

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) agreed, between the Secretary and the person maintaining the capital construction fund established under section 53503 of this title, to be operated in the United States foreign, Great Lakes, non-contiguous domestic, or short sea transportation trade¹ 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;

(ii) of at least 2 net tons but less than 5 net tons;

(iii) owned by a citizen of the United States;

(iv) having its home port in the United States; and

(v) operated in the commercial fisheries of the United States.

(6) SECRETARY.—The term “Secretary” means—

(A) the Secretary of Commerce with respect to an eligible vessel or a qualified vessel operated or to be operated in the fisheries of the United States; and

(B) the Secretary of Transportation with respect to other vessels.

(7)² SHORT SEA TRANSPORTATION TRADE.—The term “short sea transportation trade” means the carriage by vessel of cargo—

(A) that is—

(i) contained in intermodal cargo containers and loaded by crane on the vessel; or

(ii) loaded on the vessel by means of wheeled technology; and

(B) that is—

(i) loaded at a port in the United States and unloaded either at another port in the United States or at a port in Canada located in the Great Lakes Saint Lawrence Seaway System; or

(ii) loaded at a port in Canada located in the Great Lakes Saint Lawrence Seaway System and unloaded at a port in the United States.

(7)² UNITED STATES FOREIGN TRADE.—The term “United States foreign trade” includes those areas in domestic trade in which a vessel built with a construction-differential subsidy is allowed to operate under the first sentence of section 506 of the Merchant Marine Act, 1936.

(8) VESSEL.—The term “vessel” includes—

(A) cargo handling equipment that the Secretary determines is intended for use primarily on the vessel; and

(B) an ocean-going towing vessel, an ocean-going barge, or a comparable towing vessel or barge operated on the Great Lakes.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1591; Pub. L. 110–140, title XI, §1122(a), Dec. 19, 2007, 121 Stat. 1762.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53501(1)	46 App.:1177(b)(3), (k)(3).	June 29, 1936, ch. 858, title VI, §607(b)(3), (k)(1)–(3), (5)–(9), 49 Stat. 2005; June 23, 1938, ch. 600, §§23–28, 52 Stat. 960; Aug. 4, 1939, ch. 417, §10, 53 Stat. 1185; July 17, 1952, ch. 939, §§17–19, 66 Stat. 764; Pub. L. 85–637, Aug. 14, 1958, 72 Stat. 216; Pub. L. 86–518, §1, June 12, 1960, 74 Stat. 216; Pub. L. 87–45, §6, May 27, 1961, 75 Stat. 91; Pub. L. 87–271, Sept. 21, 1961, 75 Stat. 570; restated Pub. L. 91–469, §21(a), Oct. 21, 1970, 84 Stat. 1027, 1031, 1032; Pub. L. 93–116, Oct. 1, 1973, 87 Stat. 421; Pub. L. 97–31, §12(97), Aug. 6, 1981, 95 Stat. 162.
53501(2)	46 App.:1177(k)(1). 46 App.:1177–1.	Pub. L. 94–455, title VIII, §807, Oct. 4, 1976, 90 Stat. 1606.
53501(3)	46 App.:1177(k)(6).	
53501(4)	46 App.:1177(k)(8).	
53501(5)	46 App.:1177(k)(1) (last sentence), (2).	
53501(6)	46 App.:1177–1.	
53501(7)	46 App.:1177(k)(9).	
53501(8)	46 App.:1177(k)(5).	
		46 App.:1177(k)(7).

The codification of the laws in this chapter is not intended to alter the existing jurisdictional relationship of the Secretaries who administer those laws.

In paragraph (2)(A)(iii), the word “trade” is substituted for “commerce” for consistency in the chapter.

REFERENCES IN TEXT

Section 506 of the Merchant Marine Act, 1936, referred to in par. (7), is section 506 of act June 29, 1936, ch. 858, 49 Stat. 1985, which is set out as a note under section 53101 of this title.

AMENDMENTS

2007—Par. (5)(A)(iii). Pub. L. 110–140, §1122(a)(1), substituted “noncontiguous domestic, or short sea transportation trade” for “or noncontiguous domestic”.

Par. (7). Pub. L. 110–140, §1122(a)(2), added par. (7) relating to short sea transportation trade.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§ 53502. Regulations

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall prescribe regulations to carry out this chapter.

(b) TAX LIABILITY.—The Secretary and the Secretary of the Treasury shall prescribe joint regulations for the determination of tax liability under this chapter.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1593.)

¹ So in original.

² So in original. Two pars. (7) have been enacted.

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53502	46 App.:1177(l) (2d sentence).	June 29, 1936, ch. 858, title VI, § 607(l) (2d sentence), 49 Stat. 2005; June 23, 1938, ch. 600, §§ 23-28, 52 Stat. 960; Aug. 4, 1939, ch. 417, § 10, 53 Stat. 1185; July 17, 1952, ch. 939, §§ 17-19, 66 Stat. 764; Pub. L. 85-637, Aug. 14, 1958, 72 Stat. 216; Pub. L. 86-518, § 1, June 12, 1960, 74 Stat. 216; Pub. L. 87-45, § 6, May 27, 1961, 75 Stat. 91; Pub. L. 87-271, Sept. 21, 1961, 75 Stat. 570; restated Pub. L. 91-469, § 21(a), Oct. 21, 1970, 84 Stat. 1032; Pub. L. 97-31, § 12(97)(A), Aug. 6, 1981, 95 Stat. 162.

Subsection (a) is added for clarity because various provisions of the source language for this chapter imply that the Secretary is to prescribe regulations individually (except for regulations affecting a determination of tax liability). See, e.g., 46 App. U.S.C. 1177(a) (last sentence), (f)(1) (last sentence), and (l) (last sentence).

In subsection (b), the words “not inconsistent with the foregoing provisions of this section, as may be necessary or appropriate” are omitted as surplus.

§ 53503. Establishing a capital construction fund

(a) IN GENERAL.—A citizen of the United States owning or leasing an eligible vessel may make an agreement with the Secretary under this chapter to establish a capital construction fund for the vessel.

(b) ALLOWABLE PURPOSE.—The purpose of the agreement shall be to provide replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States, for operation in the United States foreign, Great Lakes, noncontiguous domestic, or short sea transportation trade or in the fisheries of the United States.

(Pub. L. 109-304, § 8(c), Oct. 6, 2006, 120 Stat. 1593; Pub. L. 110-140, title XI, § 1122(b), Dec. 19, 2007, 121 Stat. 1762.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53503(a)	46 App.:1177(a) (1st sentence).	June 29, 1936, ch. 858, title VI, § 607(a) (1st sentence), (2d sentence related to purpose), 49 Stat. 2005; June 23, 1938, ch. 600, §§ 23-28, 52 Stat. 960; Aug. 4, 1939, ch. 417, § 10, 53 Stat. 1185; July 17, 1952, ch. 939, §§ 17-19, 66 Stat. 764; Pub. L. 85-637, Aug. 14, 1958, 72 Stat. 216; Pub. L. 86-518, § 1, June 12, 1960, 74 Stat. 216; Pub. L. 87-45, § 6, May 27, 1961, 75 Stat. 91; Pub. L. 87-271, Sept. 21, 1961, 75 Stat. 570; restated Pub. L. 91-469, § 21(a), Oct. 21, 1970, 84 Stat. 1026; Pub. L. 97-31, § 12(97)(A), Aug. 6, 1981, 95 Stat. 162.
53503(b)	46 App.:1177(a) (2d sentence related to purpose).	

AMENDMENTS

2007—Subsec. (b). Pub. L. 110-140 substituted “noncontiguous domestic, or short sea transportation trade” for “or noncontiguous domestic trade”.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§ 53504. Deposits and withdrawals

(a) REQUIRED DEPOSITS.—An agreement to establish a capital construction fund shall provide for the deposit in the fund of the amounts agreed to be appropriate to provide for qualified withdrawals under section 53509 of this title.

(b) APPLICABLE REQUIREMENTS.—Deposits in and withdrawals from the fund are subject to the requirements included in the agreement or prescribed by the Secretary by regulation. However, the Secretary may not require a person to deposit in the fund for a taxable year more than 50 percent of that portion of the person’s taxable income for that year (as determined under section 53505(a)(1) of this title) that is attributable to the operation of an agreement vessel.

(Pub. L. 109-304, § 8(c), Oct. 6, 2006, 120 Stat. 1593.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53504(a)	46 App.:1177(a) (2d sentence related to deposits).	June 29, 1936, ch. 858, title VI, § 607(a) (2d sentence related to deposits), (last sentence), 49 Stat. 2005; June 23, 1938, ch. 600, §§ 23-28, 52 Stat. 960; Aug. 4, 1939, ch. 417, § 10, 53 Stat. 1185; July 17, 1952, ch. 939, §§ 17-19, 66 Stat. 764; Pub. L. 85-637, Aug. 14, 1958, 72 Stat. 216; Pub. L. 86-518, § 1, June 12, 1960, 74 Stat. 216; Pub. L. 87-45, § 6, May 27, 1961, 75 Stat. 91; Pub. L. 87-271, Sept. 21, 1961, 75 Stat. 570; restated Pub. L. 91-469, § 21(a), Oct. 21, 1970, 84 Stat. 1026; Pub. L. 97-31, § 12(97)(A), Aug. 6, 1981, 95 Stat. 162.
53504(b)	46 App.:1177(a) (last sentence).	

In subsection (a), the words “agreed to be appropriate” are substituted for “agreed upon as necessary or appropriate” to eliminate unnecessary words.

§ 53505. Ceiling on deposits

(a) MAXIMUM DEPOSITS.—The amount deposited in a capital construction fund for a taxable year may not exceed the sum of—

(1) that portion of the taxable income of the owner or lessee for the taxable year (computed under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) but without regard to the carryback of net operating loss or net capital loss or this chapter) that is attributable to the operation of agreement vessels in the foreign or domestic trade of the United States or in the fisheries of the United States;

(2) the amount allowable as a deduction under section 167 of such Code (26 U.S.C. 167) for the taxable year for agreement vessels;

(3) if the transaction is not taken into account for purposes of paragraph (1), the net proceeds (as defined in joint regulations) from the disposition of an agreement vessel or from insurance or indemnity attributable to an agreement vessel; and

(4) the receipts from the investment or reinvestment of amounts held in the fund.