MERCHANT MARINE ACT, 1936

TITLE I - DECLARATION OF POLICY

SEC. 101. FOSTERING DEVELOPMENT AND MAINTENANCE OF MERCHANT MARINE (46 App. U.S.C. 1101 (1999)). It is necessary for the national defense and development of its foreign and domestic commerce that the United States shall have a merchant marine (a) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of such domestic and foreign water-borne commerce at all times, (b) capable of serving as a naval and military auxiliary in time of war or national emergency, (c) owned and operated under the United States flag by citizens of the United States insofar as may be practicable, (d) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel, and (e) supplemented by efficient facilities for shipbuilding and ship repair. It is hereby declared to be the policy of the United States to foster the development and encourage the maintenance of such a merchant marine.

TITLE II—CREATION AND FUNCTIONS OF MARITIME AGENCIES

SEC. 201. POWERS AND DUTIES OF AGENCIES (46 App. U.S.C. 1111 (1999)).

(c) **Records of Meetings; Seal; Rules and Regulations.** The Commission shall, through its secretary, keep a true record of all its meetings and the yea-and-nay votes taken therein, on every action, order, contract, or financial transaction approved or disapproved by the Commission. It shall have an official seal which shall be judicially noticed, and shall adopt rules and regulations in regard to its procedure and the conduct of its business.

(d) **Expenditures.** The Commission and the Secretary of Transportation may make such expenditures as are necessary in the performance of their functions from funds made available to them by this Act or hereafter appropriated, which further appropriations are hereby authorized.

(e) **Officers and Employees.** Without regard to the civil-service laws, the Commission and the Secretary of Transportation may appoint and prescribe the duties and fix the salaries of a secretary, a director for each of not to exceed five divisions, a general counsel, a clerk to each member of the Commission, and not more than three assistants, a clerk to the general counsel, not more than a total of twenty naval architects or marine engineers, twenty special experts, twenty-two examiners, twelve attorneys, and two inspectors for each vessel at each shipyard at which vessels are being constructed by it or under its supervision. The Commission and the Secretary of Transportation may, subject to the provisions of the civil-service laws appoint such other officers, engineers, inspectors, attorneys, examiners, and other employees as are necessary in the execution of their functions.

(f) **Traveling and Subsistence Expenses; Pay for Military Officer on Assignment.** Each member, any employee of the Commission or the Secretary of Transportation, and any person detailed to it or the Secretary of Transportation from any other agency of the Government shall receive necessary traveling and subsistence expenses, or per diem allowance in lieu thereof, within the limitations prescribed by law, while away from his official station upon official business of the Commission or the Secretary of Transportation. Whenever any officer (not exceeding five in number at any time) of the Army, Navy, Marine Corps, or Coast Guard is detailed to the Commission or the Secretary of Transportation, he shall receive from the Commission or the Secretary of Transportation, for the period during which he is so detailed, such compensation as added to his pay and allowances as an officer in such

service will make his aggregate compensation equal to the pay and allowances he would receive if he were the incumbent of an office or position in such service (or in the corresponding executive department), which, in the opinion of the Commission or the Secretary of Transportation, involves the performance of work similar in importance, difficulty, and responsibility to that performed by him while detailed to the Commission or the Secretary of Transportation. Expenditures by the Commission or the Secretary of Transportation shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission or the Secretary of Transportation or a designated employee thereof.

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REORGANIZATION PLAN NO. 6 OF 1949

Effective Aug. 20, 1949, 14 Fed. Reg. 5228, 63 Stat. 1069. Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 20, 1949, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949.

Sec. 1. Administration of Functions of Commission. The Chairman of the United States Maritime Commission shall be the chief executive and administrative officer of the United States Maritime Commission. In executing and administering on behalf of the Commission its functions (exclusive of functions transferred by the provisions of section 2 of this reorganization plan) the Chairman shall be governed by the policies, regulatory decisions, findings, and determinations of the Commission.

Sec. 2. Transfer of Functions. There are hereby transferred from the United States Maritime Commission to the Chairman of the Commission the functions of the Commission with respect to (1) the appointment and supervision of all personnel employed under the Commission, (2) the distribution of business among such personnel and among organizational units of the Commission, and (3) the use and expenditure of funds for administrative purposes: Provided, That the provisions of this section do not extend to personnel employed regularly and full time in the offices of members of the Commission other than the Chairman: Provided further, That the heads of the major administrative units shall be appointed by the Chairman only after consultation with the other members of the Commission.

Sec. 3. Performance of Transferred Functions. The functions of the Chairman under the provisions of this reorganization plan shall be performed by him or, subject to his supervision and direction, by such officers and employees under his jurisdiction as he shall designate.

REORGANIZATION PLAN NO. 21 OF 1950.

Effective May 24, 1950, 15 Fed. Reg. 3178, 64 Stat. 1273. Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949.

PART I. FEDERAL MARITIME BOARD

Sec. 101-106. [Superseded. Reorg. Plan No. 7 of 1961, sec. 305, eff. Aug. 12, 1961, 26 Fed. Reg. 7315, 75 Stat. 840. Section 101 established the Federal Maritime Board. Section 102 provided for the composition of the Federal Maritime Board. Section 103 transferred certain functions from the Chairman of the United States Maritime Commission to the Chairman of the Federal Maritime Board. Section 104 transferred regulatory functions of the United States Maritime Commission to the Federal Maritime Board. Section 106 provided that the Board was to be an agency within the Department of Commerce, but would be independent of the Secretary of Commerce with respect to functions transferred to it under section 104. Section 105 transferred subsidy award and other functions of the United States Maritime Commission to the Federal Maritime Board, as follows:

[**SEC. 105. Transfer of subsidy award and other functions to the Board.** The following functions of the United States Maritime Commission are hereby transferred to the Board:

[(1) The functions with respect to making, amending, and terminating subsidy contracts, and with respect to conducting hearings and making determinations antecedent to making, amending, and terminating subsidy contracts, under the provisions of Title V, VI, and VIII, and section 301, 708, 805(a), and 805(f) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1131, 1151-1182, 1198, 1211-1213, 1223(a), and 1223(f), together with the functions with respect to making changes, subsequent to entering into an operating differential subsidy contract, in such determinations under the provisions of section 301 of such Act, as amended (46 U.S.C. 1131), and readjustments in determinations as to operating cost differentials under the provisions of section 606 of such Act, as amended (46 U.S.C. 1176), and with respect to the approval of the sale, assignment, or transfer of any operating subsidy contract under section 608 of such Act (46 U.S.C. 1178), and with respect to the approval of the sale, assignment, or transfer of any operating subsidy contract under section 608 of such Act (46 U.S.C. 1178): Provided, That, for the purposes of this section 105(1) of this reorganization plan, the term "subsidy contract" shall be deemed to include, in the case of a construction differential subsidy, the contract for the construction, reconstruction, or reconditioning of the vessel and the contract for the sale of the vessel to the subsidy applicant or the contract to pay a con-

struction differential subsidy and the cost of national defense features, and, in the case of an operating differential subsidy, the contract with the subsidy applicant for the payment of the subsidy: Provided further, That, except as otherwise hereinbefore provided in respect of functions under sections 301, 606, and 608 of the Merchant Marine Act, 1936, as amended, the functions transferred by the provisions of this section 105(1) shall exclude the making of all determinations and the taking of all actions (other than amending or terminating any subsidy contract), subsequent to entering into any subsidy contract, which are involved in administering such contract: Provided further, That actions of the Board in respect to the functions transferred by the provisions of this section 105(1) shall be final.

[(2) The functions with respect to investigating and determining (a) the relative cost of construction of comparable vessels in the United States and foreign countries, (b) the relative cost of operating vessels under the registry of the United States and under foreign registry, and (c) the extent and character of aids and subsidies granted by foreign governments to their merchant marines, under the provisions of subsection (c), (d), and (e) of section 211 of the Merchant Marine Act, 1936 (46 U.S.C. 1121(c), (d), and (e)).

[(3) All functions under the provisions of section 12 of the Shipping Act, 1916, as amended (46 U.S.C. 811), including such functions with respect to making investigations and reports on relative costs and on marine insurance.

[(4) So much of the functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended (46 U.S.C. 820), as relates to the functions of the Board under the provisions of section 105(1) to 105(3), inclusive, of this reorganization plan.

[(5) So much of the functions with respect to adopting rules and regulations, making reports and recommendations to Congress, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of books, papers, and documents, under the provisions of sections 204, 208, and 214 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1114, 1118, and 1124), as relates to the functions of the Board under the provisions of this reorganization plan.]

PART II. MARITIME ADMINISTRATION

Sec. 201. Creation of Maritime Administration. There is hereby established in the Department of Commerce a Maritime Administration.[1]

Sec. 202. [Superseded. Reorg. Plan No. 7 of 1961, sec. 305, eff. Aug. 12, 1961, 26 Fed. Reg. 7315, 75 Stat. 840. Section provided for a Maritime Administrator to be at the head of the Maritime

[1] Public Law 97-31, approved August 6, 1981 (95 STAT.151), transferred the Maritime Administration from the Department of Commerce to the Department of Transportation.

Administration, and that the Chairman of the Federal Maritime Board would be such Administrator and would perform duties prescribed by the Secretary of Commerce.]

Sec. 203. Deputy Maritime Administrator. There shall be in the Maritime Administration a Deputy Maritime Administrator, who shall be appointed by the Secretary of Commerce, after consultation with the Administrator, under the classified civil service, and who shall perform such duties as the Administrator shall prescribe. The Deputy Maritime Administrator shall be Acting Maritime Administrator during the absence or disability of the Administrator and, unless the Secretary of Commerce shall designate another person, during a vacancy in the office of Administrator: Provided, That such Deputy Administrator shall at no time sit as a member or acting member of the Federal Maritime Board.

Sec. 204. Transfer of functions. Except as otherwise provided in Part I of this reorganization plan, all functions of the United States Maritime Commission and of the Chairman of said Commission are hereby transferred to the Secretary of Commerce. The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by the Maritime Administrator of any function transferred to such Secretary by the provisions of this reorganization plan.

PART III - GENERAL PROVISIONS

Sec. 301. Under Secretary of Commerce for Transportation. There shall be in the Department of Commerce an additional office of Under Secretary with the title "Under Secretary of Commerce for Transportation." The Under Secretary of Commerce for Transportation shall be appointed by the President, by and with the advice and consent of the Senate, shall receive compensation at the rate prescribed by law for Under Secretaries of Executive departments, and shall perform such duties as the Secretary of Commerce shall prescribe.

Sec. 302-307. [Superseded. Reorg. Plan No. 7 of 1961, sec. 305, eff. Aug. 12, 1961, 26 Fed. Reg. 7315, 75 Stat. 840. Section 302 provided that person who was both Administrator and Chairman was to make joint use of the personnel under his supervision. Section 303 made conflict of interest provisions of the Merchant Marine Act, 1936, applicable to members of the Federal Maritime Board and officers and employees of the Board or of the Maritime Administration. Section 304 allowed the President to make interim appointments to the Federal Maritime Board from officers of the Executive Branch. Section 305 transferred to the Department of Commerce all property, personnel, records, and funds of the United States Maritime Commission. Section 306 abolished the United States Maritime Commission. Section 307 provided that the functions transferred by this reorganization plan would not be subject to Reorg. Plan No. 5 of 1950.]

REORGANIZATION PLAN NO. 7 OF 1961.

Eff. Aug. 12, 1961, 26 Fed. Reg. 7315, 75 Stat. 840, as amended. Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 12, 1961, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended.

MARITIME FUNCTIONS

Part I. Federal Maritime Commission

Sec. 101. Creation of Federal Maritime Commission

(a) There is hereby established a Federal Maritime Commission, hereinafter referred to as the Commission.

(b) The Commission shall not be a part of any executive department or under the authority of the head of any executive department.

Sec. 102. Composition of the Commission

(a) The Commission shall be composed of five Commissioners, who shall be appointed by the President by and with the advice and consent of the Senate. Each Commissioner shall be removable by the President for inefficiency, neglect of duty, or malfeasance in office.

(b) The President shall from time to time designate one of the Commissioners to be the Chairman of the Commission.

(c) Of the first five Commissioners appointed hereunder, one shall be appointed for a term expiring on June 30, 1962, one for a term expiring on June 30, 1963, one for a term expiring on June 30, 1964, and two for terms expiring on June 30, 1965. Their successors shall be appointed for terms of four years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he succeeds. Not more than three of the Commissioners shall be appointed from the same political party. A vacancy in the office of any such Commissioner shall be filled in the same manner as the original appointment.

(d) A vacancy or vacancies in the Commission shall not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the members serving on the Commission is required to dispose of any matter before the Commission.[2]

Sec. 103. Transfer of Functions to Commission. The following functions, which are now vested in the Federal Maritime Board under the provisions of Reorganization Plan No. 21 of 1950 (64 Stat. 1273), are hereby transferred from that Board to the Commission:

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[2] As amended by section 202 of Public Law 105–258, approved October 14, 1998 (112 STAT. 1915), the Ocean Shipping Reform Act of 1998.

(a) All functions under the provisions of sections 14—20, inclusive, and sections 22—33, inclusive, of the Shipping Act, 1916, as amended (46 U.S.C. 812—819 and 821—832), including such functions with respect to the regulation and control of rates, services, practices, and agreements of common carriers by water and of other persons.

(b) All functions with respect to the regulation and control of rates, fares, charges, classifications, tariffs, regulations, and practices of common carriers by water under the provisions of the Intercoastal Shipping Act, 1933, as amended (46 U.S.C. 843—848).

(c) The functions with respect to the making of rules and regulations affecting shipping in the foreign trade to adjust or meet conditions unfavorable to such shipping, and with respect to the approval, suspension, modification, or annulment of rules or regulations of other Federal agencies affecting shipping in the foreign trade, under the provisions of section 19 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 876), exclusive of subsection (1)(a) thereof.

(d) The functions with respect to investigating discriminatory rates, charges, classifications, and practices in the foreign trade, and with respect to recommending legislation to correct such discrimination, under the provisions of section 212(e) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1122(f)).

(e) To the extent that they relate to functions transferred to the Commission by the foregoing provisions of this section:

(1) The functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended (46 U.S.C. 820).

(2) The functions with respect to adopting rules and regulations, making reports and recommendations to Congress, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of books, papers, and documents, under the provisions of sections 204, 208, and 214 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1114, 1118 and 1124).

Sec. 104. Transfer of Functions to Chairman.

THERE ARE HEREBY TRANSFERRED TO THE CHAIRMAN OF THE COMMISSION:

(a) The functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of Reorganization Plan No. 6 of 1949, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of this reorganization plan.

(b) The functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of this reorganization plan.

Sec. 105. Authority to Delegate

(a) The Commission shall have the authority to delegate, by published order or rule, any of its functions to a division of the Commission, an individual Commissioner, a hearing examiner, or an employee or employee board, including functions with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter: Provided, however, That nothing herein contained shall be deemed to supersede the provisions of section 7(a) of the Administrative Procedure Act (60 Stat. 241), as amended.

(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this section, the Commission shall retain a discretionary right to review the action of any such division of the Commission, individual Commissioner, hearing examiner, employee or employee board, upon its own initiative or upon petition of a party to or an intervenor in such action, within such time and in such manner as the Commission shall by rule prescribe: Provided, however, That the vote of a majority of the Commission less one member thereof shall be sufficient to bring any such action before the Commission for review.

(c) Should the right to exercise such discretionary review be declined, or should no such review be sought within the time stated in the rules promulgated by the Commission, then the action of any such division of the Commission, individual Commissioner, hearing examiner, employee or employee board, shall, for all purposes, including appeal or review thereof, be deemed to be the action of the Commission.

(d) There are hereby transferred to the Chairman of the Commission the functions with respect to the assignment of Commission personnel, including Commissioners, to perform such functions as may have been delegated by the Commission to Commission personnel, including Commissioners, pursuant to the foregoing subsections of this section.

Part II. Department of Commerce.

Sec. 201. Maritime Administrator.

There shall be at the head of the Maritime Administration (established by the provisions of part II of Reorganization Plan No. 21 of 1950) a Maritime Administrator, hereinafter referred to as the Administrator. The Assistant Secretary of Commerce for Maritime Affairs shall, ex officio, be the Administrator. The Administrator shall perform such duties as the Secretary of Commerce shall prescribe.

Sec. 202. Functions of Secretary of Commerce.

(a) Except to the extent inconsistent with the provisions of sections 101(b) or 104(b) of this reorganization plan, there shall remain vested in the Secretary of Commerce all the functions conferred upon the Secretary by the provisions of Reorganization Plan No. 21 of 1950.

(b) There are hereby transferred to the Secretary of Commerce:

(1) All functions of the Federal Maritime Board under the provisions of section 105(1) to 105(3), inclusive, of Reorganization Plan No. 21 of 1950.

(2) Except to the extent transferred to the Commission by the provisions of section 103(e) of this reorganization plan, the functions described in the said section 103(e).

(3) Any other functions of the Federal Maritime Board not otherwise transferred by the provisions of part I of this reorganization plan.

(4) Except to the extent transferred to the Chairman of the Commission by the provisions of part I of this reorganization plan, the functions of the Chairman of the Federal Maritime Board.

Sec. 203. Delegation of Functions.

The provisions of sections 2 and 4 of Reorganization Plan No. 5 of 1950 (64 Stat. 1263) shall be applicable to all functions transferred to the Secretary of Commerce by, or remaining vested in him under, the provisions of this reorganization plan.

Part III. General Provisions

Sec. 301. Conflict of Interest.

The provisions of the last sentence of section 201(b) of the Merchant Marine Act, 1936, as affected by the provisions of Reorganization Plan No. 21 of 1950 (46 U.S.C. 1111(b)) (prohibiting the members of the Federal Maritime Board and all officers and employees of that Board or of the Maritime Administration from being in the employ of any other person, firm, or corporation, or from having any pecuniary interest in or holding any official relationship with any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the Federal Maritime Board or the Maritime Administration may have business relations) shall hereafter be applicable to the Commissioners composing the Commission and all officers and employees of the Commission.

Sec. 302. Interim Appointments.

Pending the initial appointment hereunder of the Commissioners composing the Commission and of the Maritime Administrator, but not for a period exceeding 90 days, such officers of the executive branch of the Government (including any person who is a member of the Federal

Maritime Board or Deputy Maritime Administrator immediately prior to the taking effect of the provisions of this reorganization plan) as the President shall designate under the provisions of this section shall be Acting Commissioners of the Federal Maritime Commission or Acting Maritime Administrator. The President may designate one of such Acting Commissioners as Acting Chairman of the Commission. Any person who is not while serving under an interim appointment pursuant to the foregoing provisions of this section receiving compensation attached to another Federal office shall receive the compensation herein provided for the office wherein he serves in an interim capacity.

Sec. 303. Incidental Transfers.

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Commission or to the Chairman of the Commission by the provisions of part I of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Commission at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

(c) Subject to the foregoing provisions of this section, the Secretary of Commerce may transfer within the Department of Commerce personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with functions which were transferred to the Department of Commerce (including the Federal Maritime Board and the Chairman thereof) by the provisions of Reorganization Plan No. 21 of 1950.

Sec. 304. Abolition of Federal Maritime Board.

The Federal Maritime Board, including the offices of the members of the Board, is hereby abolished, and the Secretary of Commerce shall provide for the termination of any outstanding affairs of the said Board not otherwise provided for in this reorganization plan.

Sec. 305. Status of Prior Plan.

The following provisions of Reorganization Plan No. 21 of 1950 are hereby superseded:

(1) Part I.
(2) Section 202.
(3) Sections 302 to 307, inclusive.

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Continuation of the Merchant Marine Act, 1936.

SEC. 202. OPERATION OF PROPERTY BY SECRETARY (46 App. U.S.C. 1112 (1999)). Notwithstanding any other provision of law, the Secretary of Transportation may, in accordance with good business methods and on such terms and conditions as he determines to effectuate the policy of this Act, operate or lease any lands, docks, wharves, piers, or real property under his control, and all money heretofore or hereafter received from such operation or lease shall be available for expenditure by the Secretary of Transportation as provided in this Act. The Secretary of Transportation may, upon such terms and conditions as he may prescribe in accordance with sound business practice, make such extensions and accept such renewals of the notes and other evidences of indebtedness hereby transferred, and of mortgages and other contracts securing the same, as he may deem necessary to carry out the objects of this Act.

SEC. 204. TRANSFER OF POWERS; RULES AND ORDERS (46 App. U.S.C. 1114 (1999)).

(a) **Transfer of Functions, Powers and Duties.** All the functions, powers, and duties vested in the former United States Shipping Board by the Shipping Act, 1916, the Merchant Marine Act, 1920, the Merchant Marine Act, 1928, and amendments to those Acts, and now vested in the Department of Commerce pursuant to section 12 of the President's Executive Order of June 10, 1933, are hereby transferred to the Federal Maritime Commission and the Secretary of Transportation: Provided, however, That after the date of the passage of this Act no further construction loans shall be made under the provisions of section 11 of the Merchant Marine Act, 1920, as amended.

(b) **Rules and Regulations.** The Commission and the Secretary of Transportation are hereby authorized to adopt all necessary rules and regulations to carry out the powers, duties, and functions vested in them by this Act.

(c) **Enforcement of Orders; Penalties for Violations.** The orders issued by the Federal Maritime Commission and the Secretary of Transportation in the exercise of the powers transferred to them by this title shall be enforced in the same manner as heretofore provided by law for enforcement of the orders issued by the former United States Shipping Board, and violation of such orders shall subject the person or corporation guilty of such violation to the same penalties or punishment as heretofore provided for violation of the orders of said Board.

SEC. 205. DISCRIMINATION AT PORTS BY CARRIERS BY WATER AGAINST OTHER CARRIERS (46 App. U.S.C. 1115 (1999)). Without limiting the power and authority otherwise vested in

the Federal Maritime Commission and the Secretary of Transportation, it shall be unlawful for any common carrier by water, either directly or indirectly, through the medium of an agreement, conference, association, understanding, or otherwise, to prevent or attempt to prevent any other such carrier from serving any port designed for the accommodation of ocean-going vessels located on any improvement project authorized by the Congress or through it by any other agency of the Federal Government, lying within the continental limits of the United States, at the same rates which it charges at the nearest port already regularly served by it.

SEC. 206. CONSTRUCTION FUND (46 App. U.S.C. 1116 (1999)). All sums of money now (6/29/36) in the construction loan fund created by section 11 of the Merchant Marine Act, 1920, as amended, together with the proceeds of all debts, accounts, choses in action, and the proceeds of all notes, mortgages, and other evidences of indebtedness, hereby transferred to the Department of Transportation, and all of the proceeds of sales of ships and surplus property heretofore or hereafter made, including proceeds of notes or other evidences of debt taken therefor and the interest thereon, and, notwithstanding any other provision of law, all money representing amounts of unclaimed wages, salvage awards and miscellaneous unclaimed items carried as liabilities on the books of the United States Shipping Board Merchant Fleet Corporation and all money heretofore or hereafter received from the operation or leasing of lands, docks, wharves, piers, or real property shall be deposited in the Treasury of the United States and there maintained as a revolving fund, herein designated as the construction fund, and shall be available for expenditure by the Secretary of Transportation in carrying out the provisions of this Act. All moneys received by the Department of Transportation under the provisions of this Act shall be deposited in its construction fund, and all disbursements made by the Secretary of Transportation under authority of this Act shall be paid out of said fund, and, notwithstanding any other provision of law, all disbursements applicable to the money referred to in this section may be made by the Secretary of Transportation out of said fund. Further appropriations by Congress to replenish said fund are hereby authorized.

APPLICATION TO OBLIGATIONS AGAINST EMERGENCY SHIP CONSTRUCTION FUND (46 App. U.S.C. 1116a (1999)).[3] Hereafter the United States Maritime Commission construction fund shall be available for the payment of obligations previously incurred against the emergency ship construction fund.

[3] Enacted as part of the Act of March 22, 1947 (61 STAT. 1116), and not as part of the Merchant Marine Act, 1936. Applies after March 22, 1947.

SEC. 207. POWER TO CONTRACT, AUDIT OF ACCOUNTS; REPORTS OF COMPTROLLER GENERAL (46 App. U.S.C. 1117 (1999)). The Federal Maritime Commission and the Secretary of Transportation may enter into such contracts, upon behalf of the United States, and may make such disbursements as may, in its or his discretion, be necessary to carry on the activities authorized by this Act, or to protect, preserve, or improve the collateral held by the Commission or Secretary to secure indebtedness, in the same manner that a private corporation may contract within the scope of the authority conferred by its charter. All the Commission's and Secretary's financial transactions shall be audited in the General Accounting Office according to approved commercial practice as provided in the Act of March 20, 1922 (42 Stat. 444): Provided, That it shall be recognized that, because of the business activities authorized by this Act, the accounting officers shall allow credit for all expenditures shown to be necessary because of the nature of such authorized activities, notwithstanding any existing statutory provision to the contrary. The Comptroller General shall report annually or oftener to Congress any departure by the Commission or Secretary from the provisions of this Act.

SEC. 208. REPORTS TO CONGRESS (46 App. U.S.C. 1118 (1999)). The Federal Maritime Commission and the Secretary of Transportation shall, by April 1 each year, make a report to Congress, which shall include the results of its or his investigations, a summary of its or his transactions, its or his recommendations for legislation, a statement of all receipts under this Act, and the purposes for which all expenditures were made.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS (46 App. U.S.C. 1119 (1999)).

(a) Except as provided in subsection (b) of this section, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) Notwithstanding any other provision of this Act, or any other law, there are authorized to be appropriated after December 31, 1967, for the use of the Maritime Administration for—

(1) acquisition, construction, or reconstruction of vessels;

(2) construction-differential subsidy incident to the construction, reconstruction, or reconditioning of ships;

(3) cost of national defense features;

(4) payment of obligations incurred for operating-differential subsidy;

(5) expenses necessary for research and development activities (including reimbursement of the Vessel Operations Revolving Fund for losses resulting from expenses of experimental ship operations);

(6) reserve fleet expenses;

(7) maritime training at the Merchant Marine Academy at Kings Point, New York;

(8) financial assistance to State maritime academies under section 1304 of this Act;

(9) the Vessel Operations Revolving Fund;

(10) expenses necessary for additional training provided under section 1305 of this Act;

[(11)](10) expenses necessary to carry out title XIII of this Act; and;

[(12)](11) other operations and training expenses related to the development of waterborne transportation systems, the use of waterborne transportation systems, or general administration;

only such sums as the Congress may specifically authorize by law: Provided, however, That the Congress hereby finds and declares that the national policy set forth in section 101 of this Act requires that there should be authorized and appropriated for fiscal years 1971 through 1980 such sums as may be necessary to construct 300 ships of such sizes, types and designs as the Secretary of Transportation may consider best suited to carry out the purposes and policy of this Act.

SEC. 210. SURVEY OF EXISTING MERCHANT MARINE FOR CREATION OF ADEQUATE AMERICAN-OWNED FLEET (46 App. U.S.C. 1120 (1999)). It shall be the duty of the Secretary of Transportation to make a survey of the American merchant marine, as it now exists, to determine what additions and replacements are required to carry forward the national policy declared in section 101 of this Act, and the Secretary of Transportation is directed to study, perfect, and adopt a long-range program for replacements and additions to the American merchant marine so that as soon as practicable the following objectives may be accomplished:

First, the creation of an adequate and well-balanced merchant fleet, including vessels of all types, to provide shipping service essential for maintaining the flow of the foreign commerce of the United States, the vessels in such fleet to be so designed as to be readily and quickly convertible into transport and supply vessels in a time of national emergency. In planning the development of such a fleet the Secretary of Transportation is directed to cooperate closely with the Navy Department as to national-defense needs and the possible speedy adaptation of the merchant fleet to national-defense requirements.

Second, the ownership and the operation of such a merchant fleet by citizens of the United States insofar as may be practicable.

Third, the planning of vessels designed to afford the best and most complete protection for passengers and crew against fire and all marine perils.

Fourth, the creation and maintenance of efficient shipbuilding and repair capacity in the United States with adequate numbers of skilled personnel to provide an adequate mobilization base.

SEC. 211. INVESTIGATIONS, STUDIES, AND RECORDS, ETC. (46 App. U.S.C. 1121 (1999)).

The Secretary of Transportation is authorized and directed to investigate, determine, and keep current records of—

(a) **Suitable Ocean Routes and Lines to Foreign Ports; Vessels and Costs of Operation.** The ocean services, routes, and lines from ports in the United States, or in a Territory, district, or possession thereof, to foreign markets, which are, or may be, determined by the Secretary of Transportation to be essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States, and in reaching his determination the Secretary of Transportation shall consider and give due weight to the cost of maintaining each of such steamship lines, the probability that any such line cannot be maintained except at a heavy loss disproportionate to the benefit accruing to foreign trade, the number of sailings and types of vessels that should be employed in such lines, and any other facts and conditions that a prudent business man would consider when dealing with his own business, with the added consideration, however, of the intangible benefit the maintenance of any such line may afford to the foreign commerce of the United States, to the national defense, and to other national requirements;

(b) **Bulk Cargo Carrying Services.** The bulk cargo carrying services that should, for the promotion, development, expansion, and maintenance of the foreign commerce of the United States and for the national defense or other national requirements be provided by United States- flag vessels whether or not operating on particular services, routes, or lines;

(c) **Vessels Required in Proposed Routes.** The type, size, speed, method of propulsion, and other requirements of the vessels, including express-liner or super-liner vessels, which should be employed in such services or on such routes or lines, and the frequency and regularity of the sailings of such vessels, with a view to furnishing adequate, regular, certain, and permanent service, or which should be employed to provide the bulk cargo carrying services necessary to the promotion, maintenance, and expansion of the foreign commerce of the United States and its national defense or other national requirements whether or not such vessels operate on a particular service, route, or line;

(d) **Cost of Construction in United States and Abroad.** The relative cost of construction of comparable vessels in the United States and in foreign countries;

(e) **Relative Cost of Operation under laws of United States and Foreign Countries.** The relative cost of marine insurance, maintenance, repairs, wages and subsistence of officers and crews, and all other items of expense, in the operation of comparable vessels under the laws, rules, and regulations of the United States and under those of the foreign countries whose vessels are substantial competitors of any such American vessel;

(f) **Foreign Subsidies.** The extent and character of the governmental aid and subsidies granted by foreign governments to their merchant marine;

(g) **Shipyards.** The number, location, and efficiency of the shipyards existing on the date of the enactment of this Act or thereafter built in the United States;

(h) **Laws applicable to Aircraft.** To investigate and determine what provisions of this Act and other Acts relating to shipping should be made applicable to aircraft engaged in foreign commerce in order to further the policy expressed in this Act, and to recommend appropriate legislation to this end;

(i) **Transportation to Foreign Ports of cotton, coal, lumber, and cement.** The advisability of enactment of suitable legislation authorizing the Secretary of Transportation, in an economic or commercial emergency, to aid the farmers and cotton, coal, lumber, and cement producers in any section of the United States in the transportation and landing of their products in any foreign port, which products can be carried in dry-cargo vessels by reducing rates, by supplying additional tonnage to any American operator, or by operation of vessels directly by the Secretary of Transportation, until such time as the Secretary of Transportation shall deem such special rate reduction and operation unnecessary for the benefit of the American farmers and such producers; and

(j) **New Designs of Vessels; Intercoastal and Inland Water Transportation.** New designs, new methods of construction, and new types of equipment for vessels; the possibilities of promoting the carrying of American foreign trade in American vessels; and intercoastal and inland water transportation, including their relation to transportation by land and air.

SEC. 212. MARITIME PROBLEMS; COOPERATION WITH OTHERS; CARGO CARRIAGE; RECOMMENDATIONS (46 App. U.S.C. 1122 (1999)).

The Secretary of Transportation is authorized and directed—

(a) **Study of Maritime Problems.** To study all maritime problems arising in the carrying out of the policy set forth in title I of this Act;

(b) **Inducing Preferences for American Vessels; Construction of super-liners.** To study, and to cooperate with vessel owners in devising means by which—

(1) the importers and exporters of the United States can be induced to give preference to vessels under United States registry; and

(2) there may be constructed by or with the aid of the United States express-liner or super-liner vessels comparable with those of other nations, especially with a view to their use in national emergency, and the use in connection with or in lieu of such vessels of transoceanic aircraft service;

(c) **Collaboration with Owners and Builders.** To collaborate with vessel owners and shipbuilders in developing plans for the economical construction of vessels and their propelling machinery, of most modern economical types, giving thorough consideration to all well-recognized means of propulsion and taking into account the benefits accruing from standardized production where practicable and desirable;

(d) **Liaison with other Agencies and Trade Organizations.** To establish and maintain liaison with such other boards, commissions, independent establishments, and departments of the United States Government, and with such representative trade organizations throughout the United States as may be concerned, directly or indirectly, with any movement of commodities in the water-borne export and import foreign commerce of the United States, for the purpose of securing preference to vessels of United States registry in the shipment of such commodities;

(f) **Development and Implementation of new methods of Cargo Carriage; preferences for cargo containers.** To study means and methods of encouraging the development and implementation of new concepts for the carriage of cargo in the domestic and foreign commerce of the United States, and to study the economic and technological aspects of the use of cargo containers as a method of carrying out the declaration of policy set forth in title I of this Act, and in carrying out the provisions of this clause and such policy the United States shall not give preference as between carriers upon the basis of length, height, or width of cargo containers or length, height, or width of cargo container cells and this requirement shall be applicable to all existing container vessels and any container vessel to be constructed or rebuilt.

(g) **Recommendations for further Legislation.** To make recommendations to Congress, from time to time, for such further legislation as he deems necessary better to effectuate the purpose and policy of this Act.

SEC. 212(A). VESSEL UTILIZATION AND PERFORMANCE REPORTS; FILING; CIVIL PENALTY; LIEN UPON VESSEL; REMISSION OR MITIGATION OF PENALTY (46 App. U.S.C. 1122a (1999)). The operator of a vessel in waterborne foreign commerce of the United States shall file at such times and in such manner as the Secretary of Transportation may prescribe by regulations, such report, account, record, or memorandum relating to the utilization and performance of such vessel in commerce of the United States, as the Secretary may determine to be necessary or desirable in order to carry out the purposes and provisions of this Act, as amended. Such report, account, record, or memorandum shall be signed and verified in accordance with regulations prescribed by the Secretary. An operator who does not file the report, account, record, or memorandum as required by this section and the regulations issued hereunder, shall be liable to the United States in a penalty of $50 for each day of such violation. The amount of any penalty imposed for any violation of this section upon the operator of any vessel shall constitute a lien upon the vessel involved in the violation, and such vessel may be libeled therefor in the district court of the United States for the district in which it may be found. The Secretary of Transportation may, in his discretion, remit or mitigate any penalty imposed under this section on such terms as he may deem proper.

SEC. 212(B). MOBIL TRADE FAIRS (46 App. U.S.C. 1122b (1999)).

(a) **Use of United States flag vessels and aircraft insofar as practicable.** The Secretary of Commerce shall encourage and promote the development and use of mobile trade fairs which are designed to show and sell the products of United States business and agriculture at foreign ports and at other commercial centers throughout the world where the operator or operators of the mobile trade fairs use insofar as practicable United States flag vessels and aircraft in the transportation of their exhibits.

(b) **Technical and financial assistance; exceptions.** The Secretary of Commerce is authorized to provide to the operator or operators of such mobile trade fairs technical assistance and support as well as financial assistance for the purpose of defraying certain expenses incurred abroad (other than the cost of transportation on foreign-flag vessels and aircraft), when the Secretary determines that such operations provide an economical and effective means of promoting export sales.

(c) **Use of foreign currencies.** In addition to any amounts appropriated to carry out trade promotion activities, the President may use foreign currencies owned by or owed to the United States to carry out this section.

(d) **Report to Congress.** The Secretary of Commerce shall submit annually to the Congress a report on his activities under this Act.

SEC. 213. OBSOLETE TONNAGE; TRAMP SERVICE; RELATIVE COSTS AT YARDS (46 App. U.S.C. 1123 (1999)).

The Secretary of Transportation shall make studies of and make reports to Congress on the following—

(1) **Removal of obsolete tonnage.** The scrapping or removal from service of old or obsolete merchant tonnage owned by the United States or in use in the merchant marine.

(2) **Tramp shipping; participation in by Americans.** Tramp shipping service and the advisability of citizens of the United States participating in such service with vessels under United States registry.

SEC. 214. WITNESSES (46 App. U.S.C. 1124 (1999)).

(a) **Summoning; oaths; production of books and papers; fees.** For the purpose of any investigation which, in the opinion of the Secretary of Transportation, is necessary and proper in carrying out this Act, the Secretary may subpoena witnesses, administer oaths and affirmations, take evidence, and require the production of books, papers, or other documents that are relevant to the matter under investigation. The attendance of witnesses and the production of books, papers, or other documents may be required from any place in the United States or any territory, district, or possession thereof at any designated place of hearing. Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(b) **Refusal to obey subpoena; court orders; contempt.** Upon failure of any person to obey a subpoena issued by the Secretary, the Secretary may invoke the aid of any district court of the United States within the jurisdiction in which the person resides or carries on business in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring the person to appear before the Secretary, or an employee designated by the Secretary, there to produce books, papers, or other documents, if so ordered, or to give testimony relevant to the matter under investigation. A failure to obey an order of the court may be punished by the court as a contempt thereof. Process in such a case may be served in the judicial district in which the person resides or may be found.

SEC. 215. ACQUISITION OF VESSELS (46 App. U.S.C. 1125 (1999)). The Secretary of Transportation is authorized to acquire by purchase or otherwise such vessels constructed in the United States as he may deem necessary to establish, maintain, improve, or effect replacements upon any service, route, or line in the foreign commerce of the

United States determined to be essential under section 211 of this Act, and to pay for the same out of his construction fund: Provided, That the price paid therefor shall be based upon a fair and reasonable valuation, but it shall not exceed by more than 5 per centum the cost of such vessel to the owner (excluding any construction-differential subsidy and the cost of national defense features paid by the Secretary of Transportation) plus the actual cost previously expended thereon for reconditioning less depreciation based upon a twenty-five year[4] life expectancy of the vessel. No such vessel shall be acquired by the Secretary of Transportation unless the Secretary of the Navy has certified to the Secretary of Transportation that such vessel is suitable for economical and speedy conversion into a naval or military auxiliary, or otherwise suitable for the use of the United States in time of war or national emergency. Every vessel acquired under authority of this section that is not documented under the laws of the United States at the time of its acquisition shall be so documented as soon as practicable.

CONSTRUCTION, REPAIR, ETC., OF VESSELS FOR GOVERNMENT AGENCIES (46 App. U.S.C. 1125a (1999)). The Secretary of Transportation is authorized to construct, reconstruct, repair, equip, and outfit, by contract or otherwise, vessels or parts thereof, for any other department or agency of the Government, to the extent that such other department or agency is authorized by law to do so for its own account, and any obligations heretofore or hereafter incurred by the Secretary for any of the aforesaid purposes shall not diminish or otherwise affect any contract authorization granted to the Secretary: Provided, The obligations incurred or the expenditures made are charged against and, to the amount of such obligation or expenditure, diminish the existing appropriation or contract authorization of such department or agency.[5]

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[4] Public Law 86-518, approved June 12, 1960 (74 STAT. 216), as amended by Public Law 88-225, approved December 23, 1963 (77 STAT. 469), generally extended the statutory life of vessels to 25 years, and provided for this period's application to certain vessels and contracts existing on the date. However, the Act retained a 20 year statutory life for tankers and other liquid bulk carriers and for vessels delivered prior to January 1, 1946. See Section 8 of Public Law 88-225, for the application to vessels delivered prior to January 1, 1960. It should also be noted that Title XI of the Merchant Marine Act, 1936, generally provides a twenty-five year life for Title XI guaranteed vessels.

[5] Enacted as section 4 of the Act of February 6, 1941 (55 STAT. 5), as amended, and not as part of the Merchant Marine Act, 1936.

TITLE III—AMERICAN SEAMEN

SEC. 301. MANNING AND WAGE SCALES; SUBSIDY CONTRACTS (46 App. U.S.C. 1131 (1999)).

(a) **Investigation of Wages and Working Conditions; Establishment of Wage and Manning Scales; Incorporation in Subsidy Contracts.** The Secretary of Transportation is authorized and directed to investigate the employment and wage conditions in ocean-going shipping and, after making such investigation and after appropriate hearings, to incorporate in the contracts authorized under Titles VI and VII of this Act minimum manning scales and minimum wage scales, and minimum working conditions for all officers and crews employed on all types of vessels receiving an operating-differential subsidy. After such minimum manning and wage scales, and working conditions shall have been adopted by the Secretary of Transportation, no change shall be made therein by the Secretary of Transportation except upon public notice of the hearing to be had, and a hearing by the Secretary of Transportation of all interested parties, under such rules as the Secretary of Transportation shall prescribe. The duly elected representatives of the organizations certified as the proper collective bargaining agencies shall have the right to represent the employees who are members of their organizations at any such hearings. Every contractor receiving an operating-differential subsidy shall post and keep posted in a conspicuous place on each such vessel operated by such contractor a printed copy of the minimum manning and wage scales, and working conditions prescribed by his contract and applicable to such vessel: Provided, however, That any increase in the operating expenses of the subsidized vessel occasioned by any change in the wage or manning scales or working conditions as provided in this section shall be added to the operating-differential subsidy previously authorized for the vessel.

(b) **Subsidy Contracts; Provisions Relative to Officers and Crew.** Every contract executed under authority of Titles VI and VII of this Act shall require—

(1) Insofar as is practicable, officers' living quarters shall be kept separate and apart from those furnished for members of the crew;

(2) Licensed officers and unlicensed members of the crew shall be entitled to make complaints or recommendations to the Secretary of Transportation providing they file such complaint or recommendation directly with the Secretary of Transportation, or with their immediate superior officer who shall be required to forward such complaint or recommendation with his remarks to the Secretary of Transportation, or with the authorized representatives of the respective collective bargaining agencies;

(3) Licensed officers who are members of the United States Naval Reserve shall wear on their uniforms such special distinguishing insignia as may be approved by the Secretary of the Navy; officers being those men serving under licenses issued by the Bureau of Marine Inspection and Navigation;

(4) The uniform stripes, decoration, or other insignia shall be of gold braid or woven gold or silver material, to be worn by officers, and no member of the ship's crew other than licensed officers shall be allowed to wear any uniform with such officer's identifying insignia;

(5) No discrimination shall be practiced against licensed officers, who are otherwise qualified, because of their failure to qualify as members of the United States Naval Reserve.

SEC. 302. REEMPLOYMENT RIGHTS FOR CERTAIN MERCHANT SEAMEN (46 App. U.S.C. 1132 (1999)).[6]

(a) An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to reemployment rights and other benefits substantially equivalent to the rights and benefits provided for by chapter 43 of title 38, United States Code, for any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty.

(b) An individual may submit an application for certification under subsection (c) to the Secretary of Transportation not later than 45 days after the date the individual completes a period of employment described in subsection (c)(1)(A) with respect to which the application is submitted.

(c) Not later than 20 days after the date the Secretary of Transportation receives from an individual an application for certification under this subsection, the Secretary shall—

(1) determine whether or not the individual—

(A) was employed in the activation or operation of a vessel—

(i) in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946, in a period in which that vessel was in use or being activated for use under subsection (b) of that section;

(ii) that is requisitioned or purchased under section 902 of this Act; or

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[6] Section 302 was added by Section 10(a) of Public Law 104-239, approved October 8, 1996 (110 STAT. 3133), the Maritime Security Act of 1996. Section 10(b) provides: "(b) **Application.**–The amendment made by subsection (a) shall apply to employment described in section 302(c)(1)(A) of the Merchant Marine Act, 1936, as amended by subsection (a), occurring after the date of enactment of this Act.

(iii) that is owned, chartered, or controlled by the United States and used by the United States for a war, armed conflict, national emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance); and

(B) during the period of that employment, possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or chapter 73 (as applicable) of title 46, United States Code; and

(2) if the Secretary makes affirmative determinations under paragraph (1) (A) and (B), certify that individual under this subsection.

(d) For purposes of reemployment rights and benefits provided by this section, a certification under subsection (c) shall be considered to be the equivalent of a certificate referred to in paragraph (1) of section 4301(a) of title 38, United States Code.