

regulations were published on September 16, 1994. See 59 Fed. Reg. 47548. The second event, which is “(B) the last day of any 5-year period in which funding and guarantee authority for obligations for eligible export vessels have been continuously available”, is omitted because that date was November 11, 1998, five years after enactment of the Department of Defense Appropriations Act, 1994 (Pub. L. 103-139, Nov. 11, 1993, 107 Stat. 1418).

AMENDMENTS

2008—Pub. L. 110-181, §3522(b), repealed Pub. L. 109-163, §3507(a)(1)(C), (D), (2)(E), (F), (I), (J), (b)(3)(A), (5), (8). See 2006 Amendment note below.

Pub. L. 110-181, §3522(a)(8), (9)(E), incorporated the substance of the amendment by Pub. L. 109-163, §3507(a)(1)(C), (D), (2)(E), (F), (I), (J), (b)(3)(A), (5), (8), into this section by substituting “Administrator” for “Secretary of Transportation” in subsec. (b)(2)(A) and “Administrator” for “Secretary” wherever else appearing, except where “Secretary” was followed by “of the Treasury”, “of State”, or “of Defense”, and by inserting “of Defense” after “United States. The Secretary” in subsec. (e)(2). 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)(C), (D), (2)(E), (F), (I), (J), (b)(3)(A), (5), (8), which directed the amendment of sections 1273(g), 1274(d)(1)(A), (3), (j)(1), (2), and 1279d(a), (b)(1), (2), (4) of the former Appendix to this title from which this section was derived in part, was repealed by Pub. L. 110-181, §3522(b). See 2008 Amendment notes and Historical and Revision notes above.

§ 53733. Shipyard modernization and improvement

(a) DEFINITIONS.—In this section:

(1) ADVANCED SHIPBUILDING TECHNOLOGY.—The term “advanced shipbuilding technology” includes—

(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving shipbuilding and related industrial production that advance the state-of-the-art; and

(B) novel techniques and processes designed to improve shipbuilding quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

(2) GENERAL SHIPYARD FACILITY.—The term “general shipyard facility” means—

(A) for operations on land—

(i) a structure or appurtenance thereto designed for the construction, reconstruction, repair, rehabilitation, or refurbishment of a vessel, including a graving dock, building way, ship lift, wharf, or pier crane;

(ii) the land necessary for the structure or appurtenance; and

(iii) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in clause (i); and

(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

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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