vessel.

Sec. 59517. Insurance

A charter under this chapter shall require the charterer to carry, at the charterer's expense, insurance on the chartered vessel covering all marine and port risks, protection and indemnity risks, and other hazards and liabilities, adequate to cover damages claimed against and losses sustained by the chartered vessel during the term of the charter. The insurance shall be in the form and amount and with the companies the Secretary of Transportation requires. Any of the insurance risks may be underwritten by the Secretary as provided by law.

Sec. 59518. Vessel maintenance

(a) General Requirements.--A charter under this chapter shall require the charterer, at its own expense, to--

- (1) keep the chartered vessel in good repair and efficient operating condition; and
- (2) make repairs required by the Secretary of Transportation.

(b) Inspection.--The charter shall give the Secretary the right to inspect the vessel at any time to determine its condition.

Sec. 59519. Recovery of excess profits

(a) General Requirement.--A charter under this chapter shall provide that if, at the end of a calendar year subsequent to the execution of the charter, the cumulative net voyage profit (after payment of the charter compensation reserved in the charter and payment of the charterer's fair and reasonable overhead expenses applicable to operation of the chartered vessel) exceeds 10 percent a year of the charterer's capital necessarily employed in the business of the chartered vessel, the charterer shall pay to the Secretary of Transportation, as additional charter compensation, half the cumulative net voyage profit in excess of 10 percent a year. However, any cumulative net voyage profit accounted for under this subsection is not to be included in the calculation of cumulative net voyage profit in any subsequent year.

(b) Terms To Be Defined and Used.--The Secretary shall define the terms "net voyage profit", "fair and reasonable overhead expenses", and "capital necessarily employed" for this section. Each solicitation for bids and each charter shall contain these definitions, stating the formula for determining the profit, overhead expenses, and capital necessarily employed.

Sec. 59520. Termination of charter during national emergency

A charter under this chapter shall provide that during a national emergency proclaimed by the President or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may terminate the charter without cost to the United States Government on notice to the charterer that the President decides is appropriate.

Sec. 59521. Manning and wage scales; subsidy contracts

(a) Investigation and establishment of wage and manning scales and working conditions--(1) The Secretary of Transportation shall investigate the employment and wage conditions in ocean-going shipping and, after the investigation and appropriate hearings, incorporate in the contracts authorized under this chapter minimum manning scales and wage scales, and minimum working conditions, for the officers and crews employed on each type of vessel receiving subsidy.

(2) After minimum manning, wage scales, and working conditions are adopted, a change may be made by the Secretary only after the Secretary provides a hearing, and public notice of the hearing, of all interested parties, under rules the Secretary prescribes. Duly elected representatives of the organizations certified as the proper collective bargaining agencies have the right to represent the employees who are members of their organizations at the hearing.

(3) A contractor receiving a subsidy shall post and keep posted in a conspicuous place on each vessel operated by the contractor a printed copy of the minimum manning and wage scales, and working conditions prescribed and applicable to the vessel.

(4) An increase in the operating expenses of a subsidized vessel because of a change in the manning, wage scales, and working conditions specified under this section shall be added to the subsidy previously authorized for the vessel.

(b) Charter requirements related to officers and crew.--A charter under this chapter shall provide that--

(1) as far as practicable, officer living quarters are separate from quarters for crew members;

(2) licensed officers and unlicensed members of the crew are entitled to make complaints or recommendations to the Secretary if the complaint or recommendation is filed directly with the Secretary or with the immediate superior officer, who is required to forward a complaint or recommendation with remarks to the Secretary or the authorized representative of the respective collective bargaining agency;

(3) an officer serving under a license issued by the Coast Guard who is a member of the Naval Reserve shall wear on the officer's uniform a special distinguishing insignia approved by the Secretary of the Navy;

(4) a member of the crew other than a licensed officer is not allowed to wear a uniform with officer-identifying insignia (uniform stripes, decoration, or other insignia of gold braid or woven gold or silver material) ; and

(5) a licensed officer who is otherwise qualified may not be discriminated against because of the officer's failure to qualify as a member of the Naval Reserve.

Sec. 59522. Keeping and examining records

A charter under this chapter shall provide the following:

(1) The charterer and each affiliate, domestic agent, subsidiary, and holding company connected with, or controlling or controlled by, the charterer, shall keep its records on the maintenance, operation, and servicing of the vessel, services, routes, and lines covered by the charter in the form and under regulations prescribed by the Secretary of Transportation. This paragraph does not require the duplication of records required to be kept in some other form by the Interstate Commerce Commission.

(2) The charterer, and each affiliate, domestic agent, subsidiary, and holding company connected with, or controlling or controlled by, the charterer, shall file, on notice from the Secretary, balance sheets, profit and loss statements, and other statements of financial operations, special reports, and memoranda of facts and transactions that the Secretary believes affect the financial results in, the performance of, or transactions or operations under, the charter.

(3) The Secretary may examine and audit the records of each person referred to in this section when the Secretary considers it desirable.

(4) On the willful failure of a person described in this section to comply with the charter provisions required by this section, the Secretary may rescind the charter. On rescission, the United States Government shall be relieved of further liability under the charter.

Sec. 59523. Operating-differential subsidy for chartered vessels

If the Secretary of Transportation considers it necessary, the Secretary may make a contract with a charterer of a vessel owned by the Secretary for payment of an operating-differential subsidy, on the same terms and subject to the same limitations as provided in chapter 533 of this title for payment of an operating-differential subsidy to an operator of a privately-owned vessel.

SUBCHAPTER III--ADDITIONAL RESTRICTIONS AND PENALTIES

Sec. 59541. Employing another person as managing or operating agent

(a) Prohibition.--Except with the written consent of the Secretary of Transportation, a person having a charter under this chapter may not employ another person as the managing or operating agent.

(b) Rescission of Charter.--A willful violation of subsection (a) of this section is a breach of the charter. On determining that a violation has occurred, the Secretary may rescind the charter.

(c) Criminal Penalty.--A person willfully violating subsection (a) of this section shall be fined under title 18, imprisoned for at least one year but not more than 5 years, or both.

(d) Ineligibility To Receive Benefits.--The Secretary may consider a person convicted of violating subsection (a) of this section ineligible to receive any benefits under part C of this subtitle or a charter under this chapter for 5 years after the conviction.

Sec. 59542. Operating competing foreign vessels

(a) Definition.--In this section, "related party" means--

(1) a holding company, subsidiary, affiliate, or associate of a charterer under this chapter; and

(2) an officer, director, agent, or other executive of the charterer or an entity named in clause (1) of this subsection.

(b) Prohibition.--A charterer of a vessel under this chapter or a related party may not own, charter, operate, or act as an agent or broker for a foreign vessel in competition with a vessel of the United States providing a service the Secretary decides is essential under section 50103 of this title.

(c) Waiver.--Under special circumstances and for good cause shown, the Secretary of Transportation may waive subsection (b) of this section for a charterer for a specified period of time.

Sec. 59543. Operating in domestic service

(a) Definition.--In this section, "related party" means--

(1) a holding company, subsidiary, affiliate, or associate of a charterer under this chapter; and

(2) an officer, director, agent, or other executive of the charterer or an entity named in clause (1) of this subsection.

(b) Prohibition.--A vessel may not be chartered to a person under this chapter if the person or a related party--

(1) owns, charters, or operates a vessel engaged in the domestic intercoastal or coastwise service; or

(2) owns a pecuniary interest in a person that owns, charters, or operates a vessel in the domestic intercoastal or coastwise service.

(c) Waiver.--A person may apply to the Secretary of Transportation for a waiver of subsection (b) of this section. Before deciding on the waiver, the Secretary shall give the person and other interested persons an opportunity for a hearing. The Secretary may not grant the waiver if the Secretary finds it would--

(1) result in unfair competition to a person operating a vessel only in the domestic intercoastal or coastwise service; or

(2) be inconsistent with this subtitle.

Sec. 59544. Preferences to cargo in which charterer has interest

(a) Prohibition.--A charterer of a vessel under this chapter may not give a preference to cargo in which the charterer has an interest involving its ownership, purchase, or sale.

(b) Criminal Penalty.--A person willfully violating subsection (a) of this section shall be fined under title 18, imprisoned for at least one year but not more than 5 years, or both.

(c) Ineligibility To Receive Benefits.--The Secretary of Transportation may consider a person convicted of violating subsection (a) of this section ineligible to receive any benefits under chapter 531 of this subtitle or a charter under this chapter for 5 years after the conviction.

Sec. 59545. Concerted discriminatory activities

(a) Prohibition.--A charterer of a vessel under this chapter may not have an agreement with another water carrier, or engage in a practice in concert with another water carrier, that is unjustly discriminatory or unfair to another citizen of the United States operating a water common carrier employing only vessels of the United States in an essential service to or from a United States port.

(b) Government Payment Prohibited.--A payment out of amounts of the United States Government may not be made to a charterer that has violated subsection (a) of this section.

(c) Civil Action.--A person injured in its business or property by a violation of subsection (a) of this section may bring a civil action in the district court of the United States for the district in which the defendant resides, is found, or has an agent. If the person prevails, the person shall be awarded--

- (1) 3 times the actual damages; and
- (2) costs, including a reasonable attorney's fee.

CHAPTER 597--USE AND DISPOSITION OF VESSELS

Sec.

59701. National Defense Reserve Fleet.

59702. Charter of certain vessels.

59703. Experimental vessels.

59704. Transfer of substitute vessel for requisitioned vessel.

59705. Disposition of vessels not worth preserving.

59706. Acquisition and sale of obsolete vessels.

59707. Vessels for use as artificial reefs.

Sec. 59701. National Defense Reserve Fleet

(a) General Requirements.--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. The Fleet shall consist of vessels owned by the United States Government that the Secretary, after consultation with the Secretary of the Navy, determines are valuable for national defense and that the Secretary decides to place and maintain in the Fleet.

(b) Use of Vessels.--Except as otherwise provided by law, a vessel in the Fleet may be used--

(1) for an account of an agency during a period in which vessels may be requisitioned under chapter 573 of this title;

(2) on request of the Secretary of Defense, and in accordance with memorandums 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 armed forces in a military contingency, for military contingency operations, or for civil contingency operations on 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; and

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

(c) Ready Reserve Force Management.--(1) To ensure the readiness of vessels in the ready reserve force component of the Fleet, the Secretary of Transportation, at a minimum, shall--

(A) maintain all the vessels in a manner that will enable each vessel to be activated within a period specified in plans for mobilizing the vessels;

(B) activate and conduct sea trials on each vessel at least once every 24 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 this title, have each vessel inspected by the Secretary of the department in which the Coast Guard is operating to determine whether it meets the safety standards that would apply under part B of subtitle II of this title if the vessel were not a public vessel.

(2)(A) A person, including a shipyard, is eligible for a contract for the management of a vessel in the ready reserve force if the Secretary of Transportation 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) 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 a vessel covered by the contract holds the license or merchant mariner's document that would be required under chapter 71 or 73 of this title for a

seaman performing that service while operating the vessel if the vessel were not a public vessel.

Sec. 59702. Charter of certain vessels

(a) Passenger Vessels.--The Secretary of Transportation may charter under chapter 595 of this title--

(1) a passenger vessel, whether or not war-built, for use in foreign commerce; or

(2) a war-built passenger vessel for use in domestic commerce, under the conditions provided for the charter of war-built cargo vessels in subsection (b) of this section.

(b) Dry-Cargo Vessels.--(1) The Secretary may charter a war-built, dry-cargo vessel under chapter 595 of this title for use in any service if the Secretary decides that--

(A) the public interest requires the service;

(B) the service is not adequately provided; and

(C) privately-owned vessels of the United States are not available for charter by private operators on reasonable terms and at reasonable rates for use in that service.

(2) Before chartering a vessel under this subsection, the Secretary shall give interested persons reasonable notice and an opportunity for a public hearing.

(3) A charter under this subsection may include restrictions and conditions that the Secretary decides are appropriate to protect the public interest and to protect privately-owned vessels against competition from vessels chartered under this subsection. Each charter shall provide that it will be reviewed annually by the Secretary to decide whether it should be continued.

Sec. 59703. Experimental vessels

(a) Definition.--In this section, "experimental vessel" means a vessel owned by the United States Government (including a vessel in the national defense reserve fleet) that has been built, rebuilt, or reconditioned for experimental purposes.

(b) General Authority.--For practical development and testing, the Secretary of Transportation may operate an experimental vessel under a bareboat charter or general agency agreement in the foreign or domestic commerce of the United States or for use for the account of an agency, without regard to other provisions of this subtitle and other

laws related to chartering and general agency operations. Not more than 10 vessels may be operated and tested under this section in any one year.

(c) Terms.--Operation of a vessel under this section shall be on terms the Secretary considers appropriate to carry out this subtitle. A bareboat charter under this section shall be at reasonable rates and include restrictions the Secretary considers appropriate to protect the public interest, including provisions for recapture of excess profits. A charter or general agency agreement under this section shall be reviewed annually to decide whether conditions exist to justify continuance of the charter or agreement.

(d) Rights of Seamen.--A seaman engaged in vessel operations of the Secretary under this section and employed through a general agent in connection with a charter or agreement under this section is entitled to all the rights and remedies provided in sections 1(a) and (c), 3(c), and 4 of the Act of March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294).

Sec. 59704. Transfer of substitute vessel for requisitioned vessel

If the United States Government requisitions a vessel that was built in the United States, the Secretary of Transportation may transfer to the owner of the vessel another vessel (including a vessel in the National Defense Reserve Fleet) that the Secretary considers comparable. The terms of the transfer may include--

- (1) adjustments the Secretary considers appropriate, including adjustments for depreciation and differences in design or speed; and
- (2) transferring mortgage obligations in favor of the Government to which the requisitioned vessel was subject.

Sec. 59705. Disposition of vessels not worth preserving

(a) General Authority.--If the Secretary of Transportation decides that a vessel owned by the Secretary (including a vessel in the National Defense Reserve Fleet) is not worth preserving, the Secretary may--

- (1) scrap the vessel; or
- (2) sell the vessel for cash under subsection (b) of this section.

(b) Selling Procedure.--The sale of a vessel under section (a) of this section shall be made on the basis of competitive sealed bids, after an appraisal and reasonable advertising. The buyer does not have to be a citizen of the United States. The buyer shall provide a surety bond, with a surety approved by the Secretary, that the vessel will not be operated in the foreign commerce of the United States, at any time within 10 years after

the sale, in competition with a vessel owned by a citizen or citizens of the United States and documented under chapter 121 of this title.

(c) Inventory and Valuation of Ballast and Equipment.--The Secretary may not sell a vessel until its ballast and equipment have been inventoried and their value considered in determining the selling price of the vessel.

Sec. 59706. Acquisition and sale of obsolete vessels

(a) General Authority.--The Secretary of Transportation may acquire suitable documented vessels with amounts in the Vessel Operations Revolving Fund derived from the sale of obsolete vessels in the National Defense Reserve Fleet.

(b) Valuation.--The acquired and obsolete vessels shall be valued at their scrap value in domestic or foreign markets as of the date of the acquisition for, or sale from, the fleet. However, the value assigned to those vessels shall be determined on the same basis, with consideration given to the fair value of the cost of moving the vessel sold from the fleet to the place of scrapping.

(c) Costs Incident to Lay-Up.--Costs incident to the lay-up of the vessel acquired under this section may be paid from amounts in the Fund.

(d) Transfers to Non-Citizens.--A vessel sold from the fleet under this section may be scrapped in an approved foreign market without obtaining additional separate approval from the Secretary to transfer the vessel to a person not a citizen of the United States.

Sec. 59707. Vessels for use as artificial reefs

(a) State Applications.--A State may apply to the Secretary of Transportation for a vessel designated by the Secretary for scrapping, if the State intends to sink the vessel for use as an offshore artificial reef for the conservation of marine life.

(b) Application Requirements.--An application by a State for a vessel under this section shall be submitted in the form and manner prescribed by the Secretary. The application shall include at least--

(1) the location at which the State proposes to sink the vessel;

(2) a certificate from the Administrator of the Environmental Protection Agency that the proposed use of the vessel requested by the State will be compatible with water quality standards and other appropriate environmental protection requirements; and

(3) statements and estimates about the conservation goals sought by use of the vessel.

(c) Comments From Other Agencies.--Before acting on an application under this section, the Secretary shall--

(1) provide copies of the application to the Secretary of the Interior, the Secretary of Defense, and any other appropriate officer of the United States Government; and

(2) consider comments of those officers about the application.

(d) Transfers to States.--The Secretary may transfer to a State, without consideration, the Government's interest in a vessel requested under this section if--

(1) the Secretary finds that the proposed use of the vessel is not frivolous and will not violate a law of the United States, contribute to degradation of the marine environment, or create unreasonable interference with commercial fishing or navigation;

(2) the State satisfies the Secretary that the vessel will be used and maintained only for the use stated in the application and, when sunk, will be charted and marked as a hazard to navigation;

(3) the State agrees to obtain any licenses or permits that may be required under any other law of the United States;

(4) the State agrees to other conditions the Secretary requires to protect the marine environment and other interests of the United States; and

(5) the State agrees that the transfer will be at no cost to the Government and that the State will take delivery of the vessel at fleetside of the National Defense Reserve Fleet in an "as is--where is" condition.

(e) Applications for Multiple Vessels.--When a State applies for more than one vessel under this section, the Secretary shall carry out this section in a manner that is equitable to all States, considering the number of vessels that are or will become available.

(f) Finality of Decision.--A decision by the Secretary denying an application for a vessel under this section is final.

PART J--RESTRICTIONS AND PENALTIES

CHAPTER 601--RESTRICTIONS AND PENALTIES

Sec.

60101. Charges for transportation subject to subtitle IV of title 49.

60102. Discrimination at ports by water common carriers.
60103. General civil penalty.

Sec. 60101. Charges for transportation subject to subtitle IV of title 49

(a) Prohibitions.--When using an undocumented vessel, a carrier may not charge, collect, or receive for the transportation of persons or property subject to subtitle IV of title 49 a lower rate, fare, or charge than the carrier charges, collects, or receives for transporting persons or similar property for the same distance, in the same direction, and over the same route in commerce entirely within the United States, if the transportation subject to subtitle IV is under a joint rate, fare, or charge, or under an export, import, or other proportional rate, fare, or charge, that is based in any part on transportation that was from, or is to be to, a port in a territory or possession of the United States or in a foreign country by a water carrier in foreign commerce.

(b) Suspensions of Prohibitions.--(1) When the Secretary of Transportation believes that adequate shipping facilities to or from a port in a territory or possession of the United States or in a foreign country are not being provided by documented vessels of the United States, the Secretary shall certify that fact to the Surface Transportation Board. The Board then may order the suspension of this section as it applies to rates, fares, and charges for transportation by rail of persons and property transported from, or to be transported to, those ports, for the period and on the terms and conditions the Board may prescribe in the order (or in a supplemental order).

(2) When the Secretary believes that adequate shipping facilities are being provided by documented vessels of the United States to those ports and certifies that fact to the Board, the Board may order the termination of the suspension.

Sec. 60102. Discrimination at ports by water common carriers

(a) Prohibition.--A water common carrier may not prevent or attempt to prevent, by any means, another water common carrier from serving a port designed for the accommodation of ocean-going vessels, located on any improvement project authorized by law or by an agency, and located within the continental limits of the United States, at the same rates the first carrier charges at the nearest port already regularly served by it.

(b) Other Authority Not Limited.--This section does not limit the authority otherwise vested in the Secretary of Transportation and the Federal Maritime Commission.

Sec. 60103. General civil penalty

A person knowingly and willfully violating a regulation or order of the Secretary of Transportation under this subtitle, for which no penalty is expressly provided, is liable to the United States Government for a civil penalty of not more than \$500. A separate violation occurs for each day the violation continues.

SUBTITLE VI--MISCELLANEOUS

Chapter	Sec.
701. ARRIVAL AND DEPARTURE REQUIREMENT	70101
703. TONNAGE TAXES AND LIGHT MONEY	70301
705. DISCRIMINATING DUTIES AND RECIPROCAL PRIVILEGE	70501
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CHAPTER 701--ARRIVAL AND DEPARTURE REQUIREMENTS

Sec.

- 70101. Boarding arriving vessels before inspection.
- 70102. Oath of ownership upon entry to U.S.
- 70103. Depositing certificates of documentation with consular officers.
- 70104. Clearance of vessels.
- 70105. State inspection laws.
- 70106. Payment of fees on departing vessel.
- 70107. Duty to transport tendered cargo.
- 70108. Duty to transport money and securities of the United States Government.

Sec. 70101. Boarding arriving vessels before inspection

(a) Regulations.--The Secretary of the Treasury shall prescribe and enforce regulations on the boarding of a vessel arriving at a port of the United States before the vessel has been inspected and secured.

(b) Criminal Penalty.--A person violating a regulation prescribed under this section shall be fined under title 18, imprisoned for not more than 6 months, or both.

(c) Relationship to Other law.--This section shall be construed as supplementary to section 2279 of title 18.

Sec. 70102. Oath of ownership upon entry to U.S.

(a) Required Statement.--On entry of a documented vessel from a foreign port, the individual designated under subsection (b) of this section shall state under oath that--

- (1) the vessel's certificate of documentation contains the names of all the owners of the vessel; or

(2) part of the ownership has been transferred since the certificate was issued and, to the best of the individual's knowledge and belief, the vessel is still owned only by citizens of the United States.

(b) Person To Make Statement.--The statement under subsection (a) of this section shall be made by--

(1) an owner if one resides at the port of entry; or

(2) the master if an owner does not reside at the port of entry.

(c) Consequence of Not Making Statement.--If the appropriate individual does not make the statement required by this section, the vessel is not entitled to the privileges of a documented vessel.

Sec. 70103. Depositing certificates of documentation with consular officers

(a) General Requirement of Master.--The master of a documented vessel on a voyage from a port in the United States to a port in a foreign country shall deposit the vessel's certificate of documentation with a consular officer on arrival at a foreign port if there is a consular officer at the port.

(b) Return of Certificate.--When the master produces a clearance from the appropriate officer of the foreign port, the consular officer shall return the certificate of documentation to the master if the master has complied with the provisions of law related to the discharge of seamen in a foreign country and the payment of fees of consular officers.

(c) Civil Penalty and Collection.--The master of a vessel failing to deposit the certificate of documentation as required by subsection (a) of this section is liable to the United States Government for a civil penalty of \$500. The consular officer shall bring an action to recover the penalty in any court of competent jurisdiction. The action shall be brought in the name of the consular officer for the benefit of the Government.

Sec. 70104. Clearance of vessels

(a) Vessels of the United States.--Except as otherwise provided by law, a vessel of the United States shall obtain clearance from the Customs Service before proceeding from a port or place in the United States--

(1) for a foreign port or place;

(2) for another port or place in the United States if the vessel has on board foreign merchandise for which entry has not been made; or

(3) outside the territorial sea to visit a hovering vessel or to receive merchandise while outside the territorial sea.

(b) Other Vessels.--Except as otherwise provided by law, a vessel that is not a vessel of the United States shall obtain clearance from the Customs Service before proceeding from a port or place in the United States--

(1) for a foreign port or place;

(2) for another port or place in the United States; or

(3) outside the territorial sea to visit a hovering vessel or to receive or deliver merchandise while outside the territorial sea.

(c) Regulations.--The Secretary of the Treasury may by regulation--

(1) prescribe the manner in which clearance under this section is to be obtained, including the documents, data, or information which shall be submitted or transmitted, under an authorized data interchange system, to obtain the clearance;

(2) permit the Customs Service to grant clearance for a vessel under this section before all requirements for clearance are complied with, but only if the owner or operator of the vessel files a bond in an amount set by the Secretary conditioned on the compliance by the owner or operator with all specified requirements for clearance within a time period (not exceeding 4 business days) established by the Secretary; and

(3) authorize the Customs Service to permit clearance of any vessel to be obtained at a place other than a designated port of entry, under conditions the Secretary may prescribe.

Sec. 70105. State inspection laws

When State law requires a certificate of inspection for goods carried on a vessel, a vessel transporting the goods may not be cleared until the certificate is produced.

Sec. 70106. Payment of fees on departing vessel

A departing vessel may be cleared only when all legal fees that have accrued on the vessel are paid and proof of payment is presented to the individual granting the clearance.

Sec. 70107. Payment of fees on departing vessel

The Secretary of the Treasury may refuse clearance to a vessel or vehicle transporting cargo destined for a domestic or foreign port when satisfied that the owner, master, or other individual in charge refuses to accept cargo tendered in good condition, with proper charges, for the same or an intermediate port by a citizen of the United States. This section does not apply if the vessel or vehicle is already fully loaded (giving appropriate consideration to its proper loading) or is not adaptable to transport the tendered cargo.

Sec. 70108. Duty to transport money and securities of the United States Government

Before being given clearance, a vessel owned by a citizen of the United States and bound on a voyage from a port in the United States to another port in the United States or in a foreign country, or on a voyage from a port in foreign country to a port in the United States, shall receive on board any bullion, coin, notes, bonds, or other securities of the United States Government that an agency, consular officer, or other agent of the Government offers. The vessel shall transport the items securely and deliver them promptly to the proper authorities or consignees on arriving at the port of destination. Compensation shall be paid for services provided under this section that is equal to compensation paid to other carriers in the ordinary transaction of business.

CHAPTER 703--TONNAGE TAXES AND LIGHT MONEY

Sec.

70301. Regular tonnage taxes.

70302. Special tonnage taxes.

70303. Light money.

70304. Presidential suspension of tonnage taxes and light money.

70305. Vessels in distress.

70306. Vessels not engaged in commerce.

70307. Vessels engaged in coastwise trade or the fisheries.

70308. Vessels engaged in Great Lakes commerce.

70309. Passenger vessels making trips between ports of the United States and foreign ports.

70310. Vessels making daily trips on interior waters.

70311. Hospital vessels in time of war.

Sec. 70301. Regular tonnage taxes

(a) Lower Rate.--(1) A tax is imposed at the rate of 9 cents a ton (but not more than a total of 45 cents a ton a year) for fiscal years 1991-2002, and at the rate of 2 cents a ton (but not more than a total of 10 cents a ton a year) for fiscal years thereafter, at each entry in a port of the United States of--

(A) a vessel entering from a foreign port or place in North America, Central America, the West Indies Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering the Caribbean Sea; or

(B) a vessel returning to the same port or place in the United States from which it departed, and not entering the United States from another port or place, except--

(i) a vessel of the United States;

(ii) a recreational vessel (as defined in section 2101 of this title); or

(iii) a barge.

(2) This subsection does not apply to a vessel entering other than by sea from a foreign port or place at which tonnage, lighthouse, or other equivalent taxes are not imposed on documented vessels.

(b) Higher Rate.--A tax is imposed at the rate of 27 cents a ton (but not more than a total of \$1.35 a ton a year) for fiscal years 1991-2002, and at the rate of 6 cents a ton (but not more than a total of 30 cents a ton a year) for fiscal years thereafter, on a vessel at each entry in a port of the United States from a foreign port or place not named in subsection (a)(1)(A) of this section.

(c) Deposit of Amounts From Increased Rates.--Increased tonnage taxes collected under this section because of the increase in rates for fiscal years 1991-2002 shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

Sec. 70302. Special tonnage taxes

(a) Entry From Foreign Port or Place.--Regardless of whether a tax is imposed under section 70301 of this title, a tax is imposed on a vessel at each entry in a port of the United States from a foreign port or place at the following rates:

(1) 30 cents a ton on a vessel built in the United States but owned in any part by a subject of a foreign country.

(2) 50 cents a ton on a vessel not built in the United States and owned in any part by a subject of a foreign country.

(3) 50 cents a ton on a vessel of the United States having an officer who is not a citizen of the United States.

(4) \$2 a ton on a foreign vessel entering from a foreign port or place at which documented vessels are not ordinarily allowed to enter and trade.

(b) Foreign Vessels Transporting Goods Between Districts.--Regardless of whether a tax is imposed under section 70301 of this title, a tax of 50 cents a ton is imposed on a foreign vessel at each entry in one customs district from another district when transporting goods loaded in one district to be delivered in another district.

(c) Exception for Vessels Becoming Documented.--The tax of 50 cents a ton under this section does not apply to a vessel that--

(1) is owned only by citizens of the United States; and

(2) after entering a port of the United States, becomes a documented vessel before leaving that port.

Sec. 70303. Light money

(a) Imposition of Tax.--A tax of 50 cents a ton, to be called "light money", is imposed on a foreign vessel at each entry in a port of the United States. This tax shall be imposed and collected under the same regulations that apply to tonnage taxes.

(b) Exception for Vessels Owned by Citizens.--(1) Subsection (a) of this section does not apply to a vessel owned only by citizens of the United States if--

(A) the vessel is carrying a regular document issued by the Customs Service proving the vessel to be owned only by citizens of the United States; and

(B) on entry of the vessel from a foreign port, the individual designated under paragraph (2) of this subsection states under oath that--

(i) the document contains the names of all the owners of the vessel;
or

(ii) part of the ownership has been transferred since the document was issued and, to the best of that individual's knowledge and belief, the vessel is still owned only by citizens of the United States.

(2) The statement under paragraph (1)(B) of this subsection shall be made by--

(A) an owner if one resides at the port of entry; or

(B) the master if an owner does not reside at the port of entry.

(c) Exception for Vessels Becoming Documented.--Subsection (a) of this section does not apply to a vessel that--

(1) is owned only by citizens of the United States; and

(2) after entering a port of the United States, becomes a documented vessel before leaving that port.

Sec. 70304. Presidential suspension of tonnage taxes and light money

If the President is satisfied that the government of a foreign country does not impose discriminating or countervailing duties to the disadvantage of the United States, the President shall suspend the imposition of special tonnage taxes and light money under sections 70302 and 70303 of this title on vessels of that country.

Sec. 70305. Vessels in distress

A vessel is exempt from tonnage taxes and light money when it enters because it is in distress.

Sec. 70306. Vessels not engaged in commerce

A vessel is exempt from tonnage taxes and light money when not engaged in commerce.

Sec. 70307. Vessels engaged in coastwise trade or the fisheries

A documented vessel is exempt from tonnage taxes and light money when engaged in coastwise trade, as specified by chapter 561 of this title, or the fisheries.

Sec. 70308. Vessels engaged in Great Lakes commerce

A documented vessel with a registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada, does not become subject to tonnage taxes or light money because of an intermediate stop at a Canadian port.

Sec. 70309. Passenger vessels making trips between ports of the United States and foreign ports

A passenger vessel making at least 3 trips a week between a port of the United States and a foreign port is exempt from tonnage taxes and light money.

Sec. 70310. Vessels making daily trips on interior waters

A vessel making regular daily trips between a port of the United States and a port of Canada only on interior waters not navigable to the ocean is exempt from tonnage taxes and light money, except on its first clearing each year.

Sec. 70311. Hospital vessels in time of war

In time of war, a hospital vessel is exempt from tonnage taxes, light money, and pilotage charges in the ports of the United States if the vessel is one for which the conditions of the international convention for the exemption of hospital ships from taxation in time of war, concluded at The Hague on December 21, 1904, are satisfied. The President by proclamation shall name the vessels for which the conditions are satisfied and state when the exemption begins and ends.

CHAPTER 705--DISCRIMINATING DUTIES AND RECIPROCAL PRIVILEGES

Sec.

70501. Vessels allowed to import.

70502. Discriminating duty on goods imported in undocumented vessels or from contiguous countries.

70503. Reciprocal suspension of discriminating duties.

70504. Reciprocal privileges for recreational vessels.

70505. Retaliatory suspension of commercial privileges.

70506. Retaliation against British dominions of North America.

70507. Suspension of free passage through Saint Marys Falls Canal.

Sec. 70501. Vessels allowed to import

(a) General.--Except as otherwise provided by law or treaty, goods may be imported into the United States from a foreign port or place only in--

(1) a documented vessel; or

(2) a foreign vessel owned only by citizens or subjects of the country--

(A) in which the goods are grown, produced, or manufactured; or

(B) from which the goods can only be, or most usually are, first shipped for transportation.

(b) Exception for Vessels of Countries Not Maintaining Similar Restrictions.-- Subsection (a) of this section does not apply to a vessel of a foreign country that does not maintain a similar restriction against United States documented vessels.

(c) Exception for Vessels Becoming Documented.--Subsection (a) of this section does not apply to a vessel that--

(1) is owned only by citizens of the United States; and

(2) after entering a port of the United States, becomes a documented vessel before leaving that port.

(d) Seizure and Forfeiture.--If goods are imported in violation of this section, the goods and the vessel in which the goods are imported may be seized by, and forfeited to, the United States Government.

Sec. 70502. Discriminating duty on property imported in undocumented vessels or from contiguous countries

(a) Imposition of Duty.--(1) Except as provided by paragraph (2), a discriminating duty of 10 percent ad valorem (in addition to other duties imposed by law) is imposed on goods--

(A) imported in a vessel that is not documented unless the vessel--

(i) is owned only by citizens of the United States; and

(ii) after entering a port of the United States, becomes a documented vessel before leaving that port; or

(B) produced or manufactured in a foreign country not contiguous to the United States and imported from a country contiguous to the United States, unless imported in the usual course of strictly retail trade.

(2) The discriminating duty specified by paragraph (1) does not apply to goods that are imported in an undocumented vessel that is entitled at the time of import, by treaty or convention or Act of Congress, to enter the ports of the United States on payment of the same duties as are payable on goods imported in a documented vessel.

(b) Seizure and Forfeiture.--If goods are imported without payment of the duty required by this section, the goods and the vessel in which the goods are imported may be seized by, and forfeited to, the United States Government.

Sec. 70503. Reciprocal suspension of discriminating duties

(a) General Authority.--On receiving satisfactory proof from the government of a foreign country that it has suspended, in any part, the imposition of discriminating duties for any class of vessels owned by citizens of the United States or goods imported in those vessels, the President may proclaim a reciprocal suspension of discriminating duties for the same class of vessels owned by citizens of that country or goods imported in those vessels.

(b) Effective and Expiration Dates.--A suspension under this section takes effect retroactively from the date the President received the proof from the foreign government, and expires when that government stops granting the reciprocal suspension.

Sec. 70504. Reciprocal privileges for recreational vessels

When the President is satisfied that yachts owned by residents of the United States and used only for pleasure are allowed to arrive at, depart from, and cruise in the waters of a foreign port without entering, clearing, or paying any duties or fees (including cruising license fees), the Secretary of the Treasury may allow yachts from that foreign port used only for pleasure to arrive at and depart from the ports of the United States and to cruise in the waters of the United States without paying any duties or fees. However, the Secretary may require foreign yachts to obtain a license to cruise in the waters of the United States. The license shall be in the form prescribed by the Secretary and contain limitations about length of time, direction, place of cruising and action, and other matters the Secretary considers appropriate. The license shall be issued without cost to the yacht.

Sec. 70505. Retaliatory suspension of commercial privileges

(a) General Authority.--The President may proclaim a suspension of commercial privileges to vessels of a foreign country when--

(1) vessels of that country have been given the same commercial privileges in the ports and waters of the United States given to vessels of the United States (except the privilege of engaging in coastwise trade, as specified by chapter 561 of this title); and

(2) vessels of the United States are denied commercial privileges in the ports or waters of that country given to vessels of that country.

(b) Application.--A suspension under this section shall apply to the same commercial privileges denied to vessels of the United States in the ports or waters of the foreign country, and to the same class of vessels of that country as the class of vessels of the United States denied the privileges.

(c) Effective Date.--The President shall designate the effective date of the suspension in the proclamation.

(d) Penalties.--(1) If the master, officer, or agent of a vessel of a foreign country does an act for the vessel in the ports or waters of the United States in violation of a proclamation issued under this section, the vessel and the goods on the vessel may be seized by, and forfeited to, the United States Government.

(2) A person opposing an official of the Government enforcing this section shall be fined under title 18, imprisoned for not more than 2 years, or both.

Sec. 70506. Retaliation against British dominions of North America

(a) General Authority.--The President by proclamation may prohibit vessels of the British dominions of North America, their masters and crews, and products of or coming from those dominions, from entering waters, ports, or places of the United States when the President is satisfied that--

(1) fishermen or fishing vessels of the United States in waters, ports, or places of the British dominions of North America are being or recently have been--

(A) denied rights provided by law or treaty;

(B) subjected to unreasonable restrictions in the exercise of those rights; or

(C) otherwise harassed;

(2) fishermen or fishing vessels of the United States, having a permit under the laws of the United States to dock or trade at a port or place in the British dominions of North America, are being or recently have been--

(A) denied the privilege of entering the port or place in the same manner and under the same regulations applicable to trading vessels of the most-favored-nation;

(B) prevented from buying supplies allowed to be sold to trading vessels of the most-favored-nation; or

(C) otherwise harassed; or

(3) other vessels of the United States or their masters or crews in waters, ports, or places of the British dominions of North America are being or recently have been--

(A) denied privileges given to vessels of the most-favored-nation or their masters or crews; or

(B) otherwise harassed.

(b) Coverage and Exceptions.--The President may apply a proclamation under this section to any of the subjects named, and may include exceptions for vessels in distress or need of supplies. The President may change, revoke, and renew the proclamation.

(c) Penalties.--A person violating a proclamation issued under this section shall be fined under title 18, imprisoned for not more than 2 years, or both. A vessel or goods found in waters, ports, or places of the United States in violation of the proclamation may be seized by, and forfeited to, the United States Government.

Sec. 70507. Suspension of free passage through Saint Marys Falls Canal