

“applying subparagraphs” in subpar. (B), and “section 50501” for “section 2” in subpar. (C) heading.

Subsec. (c)(3)(B). Pub. L. 109-304, §13(a)(2)(D), substituted “agreements” for “agreement”.

Subsec. (c)(4)(A). Pub. L. 109-364, §3502(b)(1)(A)–(D), redesignated cls. (i) and (ii) as cl. (i), subcls. (I) and (II), respectively, in subcl. (II) substituted “; or” for period at end, and added cl. (ii).

Subsec. (c)(4)(B). Pub. L. 109-364, §3502(b)(1)(E), inserted “with respect to which a binding contract is entered into under subparagraph (A)(i)” after “existing tank vessel”.

Subsec. (c)(4)(C), (D). Pub. L. 109-364, §3502(b)(1)(F), added subpars. (C) and (D).

#### § 53104. Effectiveness of operating agreements

(a) **EFFECTIVENESS, GENERALLY.**—The Secretary may enter into an operating agreement under this chapter for fiscal year 2006. Except as provided in subsection (b), the agreement shall be effective only for 1 fiscal year, but shall be renewable, subject to the availability of appropriations, for each subsequent fiscal year through the end of fiscal year 2035.

(b) **VESSELS UNDER CHARTER TO UNITED STATES.**—Unless an earlier date is requested by the applicant, the effective date for an operating agreement with respect to a vessel that is, on the date of entry into an operating agreement, on charter to the United States Government, other than a charter pursuant to an Emergency Preparedness Agreement under section 53107, shall be the expiration or termination date of the Government charter covering the vessel, or any earlier date the vessel is withdrawn from that charter.

(c) **TERMINATION.**—

(1) **TERMINATION BY SECRETARY.**—If the contractor with respect to an operating agreement materially fails to comply with the terms of the agreement—

(A) the Secretary shall notify the contractor and provide a reasonable opportunity to comply with the operating agreement;

(B) the Secretary shall terminate the operating agreement if the contractor fails to achieve such compliance; and

(C) upon such termination, any funds obligated by the agreement shall be available to the Secretary to carry out this chapter.

(2) **EARLY TERMINATION BY CONTRACTOR, GENERALLY.**—An operating agreement under this chapter shall terminate on a date specified by the contractor if the contractor notifies the Secretary, by not later than 60 days before the effective date of the termination, that the contractor intends to terminate the agreement.

(d) **NONRENEWAL FOR LACK OF FUNDS.**—If, by the first day of a fiscal year, sufficient funds 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 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 owner or operator of 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 such vessel after registration of the vessel under such a registry, then the vessel is available to be requisitioned by the Secretary of Transportation pursuant to chapter 563.

(Added Pub. L. 108-136, div. C, title XXXV, §3531(a), Nov. 24, 2003, 117 Stat. 1810; amended Pub. L. 109-304, §13(a)(3), Oct. 6, 2006, 120 Stat. 1701; Pub. L. 111-383, div. C, title XXXV, §3502(1), Jan. 7, 2011, 124 Stat. 4518; Pub. L. 112-239, div. C, title XXXV, §3508(d), Jan. 2, 2013, 126 Stat. 2224; Pub. L. 116-92, div. C, title XXXV, §3502(b), Dec. 20, 2019, 133 Stat. 1969.)

#### Editorial Notes

##### AMENDMENTS

2019—Subsec. (a). Pub. L. 116-92 substituted “2035” for “2025”.

2013—Subsec. (c)(3). Pub. L. 112-239, §3508(d)(1), struck out par. (3) which related to early termination by contractor, with available replacement.

Subsec. (e). Pub. L. 112-239, §3508(d)(2), struck out “an operating agreement under this chapter is terminated under subsection (c)(3), or if” after “If” in introductory provisions.

2011—Subsec. (a). Pub. L. 111-383 substituted “2025” for “2015”.

2006—Subsec. (c)(3)(B)(ii). Pub. L. 109-304, §13(a)(3)(A), substituted “section 50501 of this title” for “section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)” in subcls. (I) and (II).

Subsec. (e)(2). Pub. L. 109-304, §13(a)(3)(B), substituted “section 56101 of this title” for “section 9 of the Shipping Act, 1916 (46 U.S.C. App. 808)”.

Subsec. (e)(3). Pub. L. 109-304, §13(a)(3)(C), substituted “chapter 563 of this title” and “chapter 563” for “section 902 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1242)” and “section 902 of such Act”, respectively.

#### § 53105. Obligations and rights under operating agreements

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

(1) the vessel—

(A) shall be operated exclusively in the foreign commerce or, except as provided in paragraph (2), in mixed foreign commerce and domestic trade allowed under a registry endorsement issued under section 12111 of this title; and

(B) shall not otherwise be operated in the coastwise trade;

(2) in the case of a vessel, other than a replacement vessel under subsection (f), first