

(ii) each of the trustees is a citizen of the United States; and

(iii) the application for documentation of the vessel under chapter 121 of this title includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence, or limit the exercise of the authority of, the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

(C) If any person that is not a citizen of the United States has authority to direct, or participate in directing, the trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this paragraph unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to direct or remove a trustee.

(D) This paragraph shall not be considered to prohibit a person who is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

(Added Pub. L. 116-92, div. C, title XXXV, § 3521(a), Dec. 20, 2019, 133 Stat. 1988.)

§ 53202. Establishment of the Cable Security Fleet

(a) IN GENERAL.—(1) The Secretary, in consultation with the Operating Agency, shall establish a fleet of active, commercially viable, cable vessels to meet national security requirements. The fleet shall consist of privately owned, United States-documented cable vessels for which there are in effect Operating Agreements under this chapter, and shall be known as the Cable Security Fleet.

(2) The Fleet described under this section shall include two vessels.

(b) VESSEL ELIGIBILITY.—A cable vessel is eligible to be included in the Fleet if—

(1) the vessel meets the requirements of paragraph (1), (2), (3), or (4) of subsection (c);

(2) the vessel is operated (or in the case of a vessel to be constructed, will be operated) in commercial service providing cable services;

(3) the vessel is 40 years of age or less on the date the vessel is included in the Fleet;

(4) the vessel is—

(A) determined by the Operating Agency to be suitable for engaging in cable services by the United States in the interest of national security; and

(B) determined by the Secretary to be commercially viable, whether independently or taking any payments which are the consequence of participation in the Cable Fleet into account; and

(5) the vessel—

(A) is a United States-documented vessel; or

(B) is not a United States-documented vessel, but—

(i) the owner of the vessel has demonstrated an intent to have the vessel documented under chapter 121 of this title if it is included in the Cable Fleet; and

(ii) at the time an Operating Agreement is entered into under this chapter, the vessel is eligible for documentation under chapter 121 of this title.

(c) REQUIREMENTS REGARDING CITIZENSHIP OF OWNERS AND OPERATORS.—

(1) VESSELS OWNED AND OPERATED BY SECTION 50501 CITIZENS.—A vessel meets the requirements of this paragraph if, during the period of an Operating Agreement under this chapter that applies to the vessel, the vessel will be owned and operated by one or more persons that are citizens of the United States¹ under section 50501 of this title.

(2) VESSELS OWNED BY A SECTION 50501 CITIZEN, OR UNITED STATES CITIZEN TRUST, AND CHARTERED TO A DOCUMENTATION CITIZEN.—A vessel meets the requirements of this paragraph if—

(A) during the period of an Operating Agreement under this chapter that applies to the vessel, the vessel will be—

(i) owned by a person that is a citizen of the United States under section 50501 of this title or that is a United States citizen trust; and

(ii) demise chartered to and operated by a person—

(I) that is eligible to document the vessel under chapter 121 of this title;

(II) the chairman of the board of directors, chief executive officer, and a majority of the members of the board of directors of which are citizens of the United States under section 50501 of this title, and are appointed and subject to removal only upon approval by the Secretary; and

(III) that certifies to the Secretary that there are no treaties, statutes, regulations, or other laws that would prohibit the Contractor for the vessel from performing its obligations under an Operating Agreement under this chapter;

(B) in the case of a vessel that will be demise chartered to a person that is owned or controlled by another person that is not a citizen of the United States under section 50501 of this title, the other person enters into an agreement with the Secretary not to influence the operation of the vessel in a manner that will adversely affect the interests of the United States; and

(C) the Secretary and the Operating Agency notify the Committee on Armed Services and the Committee on Commerce, Science and Transportation of the Senate, and the Committee on Armed Services of the House of Representatives that they concur, and have reviewed the certification required

¹ So in original. Probably should be capitalized.

under subparagraph (A)(ii)(III) and determined that there are no legal, operational, or other impediments that would prohibit the Contractor for the vessel from performing its obligations under an Operating Agreement under this chapter.

(3) **VESSEL OWNED AND OPERATED BY A DEFENSE CONTRACTOR.**—A vessel meets the requirements of this paragraph if—

(A) during the period of an Operating Agreement under this chapter that applies to the vessel, the vessel will be owned and operated by a person that—

(i) is eligible to document a vessel under chapter 121 of this title;

(ii) operates or manages other United States-documented vessels for the Secretary of Defense, or charters other vessels to the Secretary of Defense;

(iii) has entered into a special security agreement for purposes of this paragraph with the Secretary of Defense;

(iv) makes the certification described in paragraph (2)(A)(ii)(III); and

(v) in the case of a vessel described in paragraph (2)(B), enters into an agreement referred to in that paragraph; and

(B) the Secretary and the Secretary of Defense notify the Committee on Armed Services and Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives that they have reviewed the certification required by subparagraph (A)(iv) and determined that there are no other legal, operational, or other impediments that would prohibit the Contractor for the vessel from performing its obligations under an Operating Agreement under this chapter.

(4) **VESSEL OWNED BY A DOCUMENTATION CITIZEN AND CHARTERED TO A SECTION 50501 CITIZEN.**—A vessel meets the requirements of this paragraph if, during the period of an Operating Agreement under this chapter that applies to the vessel, the vessel will be—

(A) owned by a person that is eligible to document a vessel under chapter 121 of this title; and

(B) demise chartered to a person that is a citizen of the United States under section 50501 of this title.

(d) **VESSEL STANDARDS.**—

(1) **CERTIFICATE OF INSPECTION.**—A cable vessel which the Secretary of the Department in which the Coast Guard is operating determines meets the criteria of subsection (b) of this section but which, on the date of enactment of the Act, is not documented under chapter 121 of this title, shall be eligible for a certificate of inspection if that Secretary determines that—

(A) the vessel is classed by, and designed in accordance with the rules of, the American Bureau of Shipping, or another classification society accepted by that Secretary;

(B) the vessel complies with applicable international agreements and associated guidelines, as determined by the country in

which the vessel was documented immediately before becoming documented under chapter 121; and

(C) that country has not been identified by that Secretary as inadequately enforcing international vessel regulations as to that vessel.

(2) **CONTINUED ELIGIBILITY FOR CERTIFICATE.**—Paragraph (1) does not apply to a vessel after any date on which the vessel fails to comply with the applicable international agreements and associated guidelines referred to in paragraph (1)(B).

(3) **RELIANCE ON CLASSIFICATION SOCIETY.**—

(A) **IN GENERAL.**—The Secretary of the Department in which the Coast Guard is operating may rely on a certification from the American Bureau of Shipping or, subject to subparagraph (B), another classification society accepted by that Secretary to establish that a vessel is in compliance with the requirements of paragraphs (1) and (2).

(B) **FOREIGN CLASSIFICATION SOCIETY.**—The Secretary of the Department in which the Coast Guard is operating may accept certification from a foreign classification society under subparagraph (A) only—

(i) to the extent that the government of the foreign country in which the society is headquartered provides access on a reciprocal basis to the American Bureau of Shipping; and

(ii) if the foreign classification society has offices and maintains records in the United States.

(e) **WAIVER OF AGE REGISTRATION.**—The Secretary, in conjunction with the Operating Agency, may waive the application of the age restriction under subsection (b)(3) if they jointly determine that the waiver—

(1) is in the national interest;

(2) the subject cable vessel and any associated operating network is and will continue to be economically viable; and

(3) is necessary due to the lack of availability of other vessels and operators that comply with the requirements of this chapter.

(Added Pub. L. 116–92, div. C, title XXXV, § 5321(a), Dec. 20, 2019, 133 Stat. 1989.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Act, referred to in subsection (d)(1), means the date of enactment of Pub. L. 116–92, which was approved Dec. 20, 2019.

§ 53203. Award of operating agreements

(a) **IN GENERAL.**—The Secretary shall require, as a condition of including any vessel in the Cable Fleet, that the person that is the owner or operator of the vessel for purposes of section 53202(c) enter into an Operating Agreement with the Secretary under this section.

(b) **PROCEDURE FOR APPLICATIONS.**—

(1) **ACCEPTANCE OF APPLICATIONS.**—Beginning no later than 60 days after the effective date of this chapter, the Secretary shall accept applications for enrollment of vessels in the Cable Fleet.