

In paragraph (8), before subparagraph (A), the words “instrument of indebtedness” are substituted for “note, bond, debenture, or other evidence of indebtedness” to eliminate unnecessary words. In subparagraph (B), the reference to section 53717 is substituted for the reference to 46 App. U.S.C. 1272 because the accounts under section 53717 replace the Federal Ship Financing Fund. See the explanation for section 53717.

**Editorial Notes**

AMENDMENTS

2019—Pars. (5) to (15). Pub. L. 116-92 redesignated pars. (6) to (15) as (5) to (14), respectively, added a new par. (15), and struck out former par. (5) which defined “eligible export vessel”.

2016—Pars. (8) to (15). Pub. L. 114-120 added par. (8) and redesignated former pars. (8) to (14) as (9) to (15), respectively.

2008—Pub. L. 110-181, §3522(b), repealed Pub. L. 109-163, §3507(a)(1)(A), (b)(1). See 2006 Amendment note below.

Pub. L. 110-181, §3522(a)(10)(B), incorporated the substance of the amendment by Pub. L. 109-163, §3507(a)(1)(A), into this section by inserting “or Administrator” after “Secretary” wherever appearing in pars. (1)(B), (4), and (9)(A). See 2006 Amendment note below and section 18(a) of Pub. L. 109-304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

Pub. L. 110-181, §3522(a)(1), incorporated the substance of the amendment by Pub. L. 109-163, §3507(b)(1), into this section by adding pars. (2) and (13), redesignating former pars. (2) to (13) as (3) to (14), respectively, and striking out former par. (13), which defined “Secretary”. See 2006 Amendment note below and section 18(a) of Pub. L. 109-304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

2006—Pub. L. 109-163, §3507(a)(1)(A), (b)(1), which directed the amendment of section 1271 of the former Appendix to this title from which this section was derived, was repealed by Pub. L. 110-181, §3522(b). See 2008 Amendment notes and Historical and Revision notes above.

**§ 53702. General authority**

(a) IN GENERAL.—

(1) GUARANTEE OF PAYMENTS.—The Secretary or Administrator, on terms the Secretary or Administrator may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation eligible to be guaranteed under this chapter. A guarantee or commitment to guarantee shall cover 100 percent of the principal and interest.

(2) PREFERRED ELIGIBLE LENDER.—The Federal Financing Bank shall be the preferred eligible lender of the principal and interest of the guaranteed obligations issued under this chapter.

(b) DIRECT LOANS FOR FISHERIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this chapter, any obligation involving a fishing vessel, fishery facility, aquaculture facility, individual fishing quota, or fishing capacity reduction program issued under this chapter after October 11, 1996, shall be a direct loan obligation for which the Secretary shall be the obligee, rather than an obligation issued to an obligee other than the Secretary and guaranteed by the Secretary. A direct loan obligation under this subsection shall be treated in the same manner and to the

same extent as an obligation guaranteed under this chapter except with respect to provisions of this chapter that by their nature can only be applied to obligations guaranteed under this chapter.

(2) INTEREST RATE.—Notwithstanding any other provision of this chapter, the annual rate of interest an obligor shall pay on a direct loan obligation under this subsection is 2 percent plus the additional percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan.

(3) MINIMUM OBLIGATIONS AVAILABLE FOR HISTORIC USES.—Of the direct loan obligations issued by the Secretary under this chapter, the Secretary shall make a minimum of \$59,000,000 available each fiscal year for historic uses.

(4) USE OF OBLIGATIONS IN LIMITED ACCESS FISHERIES.—In addition to the other eligible purposes and uses of direct loan obligations provided for in this chapter, the Secretary may issue direct loan obligations for the purpose of—

(A) financing the construction or reconstruction of a fishing vessel in a fishery managed under a limited access system; or

(B) financing the purchase of harvesting rights in a fishery that is federally managed under a limited access system.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1603; Pub. L. 109-163, div. C, title XXXV, §3507(a)(1)(C), (d), Jan. 6, 2006, 119 Stat. 3555, 3557; Pub. L. 110-181, div. C, title XXXV, §3522(a)(10)(B), (b), Jan. 28, 2008, 122 Stat. 598; Pub. L. 114-120, title III, §302(a)(2), Feb. 8, 2016, 130 Stat. 52; Pub. L. 116-92, div. C, title XXXV, §3506(b), Dec. 20, 2019, 133 Stat. 1971.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53702(a) .....	46 App.:1273(a).	June 29, 1936, ch. 858, title XI, §1103(a), as added June 23, 1938, ch. 600, §46, 52 Stat. 969; Aug. 15, 1953, ch. 513, §1, 67 Stat. 626; Sept. 3, 1954, ch. 1265, §3, 68 Stat. 1268; June 25, 1956, ch. 438, 70 Stat. 332; Aug. 7, 1956, ch. 1026, §1(a), (c), (d), 70 Stat. 1087; Pub. L. 91-469, §30, Oct. 21, 1970, 84 Stat. 1035; restated Pub. L. 92-507, §3, Oct. 19, 1972, 86 Stat. 910; Pub. L. 97-31, §12(136), Aug. 6, 1981, 95 Stat. 166; Pub. L. 99-509, title V, §5002, Oct. 21, 1986, 100 Stat. 1912; Pub. L. 103-160, div. A, title XIII, §1356(5), Nov. 30, 1993, 107 Stat. 1814.
53702(b) .....	46 App.:1279g.	June 29, 1936, ch. 858, title XI, §1112, as added Pub. L. 104-297, title III, §303(a), Oct. 11, 1996, 110 Stat. 3616.

In subsection (a), the words “on terms the Secretary may prescribe” are added based on language in 46 App. U.S.C. 1274(a) (before cl. (1)). The words “the unpaid balance of” are omitted as unnecessary.

**Editorial Notes**

CODIFICATION

Subsec. (b) of this section was derived from section 1112 of act June 29, 1936, as added by Pub. L. 104-297, §303(a), which was classified to section 1279g of the

former Appendix to this title. Section 1112 was renumbered section 1114 of the Act by Pub. L. 109-163, div. C, title XXXV, §3507(d), Jan. 6, 2006, 119 Stat. 3557, which was repealed by Pub. L. 110-181, div. C, title XXXV, §3522(b), Jan. 28, 2008, 122 Stat. 598. See Historical and Revision notes above and section 18(a) of Pub. L. 109-304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

#### AMENDMENTS

2019—Subsec. (a). Pub. L. 116-92 amended subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary or Administrator, on terms the Secretary or Administrator may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation eligible to be guaranteed under this chapter. A guarantee or commitment to guarantee shall cover 100 percent of the principal and interest.”

2016—Subsec. (b)(3), (4). Pub. L. 114-120 added pars. (3) and (4).

2008—Pub. L. 110-181, §3522(b), repealed Pub. L. 109-163, §3507(a)(1)(C), (d). See 2006 Amendment note below and Codification note above.

Subsec. (a). Pub. L. 110-181, §3522(a)(10)(B), incorporated the substance of the amendment by Pub. L. 109-163, §3507(a)(1)(C), into this section by inserting “or Administrator” after “Secretary” in two places. See 2006 Amendment note below and section 18(a) of Pub. L. 109-304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

2006—Pub. L. 109-163, §3507(a)(1)(C), which directed the amendment of section 1273(a) of the former Appendix to this title from which subsec. (a) of this section was derived, was repealed by Pub. L. 110-181, §3522(b). See 2008 Amendment note for subsec. (a) and Historical and Revision notes above.

### § 53703. Application and administration

#### (a) TIME FOR DECISION.—

(1) IN GENERAL.—The Secretary or Administrator shall approve or deny an application for a loan guarantee under this chapter within 270 days after the date on which the signed application is received by the Secretary or Administrator.

(2) EXTENSION.—On request by an applicant, the Secretary or Administrator may extend the 270-day period in paragraph (1) to a date not later than 2 years after the date on which the signed application was received by the Secretary or Administrator.

(b) CERTIFICATION OF REVIEW.—The Secretary or Administrator may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary or Administrator certifies that a full and fair consideration of all the regulatory requirements, including economic soundness and financial requirements applicable to the obligor and related parties, and a thorough assessment of the technical, economic, and financial aspects of the loan application, has been made.

#### (c) INDEPENDENT ANALYSIS.—

(1) IN GENERAL.—To assess and mitigate the risks due to factors associated with markets, technology, financial, or legal structures related to an application or guarantee under this chapter, the Secretary or Administrator may utilize third party experts, including legal counsel, to—

(A) process and review applications under this chapter, including conducting independent analysis and review of aspects of an application;

(B) represent the Secretary or Administrator in structuring and documenting the obligation guarantee;

(C) analyze and review aspects of, structure, and document the obligation guarantee during the term of the guarantee;

(D) recommend financial covenants or financial ratios to be met by the applicant during the time a guarantee under this chapter is outstanding that are—

(i) based on the financial covenants or financial ratios, if any, that are then applicable to the obligor under private sector credit agreements; and

(ii) in lieu of other financial covenants applicable to the obligor under this chapter with respect to requirements regarding long-term debt-to-equity, minimum working capital, or minimum amount of equity; and

(E) represent the Secretary or Administrator to protect the security interests of the Government relating to an obligation guarantee.

(2) PRIVATE SECTOR EXPERT.—Independent analysis, review, and representation conducted under this subsection shall be performed by a private sector expert in the applicable field who is selected by the Secretary or Administrator.

#### (d) VESSELS OF NATIONAL INTEREST.—

(1) NOTICE OF FUNDING.—The Secretary or Administrator may post a notice in the Federal Register regarding the availability of funding for obligation guarantees under this chapter for the construction, reconstruction, or reconditioning of a Vessel of National Interest and include a timeline for the submission of applications for such vessels.

#### (2) VESSEL CHARACTERISTICS.—

(A) IN GENERAL.—The Secretary or Administrator, in consultation with the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating when it is not operating as service in the Department of the Navy, or the heads of other Federal agencies, shall develop and publish a list of vessel types that would be considered Vessels of National Interest.

(B) REVIEW.—Such list shall be reviewed and revised every four years or as necessary, as determined by the Administrator.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1604; Pub. L. 109-163, div. C, title XXXV, §3507(a)(1)(D), (2)(G), (b)(7), Jan. 6, 2006, 119 Stat. 3555, 3556; Pub. L. 110-181, div. C, title XXXV, §3522(a)(10)(B), (b), Jan. 28, 2008, 122 Stat. 598; Pub. L. 116-92, div. C, title XXXV, §3506(c), Dec. 20, 2019, 133 Stat. 1971.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53703(a) .....	46 App.:1274(n).	June 29, 1936, ch. 858, title XI, §1104A(l), (n), as added Pub. L. 109-136, title XXXV, §§3523(b), 3525, Nov. 24, 2003, 117 Stat. 1800, 1801.
53703(b) .....	46 App.:1274(l).	