

(B) for operations not on land, a vessel, floating drydock, or barge built in the United States and used for, equipped to be used for, or of a type normally used for, performing a function referred to in subparagraph (A)(i).

(3) MODERN SHIPBUILDING TECHNOLOGY.—The term “modern shipbuilding technology” means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of shipyards.

(b) GENERAL AUTHORITY.—Under subchapter I of this chapter, the Administrator may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation for advanced shipbuilding technology and modern shipbuilding technology of a general shipyard facility in the United States. Only a private shipyard is eligible to receive a guarantee.

(c) APPLICABILITY OF OTHER PROVISIONS.—Except as otherwise provided in this section, a guarantee or commitment to guarantee under this section is subject to all the provisions applicable to a guarantee or commitment to guarantee under subchapter I of this chapter.

(d) AMOUNT OF OBLIGATION.—The principal amount of an obligation guaranteed under this chapter may not exceed 87.5 percent of the actual cost of the advanced shipbuilding technology or modern shipbuilding technology.

(e) TRANSFER OF AMOUNTS.—The Administrator may accept the transfer of amounts from a department, agency, or instrumentality of the United States Government and may use those amounts to cover the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of making guarantees or commitments to guarantee under this section.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1623; Pub. L. 109–163, div. C, title XXXV, §3507(a)(2)(K), Jan. 6, 2006, 119 Stat. 3555; Pub. L. 110–181, div. C, title XXXV, §3522(a)(9)(F), (b), Jan. 28, 2008, 122 Stat. 598.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|---|
| 53733(a) | 46 App.:1279e(d). | June 29, 1936, ch. 858, title XI, §1112, as added Pub. L. 103–160, div. A, title XIII, §1357(a), Nov. 30, 1993, 107 Stat. 1814. |
| 53733(b) | 46 App.:1279e(a). 46 App.:1280a. | Pub. L. 103–160, title XIII, §1358, Nov. 30, 1993, 107 Stat. 1816. |
| 53733(c) | 46 App.:1279e(b) (words before “except”). | |
| 53733(d) | 46 App.:1279e(b) (words beginning with “except”). | |
| 53733(e) | 46 App.:1279e(c). | |

In subsection (a)(2)(A)(i), the words “(as defined in title 1)” are omitted as unnecessary because chapter 1 of the revised title contains a title-wide definition of “vessel” that incorporates the definition in title 1, United States Code.

In subsection (b), the words “and subject to the terms the Secretary shall be prescribe” are omitted as unnecessary because section 53702(a) of the revised title provides the Secretary authority to prescribe the terms. The words “Only a private shipyard is eligible to receive a guarantee” are substituted for 46 App. U.S.C. 1280a to eliminate unnecessary words.

AMENDMENTS

2008—Pub. L. 110–181, §3522(b), repealed Pub. L. 109–163, §3507(a)(2)(K). See 2006 Amendment note below.

Subsecs. (b), (e). Pub. L. 110–181, §3522(a)(9)(F), incorporated the substance of the amendment by Pub. L. 109–163, §3507(a)(2)(K), into this section by substituting “Administrator” for “Secretary”. See 2006 Amendment note below and section 18(a) of Pub. L. 109–304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

2006—Pub. L. 109–163, §3507(a)(2)(K), which directed the amendment of section 1279e of the former Appendix to this title from which this section was derived, was repealed by Pub. L. 110–181, §3522(b). See 2008 Amendment note for subsecs. (b), (e) and Historical and Revision notes above.

§ 53734. Replacement of vessels because of changes in operating standards

(a) GENERAL AUTHORITY.—Notwithstanding any other provision of this chapter, the Secretary or Administrator, on terms the Secretary or Administrator may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing or refinancing (including reimbursement of an obligor for expenditures previously made for) a contract for the construction or reconstruction of a vessel if—

(1) the vessel is designed and to be used for commercial use in coastwise, intercoastal, or foreign trade;

(2) the construction or reconstruction is necessary to replace a vessel that cannot continue to be operated because of a change required by law in the standards for the operation of vessels, and the applicant for the guarantee or commitment would not otherwise legally be able to continue operating vessels in the trades in which the applicant operated vessels before the change;

(3) the applicant is presently engaged in transporting cargoes in vessels of the type and class that will be constructed or reconstructed under this section and agrees to employ vessels constructed or reconstructed under this section as replacements only for vessels made obsolete by the change in operating standards;

(4) the capacity of the vessels to be constructed or reconstructed under this section will not increase the cargo carrying capacity of the vessels being replaced;

(5) the Secretary or Administrator has not determined that the market demand for the vessel over its useful life will diminish so as to make granting the guarantee fiduciarily imprudent;

(6) the vessel, if to be reconstructed, will have a useful life of at least 15 years after the reconstruction; and

(7) the Secretary or Administrator has considered the criteria specified in section 53708(a)(3)–(5) of this title.

(b) TERM AND AMOUNT OF OBLIGATION.—

(1) TERM.—The term of an obligation guaranteed under this section may not exceed 25 years.

(2) AMOUNT.—The amount of an obligation guaranteed under this section may not exceed 87.5 percent of the actual cost or depreciated actual cost to the applicant for the construction or reconstruction of the vessel. The Sec-

retary or Administrator may not establish a percentage under this paragraph that is to be applied uniformly to all guarantees or commitments to guarantee made under this section.

(c) **APPLICABILITY OF OTHER PROVISIONS.**—A guarantee or commitment to guarantee under this section is also subject to sections 53701, 53702(a), 53704, 53705, 53707(a), 53708(d) and (e), 53709(a), 53710(a)(1), (2), and (4) and (c), 53711(a), 53713, 53714, 53717, and 53721–53725 of this title.

(d) **SECURITY AGAINST DEFAULT.**—The Secretary or Administrator shall require by regulation that an applicant under this section provide adequate security against default.

(e) **GUARANTEE FEES.**—The Secretary or Administrator may establish a fee for the guarantee of an obligation under this section that is in addition to the fee established under section 53714 of this title. The fee may be—

(1) an annual fee of not more than an additional 1 percent added to the fee established under section 53714 of this title; or

(2) a fee based on the amount of the obligation versus the percentage of the obligor's fleet being replaced by vessels constructed or reconstructed under this section.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1624; Pub. L. 109–163, div. C, title XXXV, §3507(a)(1)(E), Jan. 6, 2006, 119 Stat. 3555; Pub. L. 110–181, div. C, title XXXV, §3522(a)(10)(B), (b), Jan. 28, 2008, 122 Stat. 598.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---|---|
| 53734(a) | 46 App.:1274a(a), (b)(3). | June 29, 1936, ch. 858, title XI, §1104B, as added Pub. L. 101–380, title IV, §4115(f)(2), Aug. 18, 1990, 104 Stat. 521; amended Pub. L. 102–587, title VI, §6204, Nov. 4, 1992, 106 Stat. 5094; Pub. L. 103–160, div. A, title XIII, §1356(4), Nov. 30, 1993, 107 Stat. 1814; Pub. L. 104–239, §11(2), Oct. 8, 1996, 110 Stat. 3134. |
| 53734(b) | 46 App.:1274a(b) (less (3)). | |
| 53734(c) | 46 App.:1274a(d). | |
| 53734(d) | 46 App.:1274a(c)(1) (1st sentence). | |
| 53734(e) | 46 App.:1274a(c)(1) (2d sentence), (2). | |

In subsection (a), in paragraph (1), the words “as defined in section 1244 of this Appendix” are omitted because the definition of “foreign commerce or trade” in chapter 1 of the revised title applies without having to say so specifically. Paragraph (6) is substituted for 46 App. U.S.C. 1274a(b)(3) to improve the organization of the source provisions.

In subsection (b)(2), the words “by rule, regulation, or procedure” are omitted as unnecessary and for consistency with section 53709(d) of the revised title.

In subsections (c) and (e), the language concerning the Vessel Replacement Guarantee Fund and the Federal Ship Financing Fund is omitted as obsolete. See the explanation for section 53717.

AMENDMENTS

2008—Pub. L. 110–181, §3522(b), repealed Pub. L. 109–163, §3507(a)(1)(E). See 2006 Amendment note below.

Pub. L. 110–181, §3522(a)(10)(B), incorporated the substance of the amendment by Pub. L. 109–163, §3507(a)(1)(E), into this section by inserting “or Administrator” after “Secretary” wherever appearing. See

2006 Amendment note below and section 18(a) of Pub. L. 109–304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

2006—Pub. L. 109–163, §3507(a)(1)(E), which directed the amendment of section 1274a of the former Appendix to this title from which this section was derived, was repealed by Pub. L. 110–181, §3522(b). See 2008 Amendment notes and Historical and Revision notes above.

§ 53735. Fisheries financing and capacity reduction

(a) **DEFINITION.**—In this section, the term “program” means a fishing capacity reduction program established under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a).

(b) **GUARANTEE AUTHORITY.**—The Secretary may guarantee the repayment of debt obligations issued by entities under this section. Debt obligations to be guaranteed may be issued by any entity that has been approved by the Secretary and has agreed with the Secretary to conditions the Secretary considers necessary for this section to achieve the objective of the program and to protect the interest of the United States.

(c) **REQUIREMENTS OF OBLIGATIONS.**—A debt obligation guaranteed under this section shall—

(1) be treated in the same manner and to the same extent as other obligations guaranteed under this chapter, except with respect to provisions of this chapter that by their nature cannot be applied to obligations guaranteed under this section;

(2) have the fishing fees established under the program paid into a separate subaccount of the fishing capacity reduction fund established under this section;

(3) not exceed \$100,000,000 in an unpaid principal amount outstanding at any one time for a program;

(4) have such maturity (not to exceed 20 years), take such form, and contain such conditions as the Secretary determines necessary for the program to which they relate;

(5) have as the exclusive source of repayment (subject to the second sentence of subsection (d)(2)) and as the exclusive payment security, the fishing fees established under the program; and

(6) at the discretion of the Secretary be issued in the public market or sold to the Federal Financing Bank.

(d) **FISHING CAPACITY REDUCTION FUND.**—

(1) **IN GENERAL.**—There is a separate account in the Treasury, known as the Fishing Capacity Reduction Fund. Within the Fund, at least one subaccount shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

(2) **AVAILABILITY OF AMOUNTS.**—Amounts in the Fund shall be available, without appropriation or fiscal year limitation, to the Secretary to pay the cost of the program, including payments to financial institutions to pay debt obligations incurred by entities under this section. Funds available for this purpose from other amounts available for the program may also be used to pay those debt obligations.