

(2) more than 40 years of age.

(d) REDUCTIONS IN PAYMENTS.—With respect to payments under this chapter for a vessel covered by an Operating Agreement, the Secretary shall make a pro rata reduction for each day less than 365 in a fiscal year that the vessel is not operated in accordance with section 53205(a)(1), with days during which the vessel is drydocked or undergoing survey, inspection or repair to be considered days on which the vessel is operated as provided in subsection (b).

(Added Pub. L. 116–92, div. C, title XXXV, § 3521(a), Dec. 20, 2019, 133 Stat. 1995.)

§ 53207. National security requirements

(a) CONTINGENCY AGREEMENT REQUIRED.—The Secretary shall include in each Operating Agreement under this chapter a requirement that the Contractor enter into a Contingency Agreement with the Operating Agency. The Operating Agency shall negotiate and enter into a Contingency Agreement with each Contractor as promptly as practicable after the Contractor has entered into an Operating Agreement under this chapter.

(b) TERMS OF CONTINGENCY AGREEMENT.—

(1) IN GENERAL.—A Contingency Agreement under this section shall require that a Contractor for a vessel covered by an Operating Agreement under this chapter make the vessel, including all necessary resources to engage in Cable Services required by the Operating Agency, available upon request by the Operating Agency.

(2) TERMS.—

(A) IN GENERAL.—The basic terms of a Contingency Agreement shall be established (subject to subparagraph (B)) by the Operating Agency.

(B) ADDITIONAL TERMS.—The Operating Agency and a Contractor may agree to additional or modifying terms appropriate to the Contractor's circumstances.

(c) DEFENSE MEASURES AGAINST UNAUTHORIZED SEIZURES.—(1) The Contingency Agreement shall require that any vessel operating under the direction of the Operating Agency operating in area that is designated by the Coast Guard as an area of high risk of piracy shall be equipped with, at a minimum, appropriate non-lethal defense measures to protect the vessel and crew from unauthorized seizure at sea.

(2) The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating shall jointly prescribe the non-lethal defense measures that are required under this paragraph.

(d) PARTICIPATION AFTER EXPIRATION OF OPERATING AGREEMENT.—Except as provided by section 53205(d), the Operating Agency may not require, through a Contingency Agreement or an Operating Agreement, that a Contractor continue to participate in a Contingency Agreement after the Operating Agreement with the Contractor has expired according to its terms or is otherwise no longer in effect.

(e) RESOURCES MADE AVAILABLE.—The resources to be made available in addition to the vessel under a Contingency Agreement shall in-

clude all equipment, personnel, supplies, management services, and other related services as the Operating Agency may determine to be necessary to provide the Cable Services required by the Operating Agency.

(f) COMPENSATION.—

(1) IN GENERAL.—The Operating Agency shall include in each Contingency Agreement provisions under which the Operating Agency shall pay fair and reasonable compensation for use of the vessel and all Cable Services provided pursuant to this section and the Contingency Agreement.

(2) SPECIFIC REQUIREMENTS.—Compensation under this subsection—

(A) shall be at the rate specified in the Contingency Agreement;

(B) shall be provided from the time that a vessel is required by the Operating Agency under the Contingency Agreement until the time it is made available by the Operating Agency available to reenter commercial service; and

(C) shall be in addition to and shall not in any way reflect amounts payable under section 53206.

(g) LIABILITY OF THE UNITED STATES FOR DAMAGES.—

(1) LIMITATION ON THE LIABILITY OF THE U.S.—Except as otherwise provided by law, the Government shall not be liable for disruption of a Contractor's commercial business or other consequential damages to a Contractor arising from the activation of the Contingency Agreement.

(2) AFFIRMATIVE DEFENSE.—In any action in any Federal or State court for breach of third-party contract, there shall be available as an affirmative defense that the alleged breach of contract was caused predominantly by action taken to carry out a Contingent Agreement. Such defense shall not release the party asserting it from any obligation under applicable law to mitigate damages to the greatest extent possible.

(Added Pub. L. 116–92, div. C, title XXXV, § 3521(a), Dec. 20, 2019, 133 Stat. 1995.)

§ 53208. Regulatory relief

The telecommunications and other electronic equipment on an existing vessel that is redocumented under the laws of the United States for operation under an Operating Agreement under this chapter shall be deemed to satisfy all Federal Communication Commission equipment certification requirements, if—

(1) such equipment complies with all applicable international agreements and associated guidelines as determined by the country in which the vessel was documented immediately before becoming documented under the laws of the United States;

(2) that country has not been identified by the Secretary of the Department in which the Coast Guard is operating as inadequately enforcing international regulations as to that vessel; and

(3) at the end of its useful life, such equipment shall be replaced with equipment that meets Federal Communication Commission equipment certification standards.

(Added Pub. L. 116-92, div. C, title XXXV, §3521(a), Dec. 20, 2019, 133 Stat. 1997.)

§ 53209. Authorization of appropriations

There are authorized to be appropriated for payments under section 53206, \$10,000,000 for each of the fiscal years 2021 through 2035.

(Added Pub. L. 116-92, div. C, title XXXV, §3521(a), Dec. 20, 2019, 133 Stat. 1997.)

CHAPTER 533—CONSTRUCTION RESERVE FUNDS

Sec.	
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§ 53301. Definitions

(a) IN GENERAL.—In this chapter:

(1) CONSTRUCTION CONTRACT.—The term “construction contract” includes, for a taxpayer constructing a new vessel in a shipyard owned by that taxpayer, an agreement between the taxpayer and the Secretary of Transportation for that construction containing provisions the Secretary considers advisable to carry out this chapter.

(2) NEW VESSEL.—The term “new vessel” means—

(A) a vessel—

(i) constructed in the United States after December 31, 1939, constructed with a construction-differential subsidy under title V of the Merchant Marine Act, 1936, or constructed with financing or a financing guarantee under chapter 537 or 575 of this title;

(ii) documented or agreed with the Secretary to be documented under the laws of the United States; and

(iii)(I) of a type, size, and speed that the Secretary determines is suitable for use on the high seas or Great Lakes in carrying out this subtitle, but not less than 2,000 gross tons or less than 12 knots speed unless the Secretary certifies in each case that a vessel of lesser tonnage or speed is desirable for use by the United States Government in case of war or national emergency; or

(II) constructed to replace a vessel bought or requisitioned by the Government; and

(B) a vessel reconstructed or reconditioned for use only on the Great Lakes, including the Saint Lawrence River and Gulf, if the Secretary finds that the reconstruction or reconditioning will promote the objectives of this subtitle.

(b) ADDITIONAL TAX-RELATED TERMS.—Other terms used in this chapter have the same meaning as in chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1587.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53301(a)(1) ..	46 App.:1161(n).	June 29, 1936, ch. 858, title V, §511(n), as added Dec. 23, 1944, ch. 714, §2, 58 Stat. 920; Pub. L. 97-31, §12(92)(A), Aug. 6, 1981, 95 Stat. 161.
53301(a)(2)(A).	46 App.:1161(a).	June 29, 1936, ch. 858, title V, §511(a), as added Oct. 10, 1940, ch. 849, 54 Stat. 1106; Pub. L. 97-31, §12(92)(A), Aug. 6, 1981, 95 Stat. 161.
53301(a)(2)(B).	46 App.:1161(o).	June 29, 1936, ch. 858, title V, §511(o), as added July 17, 1952, ch. 939, §14, 66 Stat. 764; Pub. L. 97-31, §12(92)(A), Aug. 6, 1981, 95 Stat. 161.
53301(b)	46 App.:1161(m).	June 29, 1936, ch. 858, title V, §511(m), as added Oct. 10, 1940, ch. 849, 54 Stat. 1108.

In subsection (a)(2)(A)(i), the words “constructed with a construction-differential subsidy under title V of the Merchant Marine Act, 1936, or constructed with financing or a financing guarantee under chapter 537 or 575 of this title” are substituted for “the construction of which has been financed under subchapters V or VII of this chapter, or the construction of which has been aided by a mortgage insured under subchapter XI of this chapter” because of the reorganization of the material and the omission from the revised title of the provisions relating to the construction-differential subsidy program.

Subsection (a)(2)(B) is substituted for the source provision to state more directly that a vessel described in the source provision is a new vessel for purposes of this chapter.

REFERENCES IN TEXT

The Merchant Marine Act, 1936, referred to in subsec. (a)(2)(A)(i), is act June 29, 1936, ch. 858, 49 Stat. 1985. Title V of the Act enacted provisions set out as notes under section 53101 of this title. For complete classification of this Act to the Code, see Short Title of 1936 Amendment note set out under section 101 of this title and Tables.

§ 53302. Authority for construction reserve funds

(a) GENERAL AUTHORITY.—An eligible person under section 53303 of this title may establish a construction reserve fund for the construction, reconstruction, reconditioning, or acquisition of a new vessel or for other purposes authorized by this chapter.

(b) APPLICATION OF CERTAIN LAWS AND REGULATIONS.—The fund shall be established, maintained, expended, and used as provided by this chapter and regulations prescribed jointly by the Secretary of Transportation and the Secretary of the Treasury.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1587.)