

with a charterer of a vessel owned by the Secretary for payment of an operating-differential subsidy, on the same terms and conditions, and subject to the same limitations and restrictions, as otherwise provided with respect to payment of operating-differential subsidies to operators of privately-owned vessels.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1667.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 57516, 46 App.:1198, June 29, 1936, ch. 858, title VII, §708, 49 Stat. 2009; June 23, 1938, ch. 600, §31, 52 Stat. 962; Pub. L. 97-31, §12(110), Aug. 6, 1981, 95 Stat. 163.

§ 57517. Recovery of excess profits

(a) IN GENERAL.—A charter under this chapter shall provide that if, at the end of a calendar year subsequent to the execution of the charter, the cumulative net voyage profit (after payment of the charter hire reserved in the charter and payment of the charterer’s fair and reasonable overhead expenses applicable to operation of the chartered vessel) exceeds 10 percent a year of the charterer’s capital necessarily employed in the business of the chartered vessel, the charterer shall pay to the Secretary of Transportation, as additional charter hire, half the cumulative net voyage profit in excess of 10 percent a year. However, any cumulative net voyage profit accounted for under this subsection is not to be included in the calculation of cumulative net voyage profit in any subsequent year.

(b) TERMS TO BE DEFINED AND USED.—The Secretary shall define the terms “net voyage profit”, “fair and reasonable overhead expenses”, and “capital necessarily employed” for this section. Each advertisement for bids and each charter shall contain these definitions, stating the formula for determining each of these three amounts.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1667.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 57517, 46 App.:1199, June 29, 1936, ch. 858, title VII, §709, 49 Stat. 2010; Pub. L. 97-31, §12(111), Aug. 6, 1981, 95 Stat. 163.

§ 57518. Performance bond

The Secretary of Transportation shall require a charterer of a vessel of the Secretary to deposit with the Secretary an undertaking, with approved sureties, in such amount as the Secretary may require as security for the faithful performance of the terms of the charter, including indemnity against liens on the chartered vessel.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1667.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 57518, 46 App.:1200, June 29, 1936, ch. 858, title VII, §710, 49 Stat. 2010; Pub. L. 97-31, §12(112), Aug. 6, 1981, 95 Stat. 163.

§ 57519. Insurance

A charter under this chapter shall require the charterer to carry, at the charterer’s expense, insurance on the chartered vessel covering all marine and port risks, protection and indemnity risks, and all other hazards and liabilities, adequate to cover damages claimed against and losses sustained by the chartered vessel arising during the term of the charter. The insurance shall be in such form, in such amount, and with such companies as the Secretary of Transportation may require. In accordance with law, any of the insurance risks may be underwritten by the Secretary.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1667.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 57519, 46 App.:1202(a), June 29, 1936, ch. 858, title VII, §712(a), 49 Stat. 2010; Aug. 7, 1939, ch. 555, §1, 53 Stat. 1254; Pub. L. 97-31, §12(114), Aug. 6, 1981, 95 Stat. 163.

§ 57520. Vessel maintenance

(a) IN GENERAL.—A charter under this chapter shall require the charterer, at the charterer’s expense, to—

- (1) keep the chartered vessel in good repair and efficient operating condition; and
(2) make any repairs required by the Secretary of Transportation.

(b) INSPECTION.—The charter shall provide that the Secretary has the right to inspect the vessel at any time to ascertain its condition.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1668.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 57520, 46 App.:1202(b), (c), June 29, 1936, ch. 858, title VII, §712(b), (c), 49 Stat. 2010; Aug. 7, 1939, ch. 555, §1, 53 Stat. 1254; Pub. L. 97-31, §12(114), Aug. 6, 1981, 95 Stat. 163.

§ 57521. Termination of charter during national emergency

A charter under this chapter shall provide that during a national emergency proclaimed by the President or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may terminate the charter without cost to the United States Government on such notice to the charterer as the President determines.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1668.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
57521 .....	46 App.:1202(d).	June 29, 1936, ch. 858, title VII, §712(d), 49 Stat. 2010; Aug. 7, 1939, ch. 555, §1. 53 Stat. 1254; Pub. L. 97-31, §12(114), Aug. 6, 1981, 95 Stat. 163.

**§ 57522. Books and records, balance sheets, and inspection and auditing**

Every contract executed by the Secretary of Transportation under this chapter shall contain provisions requiring (1) that, the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the contractor, to keep its books, records, and accounts, relating to the maintenance, operation, and servicing of the vessels, services, routes, and lines covered by the contract, in such form and under such regulations as may be prescribed by the Secretary of Transportation; (2) that the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the contractor, to file, upon notice from the Secretary of Transportation, balance sheets, profit and loss statements, and such other statements of financial operations, special report, memoranda of any facts and transactions, which in the opinion of the Secretary of Transportation affect the financial results in, the performance of, or transactions or operations under, such contract; (3) that the Secretary of Transportation shall be authorized to examine and audit the books, records, and accounts of all persons referred to in this section whenever he may deem it necessary or desirable; and (4) that upon the willful failure or refusal of any person described in this section to comply with the contract provisions required by this section, the Secretary of Transportation shall have the right to rescind the contract, and upon such rescission, the United States shall be relieved of all further liability on such contract.

(Added and amended Pub. L. 114-120, title III, §313(c)(1), Feb. 8, 2016, 130 Stat. 58.)

## CODIFICATION

Section consists of text of act June 29, 1936, ch. 858, title VIII, §801, 49 Stat. 2011, as amended by Pub. L. 97-31, §12(119), Aug. 6, 1981, 95 Stat. 164. Section 801 of act June 29, 1936, ch. 858, which was formerly set out as a note under section 53101 of this title, was transferred to this section by Pub. L. 114-120, title III, §313(c)(1)(A), Feb. 8, 2016, 130 Stat. 58.

## AMENDMENTS

2016—Pub. L. 114-120, §313(c)(1)(B)(i), inserted “Books and records, balance sheets, and inspection and auditing” in section catchline.

Pub. L. 114-120, §313(c)(1)(B)(ii), which directed substitution of “this chapter” for “the provision of title VI or VII of this Act”, was executed by making the substitution for “the provisions of title VI or VII of this Act” to reflect the probable intent of Congress.

Pub. L. 114-120, §313(c)(1)(B)(iii), struck out “: Provided, That the provisions of this paragraph shall not require the duplication of books, records, and accounts required to be kept in some other form by the Interstate Commerce Commission” after “prescribed by the Secretary of Transportation”.

## SUBCHAPTER III—MISCELLANEOUS

**§ 57531. Construction and charter of vessels for unsuccessful routes**

(a) IN GENERAL.—If the Secretary of Transportation finds that a trade route determined to be essential under section 50103 of this title cannot be successfully developed and maintained and the Secretary’s replacement program cannot be achieved under private operation of the trade route by a citizen of the United States with vessels documented under chapter 121 of this title, without further aid by the United States Government in addition to the financial aid authorized under title V of the Merchant Marine Act, 1936, the Secretary, without advertisement or competition, may—

(1) have constructed, in private shipyards or in navy yards, vessels of the types necessary for the trade route; and

(2) demise charter those new vessels to the operator of vessels of the United States established on the trade route.

(b) AMOUNT OF CHARTER HIRE.—

(1) IN GENERAL.—The annual charter hire under subsection (a) shall be at least 4 percent of the price (referred to in this section as the “foreign cost”) at which the vessel would be sold if constructed under title V of the Merchant Marine Act, 1936, plus—

(A) a percentage of the depreciated foreign cost computed annually determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the Government with remaining periods to maturity comparable to the term of the charter, adjusted to the nearest one-eighth percent; and

(B) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs.

(2) DEPRECIATION.—Depreciation under paragraph (1)(A) shall be based on—

(A) a 25-year life for dry-cargo and passenger vessels; and

(B) a 20-year life for tankers and other bulk liquid carrier vessels.

(c) OPTION TO PURCHASE.—The charter may contain an option to the charterer to purchase the vessels from the Secretary of Transportation within 5 years after delivery under the charter, on the same terms and conditions as provided in title V of the Merchant Marine Act, 1936, for the purchase of new vessels from the Secretary. However—

(1) the purchase price shall be the foreign cost less depreciation to the date of purchase based on the useful life specified in subsection (b)(2);

(2) the required cash payment payable at the time of the purchase shall be 25 percent of the purchase price;

(3) the charter may provide that any part of the charter hire paid in excess of the minimum charter hire provided for in this section may be credited against the cash payment payable at the time of the purchase;

(4) the balance of the purchase price shall be paid within the remaining years of useful life