

expenses incurred on a foreign vessel in the absence of satisfactory proof of the necessity of using the vessel.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1642.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
55302	46 App.:1241(a).	June 29, 1936, ch. 858, title IX, §901(a), 49 Stat. 2015; Aug. 26, 1954, ch. 936, 68 Stat. 832; Pub. L. 104-316, title I, §125, Oct. 19, 1996, 110 Stat. 3839.

In subsection (a), the words “by sea” are added for clarity. The words “a territory or possession of the United States” are substituted for “any of the possessions of the United States” for consistency in the revised title.

Executive Documents

EXEMPTIONS

Functions authorized by Foreign Assistance Act of 1961 as exempt, see Ex. Ord. No. 11223, eff. May 12, 1965, 30 F.R. 6635, set out under section 2393 of Title 22, Foreign Relations and Intercourse.

§ 55303. Motor vehicles owned by United States Government personnel

Notwithstanding any other law, privately-owned American shipping services may be used to transport motor vehicles owned by personnel of the United States Government whenever transportation of those vehicles at Government expense is otherwise authorized by law.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1642.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
55303	46 App.:1241(c).	June 29, 1936, ch. 858, title IX, §901(c), as added May 28, 1956, ch. 325, 70 Stat. 187.

§ 55304. Exports financed by the United States Government

It is the sense of Congress that any loans made by an instrumentality of the United States Government to foster the exporting of agricultural or other products shall provide that the products may be transported only on vessels of the United States unless, as to any or all of those products, the Secretary of Transportation, after investigation, certifies to the instrumentality that vessels of the United States are not available in sufficient number, in sufficient tonnage capacity, on necessary schedules, or at reasonable rates.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1642.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
55304	46 App.:1241-1.	Mar. 26, 1934, ch. 90, 48 Stat. 500; June 29, 1936, ch. 858, §204, 49 Stat. 1987; Pub. L. 97-31, §12(127), Aug. 6, 1981, 95 Stat. 165.

This section codifies the Joint Resolution of March 26, 1934 (ch. 90, 48 Stat. 500) (also commonly known as

Public Resolution 17). The codification of this provision is not intended to change its status as a “Sense of Congress” provision in any way. The words “Reconstruction Finance Corporation or” are omitted as obsolete because the Reconstruction Finance Corporation was abolished by section 6 of Reorganization Plan No. 1 of 1957 (5 App. U.S.C.).

§ 55305. Cargoes procured, furnished, or financed by the United States Government

(a) **MINIMUM TONNAGE.**—When the United States Government procures, contracts for, or otherwise obtains for its own account, or furnishes to or for the account of a foreign country, organization, or persons without provision for reimbursement, any equipment, materials, or commodities, or provides financing in any way with Federal funds for the account of any persons unless otherwise exempted, within or without the United States, or advances funds or credits, or guarantees the convertibility of foreign currencies in connection with the furnishing or obtaining of the equipment, materials, or commodities, the appropriate agencies shall take steps necessary and practicable to ensure that at least 50 percent of the gross tonnage of the equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels is transported on privately-owned commercial vessels of the United States, as provided under subsection (b), to the extent those vessels are available at fair and reasonable rates for commercial vessels of the United States, in a manner that will ensure a fair and reasonable participation of commercial vessels of the United States in those cargoes by geographic areas.

(b) **ELIGIBLE VESSELS.**—To be eligible to carry cargo as provided under subsection (a), a privately-owned commercial vessel shall be documented under the laws of the United States—

- (1) for not less than three years; or
- (2) after January 1, 2030, for less than three years, if the vessel owner signs an agreement with the Secretary providing that—

(A) the vessel shall remain documented under the laws of the United States for not less than three years; and

(B) the vessel owner shall, upon request of the Secretary, agree to enroll the vessel in an emergency preparedness agreement or voluntary agreement authorized under section 708 of the Defense Production Act of 1950 (50 U.S.C. 4558) and shall ensure the vessel remains so enrolled until the vessel ceases to be documented under the laws of the United States.

(c) **VIOLATION OF AGREEMENT.**—A vessel under an agreement executed pursuant to subsection (b)(2) may be seized by, and forfeited to, the United States if, in violation of that agreement—

- (1) the vessel owner places the vessel under foreign registry; or
- (2) a person operates the vessel under the authority of a foreign country.

(d) **WAIVERS.**—(1) Notwithstanding any other provision of law, when the President, the Secretary of Defense, or the Secretary of Transportation declares the existence of an emergency

justifying a temporary waiver of this section or section 55314 of this title, the President, the Secretary of Defense, or the Secretary of Transportation, following a determination by the Maritime Administrator, acting in the Administrator's capacity as Director, National Shipping Authority, of the non-availability of qualified United States flag capacity at fair and reasonable rates for commercial vessels of the United States to meet the requirements of this section or section 55314 of this title, may waive compliance with such section to the extent, in the manner, and on the terms the Maritime Administrator, acting in such capacity, prescribes, and no other waivers of the requirements of this section or section 55314 of this title shall be authorized.

(2)(A) Subject to subparagraphs (B) and (C), a waiver issued under this subsection shall be for a period of not more than 60 days.

(B) Upon termination of the period of a waiver issued under this subsection, the Maritime Administrator may extend the waiver for an additional period of not more than 30 days, if the Maritime Administrator makes the determinations described in paragraph (1).

(C) The aggregate duration of the period of all waivers and extensions of waivers under this subsection with respect to any one set of events shall not exceed three months in a fiscal year.

(3) The Maritime Administrator shall—

(A) for each determination referred to in paragraph (1), identify any actions that could be taken to enable qualified United States flag capacity to meet the requirements of this section or section 55314 at fair and reasonable rates for commercial vessels of the United States;

(B) provide notice of each determination referred to in paragraph (1) to the Secretary of Transportation and, as applicable, the President or the Secretary of Defense; and

(C) publish each determination referred to in paragraph (1)—

(i) on the website of the Maritime Administration not later than 24 hours after notice of the determination is provided to the Secretary of Transportation; and

(ii) in the Federal Register.

(4) The Maritime Administrator shall notify—

(A) the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of—

(i) any request for a waiver (or an extension thereof) made by the Secretary of Transportation of this section or section 55314(a)¹ of this title by not later than 72 hours after receiving such a request; and

(ii) the issuance of any such waiver (or an extension thereof), and why such waiver or extension was necessary, by not later than 72 hours after such issuance; and

(B) the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate and the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives of—

(i) any request for a waiver (or an extension thereof) made by the Secretary of Defense of this section or section 55314(a)¹ of this title by not later than 72 hours after receiving such a request; and

(ii) the issuance of any such waiver (or an extension thereof), and why such waiver or extension was necessary, by not later than 72 hours after such issuance.

(e) PROGRAMS OF OTHER AGENCIES.—

(1) Each department or agency that has responsibility for a program under this section shall administer that program with respect to this section under regulations and guidance issued by the Secretary of Transportation. The Secretary, after consulting with the department or agency or organization or person involved, shall have the sole responsibility for determining if a program is subject to the requirements of this section.

(2) The Secretary—

(A) shall conduct an annual review of the administration of programs determined pursuant to paragraph (1) as subject to the requirements of this section and annually submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the administration of such programs;

(B) may direct agencies to require the transportation on United States-flagged vessels of cargo shipments not otherwise subject to this section in equivalent amounts to cargo determined to have been shipped on foreign carriers in violation of this section;

(C) may impose on any person that violates this section, or a regulation prescribed under this section, a civil penalty of not more than \$25,000 for each violation willfully and knowingly committed, with each day of a continuing violation following the date of shipment to be a separate violation; and

(D) may take other measures as appropriate under the Federal Acquisition Regulations issued pursuant to section 25(c)(1)¹ of the Office of Federal Procurement Policy Act (41 U.S.C. 1303(a)(1)) or contract with respect to each violation.

(f) SECURITY OF GOVERNMENT-IMPELLED CARGO.—

(1) In order to ensure the safety of vessels and crewmembers transporting equipment, materials, or commodities under this section, the Secretary of Transportation shall direct each department or agency (except the Department of Defense), when responsible for the carriage of such equipment, materials, or commodities, to reimburse, subject to the availability of appropriations, the owners or operators of vessels of the United States carrying such equipment, materials, or commodities for the cost of providing armed personnel aboard such vessels if the vessels are transiting high-risk waters.

(2) In this subsection, the term "high-risk waters" means waters so designated by the Commandant of the Coast Guard in the maritime security directive issued by the Com-

¹ See References in Text note below.

mandant and in effect on the date on which an applicable voyage begins, if the Secretary of Transportation—

(A) determines that an act of piracy occurred in the 12-month period preceding the date the voyage begins; or

(B) in such period, issued an advisory warning that an act of piracy is possible in such waters.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1642; Pub. L. 110-417, div. C, title XXXV, §3511(a), (b), Oct. 14, 2008, 122 Stat. 4769; Pub. L. 112-213, title V, §503, Dec. 20, 2012, 126 Stat. 1575; Pub. L. 113-281, title III, §306, Dec. 18, 2014, 128 Stat. 3044; Pub. L. 115-232, div. C, title XXXV, §3546(s), Aug. 13, 2018, 132 Stat. 2327; Pub. L. 117-263, div. C, title XXXV, §3502(b), Dec. 23, 2022, 136 Stat. 3065; Pub. L. 118-31, div. C, title XXXV, §3531(a), Dec. 22, 2023, 137 Stat. 825.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
55305(a)	46 App.:1241(b)(1) (2d. last provisos).	June 29, 1936, ch. 858, title IX, §901(b), as added Aug. 26, 1954, ch. 936, 68 Stat. 832; Pub. L. 87-266, Sept. 21, 1961, 75 Stat. 565; Pub. L. 91-469, §27, Oct. 21, 1970, 84 Stat. 1034; Pub. L. 97-31, §12(126), Aug. 6, 1981, 95 Stat. 165.
55305(b)	46 App.:1241(b)(1) (words before 1st proviso).	
55305(c)	46 App.:1241(b)(1) (1st proviso).	
55305(d)	46 App.:1241(b)(2).	

In this section, the words “commercial vessels of the United States” are substituted for “United States-flag commercial vessels” for consistency in the revised title.

In subsection (a), the words “the provisions of this subsection shall not apply to cargoes carried in the vessels of the Panama Canal Company” are omitted as obsolete. The words “Nothing herein shall repeal or otherwise modify the provisions of section 1241-1 of this Appendix” are omitted as unnecessary. The last proviso in 46 App. U.S.C. 1241(b)(1) is omitted as obsolete.

Editorial Notes

REFERENCES IN TEXT

Section 55314(a), referred to in subsec. (d)(4)(A)(i), (B)(i), was repealed by Pub. L. 112-141, div. F, title I, §100124(a)(1), July 6, 2012, 126 Stat. 915.

Section 25(c)(1) of the Office of Federal Procurement Policy Act, referred to in subsec. (e)(2)(D), was classified to section 421(c)(1) of former Title 41, Public Contracts, and was repealed and restated as section 1303(a)(1) of Title 41, Public Contracts, by Pub. L. 111-350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

AMENDMENTS

2023—Subsec. (a). Pub. L. 118-31, §3531(a)(1), (2)(A), (3), redesignated subsec. (b) as (a), substituted “privately-owned commercial vessels of the United States, as provided under subsection (b),” for “privately-owned commercial vessels of the United States,” and struck out former subsec. (a). Prior to amendment, text of subsec. (a) read as follows: “In this section, the term ‘privately-owned commercial vessel of the United States’ does not include a vessel that, after September 21, 1961, was built or rebuilt outside the United States or documented under the laws of a foreign country, until the vessel has been documented under the laws of the United States for at least 3 years.”

Subsecs. (b), (c). Pub. L. 118-31, §3531(a)(4), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (a) and (d), respectively.

Subsec. (d). Pub. L. 118-31, §3531(a)(2)(B), (5), redesignated subsec. (c) as (d), struck it out, and added a new subsec. (d). Prior to amendment, text read as follows: “The President, the Secretary of Defense, or Congress (by concurrent resolution or otherwise) may waive this section temporarily by—

“(1) declaring the existence of an emergency justifying a waiver; and

“(2) notifying the appropriate agencies of the waiver.”

Former subsec. (d) redesignated (e).

Subsecs. (e), (f). Pub. L. 118-31, §3531(a)(2)(B), redesignated subsecs. (d) and (e) as (e) and (f), respectively.

2022—Subsec. (d)(2)(A). Pub. L. 117-263 inserted “and annually submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the administration of such programs” after “section”.

2018—Subsec. (d)(2)(D). Pub. L. 115-232 substituted “1303(a)(1)” for “421(c)(1)”.

2014—Subsec. (e)(1). Pub. L. 113-281, §306(1), substituted “reimburse, subject to the availability of appropriations, the owners or operators of vessels” for “provide armed personnel aboard vessels” and “commodities for the cost of providing armed personnel aboard such vessels” for “commodities”.

Subsec. (e)(2), (3). Pub. L. 113-281, §306(2), added par. (2) and struck out former pars. (2) and (3) which read as follows:

“(2) The Secretary of Transportation shall direct each department or agency responsible to provide armed personnel under paragraph (1) to reimburse, subject to the availability of appropriations, the owners or operators of applicable vessels for the cost of providing armed personnel.

“(3) In this subsection, the term ‘high-risk waters’ means waters so designated by the Commandant of the Coast Guard in the Port Security Advisory in effect on the date on which an applicable voyage begins.”

2012—Subsec. (e). Pub. L. 112-213 added subsec. (e).

2008—Subsec. (b). Pub. L. 110-417, §3511(a), substituted “foreign country, organization, or persons” for “foreign country”, “commodities, or provides financing in any way with Federal funds for the account of any persons unless otherwise exempted, within” for “commodities, within”, and “furnishing or obtaining” for “furnishing”.

Subsec. (d). Pub. L. 110-417, §3511(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “An agency having responsibility under this section shall administer its programs with respect to this section under regulations prescribed by the Secretary of Transportation. The Secretary shall review the administration of those programs and report annually to Congress on their administration.”

Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 110-417, div. C, title XXXV, §3511(c), Oct. 14, 2008, 122 Stat. 4770, provided that: “The Secretary of Transportation shall prescribe such rules as are necessary to carry out section 55305(d) of title 46, United States Code. The Secretary may prescribe interim rules necessary to carry out section 55305(d) of such title. An interim rule prescribed under this subsection shall remain in effect until superseded by a final rule.”

SECRETARY OF TRANSPORTATION RESPONSIBILITY WITH RESPECT TO CARGOES PROCURED, FURNISHED, OR FINANCED BY OTHER FEDERAL DEPARTMENTS AND AGENCIES

Pub. L. 117-263, div. C, title XXXV, §3502(a), Dec. 23, 2022, 136 Stat. 3065, provided that: “Not later than 270

days after the date of the enactment of this Act [Dec. 23, 2022], the Administrator of the Maritime Administration shall issue a final rule to implement and enforce section 55305(d) of title 46, United States Code.”

SUBCHAPTER II—EXPORT TRANSPORTATION OF AGRICULTURAL COMMODITIES

§ 55311. Findings and purposes

(a) FINDINGS.—Congress finds that—

(1) a productive and healthy agricultural industry and a strong and active United States maritime industry are vitally important to the economic well-being and security of the United States;

(2) both industries must compete in international markets increasingly dominated by foreign trade barriers and the subsidization practices of foreign governments; and

(3) increased agricultural exports and the use of merchant vessels of the United States contribute positively to the United States balance of trade and generate employment opportunities in the United States.

(b) PURPOSES.—The purposes of this subchapter are to—

(1) enable the Secretary of Agriculture to plan export programs effectively, by clarifying the ocean transportation requirements applicable to those programs;

(2) take immediate and positive steps to promote the growth of the cargo-carrying capacity of the United States merchant marine;

(3) expand international trade in United States agricultural commodities and products and develop, maintain, and expand markets for United States agricultural exports;

(4) improve the efficiency of administration of both the commodity purchasing and selling activities and the ocean transportation activities associated with export programs sponsored by the Secretary;

(5) stimulate and promote the agricultural and maritime industries of the United States and encourage cooperative efforts by both industries to address their common problems; and

(6) provide for the appropriate disposition of these findings and purposes.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1643.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
55311	46 App.:1241d.	Pub. L. 99-198, title XI, §1141, Dec. 23, 1985, 99 Stat. 1490.

In subsection (a)(1), the word “security” is substituted for “national security objectives” to eliminate unnecessary words.

In subsection (b), the words “Secretary of Agriculture” in paragraph (1) and “Secretary” in paragraph (4) are substituted for “Department of Agriculture” because all functions of the Department are vested in the Secretary under 7 U.S.C. 2202 and 6911 and Reorganization Plan No. 2 of 1953 (5 App. U.S.C.).

§ 55312. Determining prevailing world market price

(a) AGRICULTURAL COMMODITIES AND PRODUCTS.—The prevailing world market price for ag-

ricultural commodities or their products shall be determined under this subchapter under procedures prescribed by the Secretary of Agriculture. The Secretary shall prescribe the procedures by regulation, with notice and opportunity for public comment under section 553 of title 5.

(b) SERVICES AND NON-AGRICULTURAL COMMODITIES AND PRODUCTS.—If a determination of the prevailing world market price of any other type of materials, goods, equipment, or service is required to determine whether a barter or exchange transaction is subject to section 55314(b)(6) or (7) of this title, the determination shall be made by the Secretary of Agriculture in consultation with the heads of other appropriate agencies.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1644.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
55312	46 App.:1241f(e).	June 29, 1936, ch. 858, title IX, §901b(e), as added Pub. L. 99-198, title XI, §1142, Dec. 23, 1985, 99 Stat. 1492.

§ 55313. Exemption of certain agricultural exports from cargo preference provisions

Sections 55304 and 55305 of this title do not apply to export activities of the Secretary of Agriculture or the Commodity Credit Corporation under which—

(1) agricultural commodities or their products acquired by the Corporation are made available to United States exporters, users, processors, or foreign purchasers for the purpose of developing, maintaining, or expanding export markets for United States agricultural commodities or their products at prevailing world market prices;

(2) payments are made available to United States exporters, users, or processors or, except as provided in section 55314 of this title, cash grants are made available to foreign purchasers, for the purpose described in paragraph (1);

(3) commercial credit guarantees are blended with direct credits from the Corporation to reduce the effective rate of interest on export sales of United States agricultural commodities or their products;

(4) credit or credit guarantees for not more than 3 years are extended by the Corporation to finance or guarantee export sales of United States agricultural commodities or their products; or

(5) agricultural commodities or their products owned or controlled by or under loan from the Corporation are exchanged or bartered for materials, goods, equipment, or services at least equal in value to the agricultural commodities or their products for which they are exchanged or bartered (determined on the basis of prevailing world market prices at the time of the exchange or barter), but this paragraph does not exempt from the cargo preference provisions referred to in section 55314(b) of this title any requirement otherwise applicable to the materials, goods, equipment, or services imported under the transaction.