

Subsec. (e)(2). Pub. L. 109-304, §13(a)(3)(B), substituted “section 56101 of this title” for “section 9 of the Shipping Act, 1916 (46 U.S.C. App. 808)”.

Subsec. (e)(3). Pub. L. 109-304, §13(a)(3)(C), substituted “chapter 563 of this title” and “chapter 563” for “section 902 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1242)” and “section 902 of such Act”, respectively.

§ 53105. Obligations and rights under operating agreements

(a) OPERATION OF VESSEL.—An operating agreement under this chapter shall require that, during the period a vessel is operating under the agreement—

(1) the vessel—

(A) shall be operated exclusively in the foreign commerce or in mixed foreign commerce and domestic trade allowed under a registry endorsement issued under section 12111 of this title; and

(B) shall not otherwise be operated in the coastwise trade; and

(2) the vessel shall be documented under chapter 121 of this title.

(b) ANNUAL PAYMENTS BY SECRETARY.—

(1) IN GENERAL.—An operating agreement under this chapter shall require, subject to the availability of appropriations, that the Secretary make a payment each fiscal year to the contractor in accordance with section 53106.

(2) OPERATING AGREEMENT IS OBLIGATION OF UNITED STATES GOVERNMENT.—An operating agreement under this chapter constitutes a contractual obligation of the United States Government to pay the amounts provided for in the agreement to the extent of actual appropriations.

(c) DOCUMENTATION REQUIREMENT.—Each vessel covered by an operating agreement (including an agreement terminated under section 53104(c)(2)) shall remain documented under chapter 121 of this title, until the date the operating agreement would terminate according to its terms.

(d) NATIONAL SECURITY REQUIREMENTS.—

(1) IN GENERAL.—A contractor with respect to an operating agreement (including an agreement terminated under section 53104(c)(2)) shall continue to be bound by the provisions of section 53107 until the date the operating agreement would terminate according to its terms.

(2) EMERGENCY PREPAREDNESS AGREEMENT.—All terms and conditions of an Emergency Preparedness Agreement entered into under section 53107 shall remain in effect until the date the operating agreement would terminate according to its terms, except that the terms of such Emergency Preparedness Agreement may be modified by the mutual consent of the contractor, the Secretary of Transportation, and the Secretary of Defense.

(e) TRANSFER OF OPERATING AGREEMENTS.—A contractor under an operating agreement may transfer the agreement (including all rights and obligations under the operating agreement) to any person that is eligible to enter into the operating agreement under this chapter if the Secretary and the Secretary of Defense determine that the transfer is in the best interests of the

United States. A transaction shall not be considered a transfer of an operating agreement if the same legal entity with the same vessels remains the contracting party under the operating agreement.

(f) REPLACEMENT VESSELS.—A contractor may replace a vessel under an operating agreement with another vessel that is eligible to be included in the Fleet under section 53102(b), if the Secretary, in conjunction with the Secretary of Defense, approves the replacement of the vessel.

(Added Pub. L. 108-136, div. C, title XXXV, §3531(a), Nov. 24, 2003, 117 Stat. 1812; amended Pub. L. 109-304, §13(a)(4), Oct. 6, 2006, 120 Stat. 1701; Pub. L. 109-364, div. C, title XXXV, §3502(a), Oct. 17, 2006, 120 Stat. 2514; Pub. L. 110-181, div. C, title XXXV, §3526(f), Jan. 28, 2008, 122 Stat. 602; Pub. L. 112-239, div. C, title XXXV, §3508(e), Jan. 2, 2013, 126 Stat. 2225.)

AMENDMENTS

2013—Subsec. (e). Pub. L. 112-239, §3508(e)(1), amended subsec. (e) generally. Prior to amendment, subsec. (e) related to transfer of operating agreements, with limitation based on citizenship of recipient.

Subsec. (f). Pub. L. 112-239, §3508(e)(2), amended subsec. (f) generally. Prior to amendment, text read as follows: “A contractor may replace a vessel under an operating agreement with another vessel that is eligible to be included in the Fleet under section 53102(b), if the Secretary, in conjunction with the Secretary of Defense, approves replacement of the vessel.”

2008—Subsec. (e)(2). Pub. L. 110-181 substituted “section 50501 of this title” for “section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802),”.

2006—Subsec. (a)(1)(A). Pub. L. 109-304, §13(a)(4)(A), substituted “section 12111” for “section 12105”.

Subsec. (e). Pub. L. 109-364 designated existing provisions as par. (1), inserted heading and aligned margins in par. (1), and added par. (2).

Subsec. (f). Pub. L. 109-304, §13(a)(4)(B), substituted “approves” for “approve”.

§ 53106. Payments

(a) ANNUAL PAYMENT.—

(1) IN GENERAL.—The Secretary, subject to the availability of appropriations and the other provisions of this section, shall pay to the contractor for an operating agreement, for each vessel that is covered by the operating agreement, an amount equal to—

(A) \$2,600,000 for each of fiscal years 2006, 2007, and 2008;

(B) \$2,900,000,¹ for each of fiscal years 2009, 2010, and 2011;

(C) \$3,100,000 for each of fiscal years 2012, 2013, 2014, 2015, 2016, 2017, and 2018;

(D) \$3,500,000 for each of fiscal years 2019, 2020, and 2021; and

(E) \$3,700,000 for each of fiscal years 2022, 2023, 2024, and 2025.

(2) TIMING.—The amount shall be paid in equal monthly installments at the end of each month. The amount shall not be reduced except as provided by this section.

(b) CERTIFICATION REQUIRED FOR PAYMENT.—As a condition of receiving payment under this section for a fiscal year for a vessel, the contractor for the vessel shall certify, in accordance with regulations issued by the Secretary, that the

¹ So in original. The comma probably should not appear.