

(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in an emergency preparedness agreement after the operating agreement has expired according to its terms or is otherwise no longer in effect.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-

pant for the vessel has entered into an arrangement to obtain and operate under the operating agreement for the participating Fleet vessel a replacement vessel that, upon commencement of such operation, will be eligible to be included in the Fleet under section 53402(b) of this title.

(Added Pub. L. 116-283, div. C, title XXXV, § 3511(a), Jan. 1, 2021, 134 Stat. 4418.)

§ 53410. Regulations

The Secretary of Transportation and the Secretary of Defense may each prescribe rules as necessary to carry out their respective responsibilities under this chapter.

(Added Pub. L. 116-283, div. C, title XXXV, § 3511(a), Jan. 1, 2021, 134 Stat. 4418.)

§ 53411. Authorization of appropriations

There are authorized to be appropriated for payments under section 53406, amounts as follows, to remain available until expended:

- (1) \$122,400,000 for each of fiscal years 2025 and 2026.
- (2) \$167,600,000 for each of fiscal years 2027 and 2028.
- (3) \$172,120,000 for each of fiscal years 2029 and 2030.
- (4) \$176,780,000 for each of fiscal years 2031 and 2032.
- (5) \$181,560,000 for each of fiscal years 2033 and 2034.
- (6) \$186,460,000 for each of fiscal years 2035 and 2036.
- (7) \$191,480,000 for each of fiscal years 2037 and 2038.
- (8) \$196,660,000 for each of fiscal years 2039 and 2040.

(Added Pub. L. 116-283, div. C, title XXXV, § 3511(a), Jan. 1, 2021, 134 Stat. 4418; amended Pub. L. 117-263, div. C, title XXXV, § 3501(b)(1), Dec. 23, 2022, 136 Stat. 3064; Pub. L. 118-159, div. C, title XXXV, § 3531(c), Dec. 23, 2024, 138 Stat. 2312.)

Editorial Notes

AMENDMENTS

2024—Pub. L. 118-159 amended section generally. Prior to amendment, text read as follows: “There is authorized to be appropriated for payments under section 53406, \$60,000,000 for each of fiscal years 2022 and 2023, and \$120,000,000 for fiscal years 2024 through 2035, to remain available until expended.”

2022—Pub. L. 117-263 substituted “and 2023, and \$120,000,000 for fiscal years 2024 through 2035” for “through 2035”.

§ 53412. Acquisition of Fleet vessels

(a) IN GENERAL.—Upon replacement of a Fleet vessel under an operating agreement under this chapter, and subject to agreement by the program participant of the vessel, the Secretary of Transportation is authorized, subject to the concurrence of the Secretary of Defense, acquire the vessel being replaced for inclusion in the National Defense Reserve Fleet.

(b) REQUIREMENTS.—To be eligible for acquisition by the Secretary of Transportation under this section a vessel shall—

- (1) have been covered by an operating agreement under this chapter for not less than 3 years; and

(2) meet recapitalization requirements for the Ready Reserve Force.

(c) FAIR MARKET VALUE.—A fair market value shall be established by the Maritime Administration for acquisition of an eligible vessel under this section.

(d) APPROPRIATIONS.—Vessel acquisitions under this section shall be subject to the availability of appropriations. Amounts made available to carry out this section shall be derived from amounts authorized to be appropriated for the National Defense Reserve Fleet. Amounts authorized to be appropriated to carry out the Maritime Security Program may not be used to carry out this section.

(Added Pub. L. 116-283, div. C, title XXXV, § 3511(a), Jan. 1, 2021, 134 Stat. 4418.)

CHAPTER 535—CAPITAL CONSTRUCTION FUNDS

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§ 53501. Definitions

In this chapter:

(1) AGREEMENT VESSEL.—The term “agreement vessel” means—

(A) an eligible vessel or a qualified vessel that is subject to an agreement under this chapter; and

(B) a barge or container that is part of the complement of a vessel described in subparagraph (A) if provided for in the agreement.

(2) ELIGIBLE VESSEL.—The term “eligible vessel” means—

(A) a vessel—

(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

(ii) documented under the laws of the United States; and

(iii) operated in the foreign or domestic trade of the United States or in the fisheries of the United States; and

(B) a commercial fishing vessel—

(i) constructed in the United States and, if reconstructed, reconstructed in the United States;