

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.

(Added Pub. L. 116-283, div. C, title XXXV, §3511(a), Jan. 1, 2021, 134 Stat. 4409.)

#### Statutory Notes and Related Subsidiaries

##### DEADLINE FOR ACCEPTING APPLICATIONS

Pub. L. 116-283, div. C, title XXXV, §3511(c), Jan. 1, 2021, 134 Stat. 4419, provided that:

“(1) IN GENERAL.—The Secretary of Transportation shall begin accepting applications for enrollment of vessels in the Tanker Security Fleet established under chapter 534 of title 46, United States Code, as added by subsection (a), by not later than 60 days after the date of the enactment of this title [Jan. 1, 2021].

“(2) APPROVAL.—Not later than 90 days after receipt of an application for the enrollment of a vessel in the Tanker Security Fleet, the Secretary of Transportation, in coordination with the Secretary of Defense shall—

“(A) approve the application and enter into an operating agreement with the applicant; or

“(B) provide to the applicant a written explanation for the denial of the application.

“(3) VESSELS OPERATING IN MARITIME SECURITY FLEET.—Notwithstanding the requirements of section 53402(b) of title 46, United States Code, the Secretary of Transportation shall approve an application submitted under chapter 534 of title 46, United States Code, for a product tank vessel for which there is, on the date of enactment of this title, an effective operating agreement under chapter 531 of title 46, United States Code.”

#### § 53403. Award of operating agreements

(a) IN GENERAL.—The Secretary of Transportation shall require, as a condition of including any vessel in the Fleet, that the program participant of the vessel enter into an operating agreement with the Secretary under this section.

(b) PROCEDURE FOR APPLICATIONS.—

(1) ELIGIBLE VESSELS.—The Secretary of Transportation shall accept an application for an operating agreement for an eligible product tank vessel under the priority under paragraph (2) only from a person that has authority to enter into an operating agreement under this chapter.

(2) ESTABLISHMENT OF PRIORITY.—The Secretary of Transportation may enter into a new operating agreement with an applicant that meets the requirements of section 53402(c) for a vessel that meets the qualifications of section 53402(b), and shall give priority to applications based on—

(A) vessel capabilities, as established by the Secretary of Defense; then

(B) after consideration of vessel type, according to an applicant’s record of owning and operating vessels; then

(C) after consideration of ownership and operation, according to such additional priorities as the Secretary of Transportation may consider appropriate.

(3) CONCURRENCE OF AWARD.—The Secretary of Transportation may not approve an application for an operating agreement without the concurrence of the Secretary of Defense.

(c) LIMITATION.—The Secretary of Transportation may not award operating agreements under this chapter that require payments under section 53406 of this title for more than—<sup>1</sup>

(1) for each of fiscal years 2022 and 2023, 10 vessels; and

(2) for any subsequent fiscal year, 20 vessels.

(d) JUDICIAL REVIEW.—No court shall have jurisdiction to review the Secretary’s decision with respect to the award or non-award of an operating agreement issued under this chapter.

(Added Pub. L. 116-283, div. C, title XXXV, §3511(a), Jan. 1, 2021, 134 Stat. 4412; amended Pub. L. 117-263, div. C, title XXXV, §3501(b)(2), Dec. 23, 2022, 136 Stat. 3064.)

#### Editorial Notes

##### AMENDMENTS

2022—Subsec. (c). Pub. L. 117-263 substituted “The Secretary” for “For any fiscal year, the Secretary” and “more than—” for “more than 10 vessels”, designated existing provisions as introductory provisions, and added pars. (1) and (2).

#### § 53404. Effectiveness of operating agreements

(a) IN GENERAL.—Subject to the availability of appropriations for such purpose, the Secretary may enter into an operating agreement under this chapter for fiscal year 2022 and any subsequent fiscal year. The agreement shall be effective only for 1 fiscal year, but shall be renewable, subject to the availability of appropriations, for each fiscal year through the end of fiscal year 2040.

(b) VESSELS UNDER CHARTER TO THE UNITED STATES.—Any vessel under long term charter to the United States is not eligible to participate in the Fleet.

(c) TERMINATION.—

(1) TERMINATION BY SECRETARY FOR LACK OF PROGRAM PARTICIPANT COMPLIANCE.—If the program participant with respect to an operating agreement materially fails to comply with the terms of the agreement—

(A) the Secretary shall notify the program participant and provide a reasonable opportunity to comply with the operating agreement; and

(B) the Secretary shall terminate the operating agreement if the program participant fails to achieve such compliance.

(2) TERMINATION BY PROGRAM PARTICIPANT.—If a program participant provides notice of the intent to terminate an operating agreement under this chapter on a date specified by not later than 60 days prior to the date specified by the program participant for such termination, such agreement shall terminate on the date specified by the program participant.

(d) NONRENEWAL FOR LACK OF FUNDS.—If, by the first day of a fiscal year, sufficient funds have not been appropriated under the authority

<sup>1</sup> So in original. The period probably should not appear.