

(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 an 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Agreement after the Operating Agreement with the Contractor has expired according to its terms or is otherwise no longer in effect.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 include 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**

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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 con-