

§ 3792. Bases of tolls**(a) Tolls based on net vessel tons and on displacement tonnage**

Tolls on merchant vessels, army and navy transports, colliers, tankers, hospital ships, and supply ships shall be based on net vessel tons of one hundred cubic feet each of actual earning capacity, or its equivalent, determined in accordance with the rules for the measurement of vessels for the Panama Canal, and tolls on other floating craft shall be based on displacement tonnage. The tolls on vessels in ballast without passengers or cargo may be less than the tolls for vessels with passengers or cargo. Tolls for small vessels (including yachts), as defined by the Commission, may be set at rates determined by the Commission without regard to the preceding provisions of this subsection.

(b) Toll rates prescribed to cover all costs of operation and maintenance of Panama Canal

Tolls shall be prescribed at rates calculated to produce revenues to cover as nearly as practicable all costs of maintaining and operating the Panama Canal (including costs authorized to be paid from the Panama Canal Dissolution Fund under section 3714a(c) of this title), together with the facilities and appurtenances related thereto, including unrecovered costs incurred on or after October 1, 1979, interest, depreciation, working capital, payments to the Republic of Panama pursuant to paragraph 5 of Article III and paragraph 4(a) and (b) of Article XIII of the Panama Canal Treaty of 1977, and capital for plant replacement, expansion, and improvements. Tolls shall not be prescribed at rates calculated to produce revenues sufficient to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977.

(c) Payment of tolls by vessels of United States

Vessels operated by the United States, including vessels of war and auxiliary vessels, and ocean-going training ships owned by the United States and operated by State nautical schools, shall pay tolls.

(d) Levy of tolls

The levy of tolls is subject to the provisions of section 1 of Article III of the treaty between the United States of America and Great Britain signed November 18, 1901, of Article I of the treaty between the United States of America and the Republic of Colombia signed April 6, 1914, and of Articles II, III, and VI of the Treaty Concerning Permanent Neutrality and Operation of the Panama Canal, between the United States of America and the Republic of Panama, signed September 7, 1977.

(Pub. L. 96-70, title I, §1602, Sept. 27, 1979, 93 Stat. 489; Pub. L. 100-203, title V, §5427, Dec. 22, 1987, 101 Stat. 1330-274; Pub. L. 102-484, div. C, title XXXV, §§3513, 3521(b)(2), Oct. 23, 1992, 106 Stat. 2655, 2657; Pub. L. 105-85, div. C, title XXXV, §3544, Nov. 18, 1997, 111 Stat. 2072.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-85 substituted “and supply ships” for “supply ships, and yachts” and inserted at end “Tolls for small vessels (including yachts), as

defined by the Commission, may be set at rates determined by the Commission without regard to the preceding provisions of this subsection.”

1992—Subsec. (a). Pub. L. 102-484, §3513, inserted “, or its equivalent,” after “earning capacity”.

Subsec. (b). Pub. L. 102-484, §3521(b)(2), substituted “Panama Canal (including costs authorized to be paid from the Panama Canal Dissolution Fund under section 3714a(c) of this title)” for “Panama Canal”.

1987—Subsec. (b). Pub. L. 100-203 inserted “working capital,” after “depreciation,”.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 effective Jan. 1, 1988, see section 5429 of Pub. L. 100-203, set out as a note under section 3712 of this title.

§ 3793. Interest on investments**(a) Calculation of interest**

For purposes of sections 3721 and 3792 of this title, interest shall be computed, at a rate determined by the Secretary of the Treasury, on the investment of the United States in the Panama Canal as shown in the accounts of the Panama Canal Company at the close of business on the day preceding October 1, 1979, and as adjusted in accordance with subsections (b) and (c) of this section. Capital investment for interest purposes shall not include any interest during construction.

(b) Increases and decreases in investment of United States

The investment of the United States described in subsection (a) of this section—

(1) shall be increased by—

(A) the amount of expenditures from the Panama Canal Revolving Fund,¹ and

(B) the value of property transferred to the Commission by any other department or agency of the United States, as determined in accordance with subsection (c) of this section; and

(2) shall be decreased by—

(A) the amount of the funds deposited in the Panama Canal Revolving Fund,

(B) the value of property transferred to the Republic of Panama pursuant to this chapter or any other Act on or after October 1, 1979, and

(C) the value of property transferred by the Commission to any other department or agency of the United States.

(c) Value of property transferred to Commission

The value of property transferred to the Commission by any other department or agency of the United States shall be determined by the Director of the Office of Management and Budget. In computing such value, such Director shall give due consideration to the cost and probable earning power of the transferred property, or the usable value to the Commission if clearly less than cost, and shall make adequate provisions for depreciation, obsolescence, and other determinable decreases in value. Insofar as practicable, the value of such transferred property shall exclude any portion of such value properly allocable to national defense.

(d) Payment and deposit of interest

The Panama Canal Commission shall pay to the Treasury of the United States interest on

¹ So in original.

the investment of the United States, as determined under this section. Such interest shall be deposited in the general fund of the Treasury.

(Pub. L. 96-70, title I, §1603, Sept. 27, 1979, 93 Stat. 490; Pub. L. 99-195, §1(b), Dec. 23, 1985, 99 Stat. 1349; Pub. L. 100-203, title V, §5425(a), Dec. 22, 1987, 101 Stat. 1330-274.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2)(B), was in the original "this Act", meaning Pub. L. 96-70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

AMENDMENTS

1987—Subsec. (b)(1)(A). Pub. L. 100-203, §5425(a)(1), substituted "the Panama Canal Revolving Fund," for "appropriations to the Commission made on or after October 1, 1979".

Subsec. (b)(2)(A). Pub. L. 100-203, §5425(a)(2), substituted "deposited in the Panama Canal Revolving Fund" for "covered into the Panama Canal Commission Fund pursuant to section 3712 of this title".

Subsec. (d). Pub. L. 100-203, §5425(a)(3), added subsec. (d).

1985—Subsec. (b)(2)(A). Pub. L. 99-195 substituted "Panama Canal Commission Fund" for "Treasury".

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 effective Jan. 1, 1988, see section 5429 of Pub. L. 100-203, set out as a note under section 3712 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-195 applicable only to tolls and other receipts of the Commission deposited in the Treasury on or after Dec. 23, 1985, see section 2 of Pub. L. 99-195, set out as a note under section 3712 of this title.

§ 3794. Procedures

(a) Publication of notice of proposed changes in rules of measurement and rates of tolls in Federal Register; participation by interested parties; availability of analysis

The Commission shall publish in the Federal Register notice of any proposed change in the rules of measurement or rates of tolls referred to in section 3791 of this title. The Commission shall give interested parties an opportunity to participate in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the notice. The notice shall include the substance of the proposed change and a statement of the time, place, and nature of the proceedings. At the time of publication of such notice, the Commission shall make available to the public an analysis showing the basis and justification for the proposed change, which, in the case of a change in rates of tolls, shall indicate the conformity of the existing and proposed rates of tolls with the requirements of section 3792 of this title, and the Commission's adherence to the requirement for full consideration of the following factors set forth in Understanding (1) incorporated in the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal

(adopted by the United States Senate on March 16, 1978):

(1) the costs of operating and maintaining the Panama Canal;

(2) the competitive position of the use of the Canal in relation to other means of transportation;

(3) the interests of the United States and the Republic of Panama in maintaining their domestic fleets;

(4) the impact of such a change in rates of tolls on the various geographical areas of each of the two countries; and

(5) the interests of both countries in maximizing their international commerce.

(b) Revision of proposed rules of measurement or rates of tolls

After consideration of the relevant matter presented, the Commission may revise the proposed rules of measurement or rates of tolls, as the case may be, except that, in the case of rates of tolls, if such revision proposes rates greater than those originally proposed, a new analysis of the proposed rates shall be made available to the public, and a new notice of the revised proposal shall be published in the Federal Register apprising interested persons of the opportunity to participate further in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the new notice. The procedure set forth in this subsection shall be followed for any subsequent revision of the proposed rates of tolls by the Commission which proposes rates higher than those in the preceding proposal.

(c) Publication of notice of changes in rules of measurement and rates of tolls in Federal Register

After the proceedings have been conducted pursuant to subsections (a) and (b), the Commission may change the rules of measurement or rates of tolls, as the case may be. The Commission shall publish notice of any such change in the Federal Register not less than 30 days before the effective date of the change.

(d) Judicial review

Action to change the rules of measurement for the Panama Canal or the rates of tolls for the use of the Canal pursuant to this part shall be subject to judicial review in accordance with chapter 7 of title 5.

(Pub. L. 96-70, title I, §1604, Sept. 27, 1979, 93 Stat. 490; Pub. L. 104-106, div. C, title XXXV, §3528, Feb. 10, 1996, 110 Stat. 641.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-106, §3528(1), substituted "3791" for "3791(a)".

Subsec. (c). Pub. L. 104-106, §3528(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "After the proceedings have been conducted pursuant to subsections (a) and (b) of this section, the Commission shall publish in the Federal Register a notice of the changes in the rules of measurement or rates of tolls, as the case may be, to be recommended to the President."

Subsec. (d). Pub. L. 104-106, §3528(3), redesignated subsec. (f) as (d) and struck out former subsec. (d) which read as follows: "Upon publication of the notice pursu-