

have not been appropriated under the authority provided by this chapter for that fiscal year, then the Secretary shall notify the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives that operating agreements authorized under this chapter for which sufficient funds are not available will not be renewed for that fiscal year if sufficient funds are not appropriated by the 60th day of that fiscal year.

(e) **RELEASE OF VESSELS FROM OBLIGATIONS.**—If funds are not appropriated for payments under an operating agreement under this chapter for any fiscal year by the 60th day of that fiscal year, then—

(1) each vessel covered by the operating agreement is thereby released from any further obligation under the operating agreement;

(2) the program participant for the vessel may transfer and register such vessel under a foreign registry that is acceptable to the Secretary of Transportation and the Secretary of Defense, notwithstanding section 56101 of this title; and

(3) if chapter 563 of this title is applicable to the vessel after registration, then the vessel is available to be requisitioned by the Secretary pursuant to chapter 563 of this title.

(Added Pub. L. 116-283, div. C, title XXXV, § 3511(a), Jan. 1, 2021, 134 Stat. 4413.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective upon completion and submission to Congress of report on United States-flagged fuel tanker vessel capacity and upon publication of certification related to program for United States-flagged fuel tanker vessels, see section 3511(d) of Pub. L. 116-283, set out as a note under section 53401 of this title.

§ 53405. Obligations and rights under operating agreements

(a) **OPERATION OF VESSEL.**—An operating agreement under this chapter shall require that, during the period the vessel covered by the agreement is operating under the agreement the vessel shall—

(1) be operated in the United States foreign commerce, mixed United States foreign commerce and domestic trade allowed under a registry endorsement issued under section 12111 of this title, in foreign-to-foreign commerce, or under a charter to the United States;

(2) not be operated in the coastwise trade except as described in paragraph (1); and

(3) be documented under chapter 121 of this title.

(b) **ANNUAL PAYMENTS BY THE SECRETARY.**—

(1) **IN GENERAL.**—An operating agreement under this chapter shall require, subject to the availability of appropriations, that the Secretary make a payment to the program participant in accordance with section 53406.

(2) **OPERATING AGREEMENT IS AN OBLIGATION OF THE UNITED STATES GOVERNMENT.**—An oper-

ating agreement under this chapter constitutes a contractual obligation of the United States Government to pay the amounts provided for in the agreement to the extent of actual appropriations.

(c) **DOCUMENTATION REQUIREMENT.**—Each vessel covered by the operating agreement, including an agreement terminated under section 53404(c)(2), shall remain documented under chapter 121 of this title until the date the operating agreement would terminate according to its terms.

(d) **NATIONAL SECURITY REQUIREMENTS.**—

(1) **IN GENERAL.**—A program participant with respect to an operating agreement, including an agreement terminated under section 53404(c)(2), shall continue to be bound by the provisions of section 53407 until the date the operating agreement would terminate according to its terms.

(2) **EMERGENCY PREPAREDNESS AGREEMENT.**—All terms and conditions of an Emergency Preparedness Agreement entered into under section 53407 shall remain in effect until the date the operating agreement would terminate according to its terms, except that the terms of such Emergency Preparedness Agreement may be modified by the mutual consent of the program participant, the Secretary of Transportation, and the Secretary of Defense.

(e) **TRANSFER OF OPERATING AGREEMENTS.**—A program participant may transfer an operating agreement (including all rights and obligations under the agreement) to any person that is eligible to enter into that operating agreement under this chapter, if the Secretary of Transportation and the Secretary of Defense determine that the transfer is in the best interests of the United States.

(f) **REPLACEMENT OF VESSELS COVERED BY AGREEMENTS.**—A program participant may replace the vessel with another vessel that is eligible to be included in the Fleet under section 53402(b), if the Secretary of Transportation, in coordination with the Secretary of Defense, approves the replacement of the vessel. No court shall have jurisdiction to review a decision by the Secretary of Transportation or the Secretary of Defense pertaining to the replacement of a vessel under this section.

(Added Pub. L. 116-283, div. C, title XXXV, § 3511(a), Jan. 1, 2021, 134 Stat. 4414.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective upon completion and submission to Congress of report on United States-flagged fuel tanker vessel capacity and upon publication of certification related to program for United States-flagged fuel tanker vessels, see section 3511(d) of Pub. L. 116-283, set out as a note under section 53401 of this title.

§ 53406. Payments

(a) **ANNUAL PAYMENT.**—Subject to the availability of appropriations for such purpose and the other provisions of this chapter, the Secretary shall pay to program participant for an operating agreement under this chapter an amount equal to \$6,000,000 for each vessel cov-