

# TITLE 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS<sup>1</sup>

[Excerpts]

**40 U.S.C. 102 (2002). DEFINITIONS.** The following definitions apply in chapters 1 through 7 of this title and in title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.):

\* \* \* \* \*

(9) Property. The term “property” means any interest in property except—

\* \* \* \* \*

(B) naval vessels that are battleships, cruisers, aircraft carriers, destroyers, or submarines;

\* \* \* \* \*

**40 U.S.C. 111 (2002). APPLICATION TO FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.**

In the following provisions, the words “this subtitle” are deemed to refer also to title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.):<sup>2</sup>

\* \* \* \* \*

(3) Section 113 of this title.

\* \* \* \* \*

(22) Section 558(a) of this title.

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**40 U.S.C. 113 (2002). LIMITATIONS.**

(a) In general. Except as otherwise provided in this section, the authority conferred by this subtitle is in addition to any other authority conferred by law and is not subject to any inconsistent provision of law.

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<sup>1</sup> Public Law 107-217, approved August 21, 2002 (116 STAT. 1062), revised, codified, and enacted without substantive change the general and permanent laws of the United States related to public buildings, property, and works, as title 40, United States Code.

<sup>2</sup> This section is added to provide an accurate literal translation of the words “this Act”, meaning the Federal Property and Administrative Services Act of 1949. In the positive law codification of title 40, most of the Federal Property and Administrative Services Act of 1949 is restated as subtitle I of title 40. However, title III of the Act, which is outside the scope of the positive law codification, remains classified to the United States Code as 41 U.S.C. 251 et seq. Where the words “this Act” are restated, substituting the words “this subtitle” does not yield an accurate literal translation because “this subtitle” does not include title III of the Act. This section does not subject any provision of law to title III of the Act if that provision was not subject to title III prior to the positive law codification of title 40.

(e) Other limitations. Nothing in this subtitle impairs or affects the authority of—

\* \* \* \* \*

(15) the Maritime Administration with respect to the acquisition, procurement, operation, maintenance, preservation, sale, lease, charter, construction, reconstruction, or reconditioning (including outfitting and equipping incidental to construction, reconstruction, or reconditioning) of a merchant vessel or shipyard, ship site, terminal, pier, dock, warehouse, or other installation necessary or appropriate for carrying out a program of the Administration authorized by law or nonadministrative activities incidental to a program of the Administration authorized by law, but the Administration shall, to the maximum extent it considers practicable, consistent with the purposes of its programs and the effective, efficient conduct of its activities, coordinate its operations with the requirements of this subtitle and with policies and regulations prescribed under this subtitle;

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**40 U.S.C. 548 (2002). SURPLUS VESSELS.** The Maritime Administration shall dispose of surplus vessels of 1,500 gross tons or more which the Administration determines to be merchant vessels or capable of conversion to merchant use. The vessels shall be disposed of in accordance with the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.), and other laws authorizing the sale of such vessels.

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**40 U.S.C. 554 (2002). PROPERTY FOR DEVELOPMENT OR OPERATION OF A PORT FACILITY.**

(a) **Definitions.** In this section, the following definitions apply:

(1) Base closure law. The term “base closure law” means the following:

(A) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(C) Section 2687 of title 10.

(2) State. The term “State” includes the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and the Northern Mariana Islands.

(b) **Authority for assignment to the Secretary of Transportation.** Under regulations that the Administrator of General Services, after con-

sultation with the Secretary of Defense, may prescribe, the Administrator, or the Secretary of Defense in the case of property located at a military installation closed or realigned pursuant to a base closure law, may assign to the Secretary of Transportation for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary of Transportation recommends as needed for the development or operation of a port facility.

**(c) Authority for conveyance by the Secretary of Transportation.**

(1) In general. Subject to disapproval by the Administrator or the Secretary of Defense within 30 days after notice of a proposed conveyance by the Secretary of Transportation, the Secretary of Transportation, for the development or operation of a port facility, may convey property assigned to the Secretary of Transportation under subsection (b) to a State or political subdivision, municipality, or instrumentality of a State.

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**40 U.S.C. 556 (2002). DISPOSAL OF DREDGE VESSELS.**

**(a) In general.** The Administrator of General Services, pursuant to sections 521 through 527, 529, and 549 of this title, may dispose of a United States Army Corps of Engineers vessel used for dredging, together with related equipment owned by the Federal Government and under the control of the Chief of Engineers, if the Secretary of the Army declares the vessel to be in excess of federal needs.

**(b) Recipients and purposes.** Disposal under this section is accomplished—

(1) through sale or lease to—

(A) a foreign government as part of a Corps of Engineers technical assistance program;

(B) a federal or state maritime academy for training purposes; or

(C) a non-federal public body for scientific, educational, or cultural purposes; or

(2) through sale solely for scrap to foreign or domestic interests.

**(c) No dredging activities.** A vessel described in subsection (a) shall not be disposed of under any law for the purpose of engaging in dredging activities within the United States.

**(d) Deposit of amounts collected.** Amounts collected from the sale or lease of a vessel or equipment under this section shall be deposited into the revolving fund authorized by section 101 (9th par.) of the Civil Functions Appropriation Act, 1954 (33 U.S.C. 576), to be available, as provided in appropriation laws, for the operation and maintenance of vessels under the control of the Corps of Engineers.

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**40 U.S.C. 558 (2002). DONATION OF FORFEITED VESSELS.**

**(a) In general.** A vessel that is forfeited to the Federal Government may be donated, in accordance with procedures under this subtitle, to an eligible institution described in subsection (b).

**(b) Eligible institution.** An eligible institution referred to in subsection (a) is an educational institution with a commercial fishing vessel safety program or other vessel safety, education and training program. The institution must certify to the federal officer making the donation that the program includes, at a minimum, all of the following courses in vessel safety:

- (1) Vessel stability.
- (2) Firefighting.
- (3) Shipboard first aid.
- (4) Marine safety and survival.
- (5) Seamanship rules of the road.

**(c) Terms and conditions.** The donation of a vessel under this section shall be made on terms and conditions considered appropriate by the federal officer making the donation. All of the following terms and conditions are required:

(1) *No warranty.* The institution must accept the vessel as is, where it is, and without warranty of any kind and without any representation as to its condition or suitability for use.

(2) *Maintenance.* The institution is responsible for maintaining the vessel.

(3) *Instruction only.* The vessel may be used only for instructing students in a vessel safety education and training program.

(4) *Documentation.* If the vessel is eligible to be documented, it must be documented by the institution as a vessel of the United States under chapter 121 of title 46. The requirements of paragraph (5) must be noted on the permanent record of the vessel.

(5) *Disposal.* The institution must obtain prior approval from the Administrator of General Services before disposing of the vessel and any proceeds from disposal shall be payable to the Government.

(6) *Inspection or regulation.* The vessel shall be inspected or regulated in the same manner as a nautical school vessel under chapter 33 of title 46.

**(d) Government liability.** The Government is not liable in an action arising out of the transfer or use of a vessel transferred under this section.

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**40 U.S.C. 1306 (2002). DISPOSITION OF ABANDONED OR FORFEITED PERSONAL PROPERTY.**

**(a) Definitions.** In this section—

(1) *Agency.* The term “agency” includes any executive department, independent establishment, board, commission, bureau, service, or division of the Federal Government, and any corporation in which the Government owns at least a majority of the stock.

(2) *Property.* The term “property” means all personal property, including vessels, vehicles, and aircraft.

\* \* \* \* \*

**(h) Administrative.**

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(2) *Other laws not repealed.* This section does not repeal any other laws relating to the disposition of forfeited or abandoned property, except provisions of those laws directly in conflict with this section which were enacted prior to August 27, 1935.

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**40 U.S.C. 3134 (2002). WAIVERS FOR CERTAIN CONTACTS.**

**(a) Military.** The Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of Transportation may waive this subchapter with respect to cost-plus-a-fixed fee and other cost-type contracts for the construction, alteration, or repair of any public building or public work of the Federal Government and with respect to contracts for manufacturing, producing, furnishing, constructing, altering, repairing, processing, or assembling vessels, aircraft, munitions, materiel, or supplies for the Army, Navy, Air Force, or Coast Guard, respectively, regardless of the terms of the contracts as to payment or title.

**(b) Transportation.** The Secretary of Transportation may waive this subchapter with respect to contracts for the construction, alteration, or repair of vessels when the contract is made under sections 1535 and 1536 of title 31, the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.), or the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1735 et seq.), regardless of the terms of the contracts as to payment or title.

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