

(c) **PARTICIPATION AFTER EXPIRATION OF OPERATING AGREEMENT.**—Except as provided by section 53406, the Secretary of Transportation may not require, through an emergency preparedness agreement or an operating agreement, that a program participant covered by an operating agreement continue to participate in an emergency preparedness agreement after the operating agreement has expired according to its terms or is otherwise no longer in effect. After the expiration of an emergency preparedness agreement, a program participant may voluntarily continue to participate in the agreement.

(d) **RESOURCES MADE AVAILABLE.**—The commercial transportation resources to be made available under an emergency preparedness agreement shall include vessels or capacity in vessels, terminal facilities, management services, and other related services, or any agreed portion of such nonvessel resources for activation as the Secretary of Defense may determine to be necessary, seeking to minimize disruption of the program participant's service to commercial customers.

(e) **COMPENSATION.**—

(1) **IN GENERAL.**—The Secretary of Transportation shall include in each Emergency Preparedness Agreement provisions approved by the Secretary of Defense under which the Secretary of Defense shall pay fair and reasonable compensation for all commercial transportation resources provided pursuant to this section.

(2) **SPECIFIC REQUIREMENTS.**—Compensation under this subsection—

(A) shall not be less than the program participant's commercial market charges for like transportation resources;

(B) shall be fair and reasonable considering all circumstances;

(C) shall be provided from the time that a vessel or resource is required by the Secretary of Defense until the time it is redelivered to the program participant and is available to reenter commercial service; and

(D) shall be in addition to and shall not in any way reflect amounts payable under section 53406 of this title.

(f) **TEMPORARY REPLACEMENT VESSELS.**—Notwithstanding section 53302(a), 55304, 55305, or 55314 of this title, section 2631 of title 10, or any other cargo preference law of the United States—

(1) a program participant may operate or employ in foreign commerce a foreign-flag vessel or foreign-flag vessel capacity as a temporary replacement for a vessel of the United States or vessel of the United States capacity that is activated by the Secretary of Defense under an emergency preparedness agreement or a primary Department of Defense sealift-approved readiness program; and

(2) such replacement vessel or vessel capacity shall be eligible during the replacement period to transport preference cargoes subject to sections 55302(a), 55304, 55305, and 55314 of this title and section 2631 of title 10, United States Code, to the same extent as the eligibility of the vessel or vessel capacity replaced.

(g) **REDELIVERY AND LIABILITY OF THE UNITED STATES FOR DAMAGES.**—

(1) **IN GENERAL.**—All commercial transportation resources activated under an emergency preparedness agreement shall, upon termination of the period of activation, be redelivered to the program participant in the same good order and condition as when received, less ordinary wear and tear, or the Secretary of Defense shall fully compensate the program participant for any necessary repair or replacement.

(2) **LIMITATION ON UNITED STATES LIABILITY.**—Except as may be expressly agreed in an emergency preparedness agreement, or as otherwise provided by law, the Government shall not be liable for disruption of a program participant's commercial business or other consequential damages to the program participant arising from the activation of commercial transportation resources under an emergency preparedness agreement.

(Added Pub. L. 116-283, div. C, title XXXV, §3511(a), Jan. 1, 2021, 134 Stat. 4416.)

### § 53408. Regulatory relief

(a) **OPERATION IN FOREIGN COMMERCE.**—A program participant for a vessel included in an operating agreement under this chapter may operate the vessel in the foreign commerce of the United States without restriction.

(b) **OTHER RESTRICTIONS.**—The restrictions of section 55305(a) of this title concerning the building, rebuilding, or documentation of a vessel in a foreign country shall not apply to a vessel for any day the operator of the vessel is receiving payments for the operation of that vessel under an operating agreement under this chapter.

(c) **TELECOMMUNICATIONS EQUIPMENT.**—The telecommunications and other electronic equipment on an existing vessel that is redocumented under the laws of the United States for operation under an operating agreement under this chapter shall be deemed to satisfy all Federal Communications Commission equipment approval requirements, if—

(1) such equipment complies with all applicable international agreements and associated guidelines as determined by the country in which the vessel was documented immediately before becoming documented under the laws of the United States;

(2) that country has not been identified by the Secretary as inadequately enforcing international regulations as to that vessel; and

(3) at the end of its useful life, such equipment shall be replaced with equipment that meets Federal Communications Commission equipment approval standards.

(Added Pub. L. 116-283, div. C, title XXXV, §3511(a), Jan. 1, 2021, 134 Stat. 4417.)

### § 53409. Special rule regarding age of participating Fleet vessels

Any age restriction under section 53402(b)(4) of this title shall not apply to a participating Fleet vessel during the 30-month period beginning on the date the vessel begins operating under an operating agreement under this chapter, if the Secretary determines that the program partici-