

tial obligation under a capital construction fund agreement to which the person is a party. (Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1600.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53517	46 App.:1177(m).	June 29, 1936, ch. 858, title VI, §607(m), as added Pub. L. 99-514, §261(d), Oct. 22, 1986, 100 Stat. 2214.

CHAPTER 537—LOANS AND GUARANTEES

SUBCHAPTER I—GENERAL

- Sec.
- 53701. Definitions.
- 53702. General authority.
- 53703. Application procedures.¹
- 53704. Funding limits.
- 53705. Pledge of United States Government.
- 53706. Eligible purposes of obligations.
- 53707. Findings related to obligors and operators.
- 53708. Findings related to economic soundness.
- 53709. Amount of obligations.
- 53710. Contents of obligations.
- 53711. Security interest.
- 53712. Monitoring financial condition and operations of obligor.
- 53713. Administrative fees.
- 53714. Guarantee fees.
- 53715. Escrow fund.
- 53716. Deposit fund.
- 53717. Management of funds in the Treasury.
- 53718. Annual report to Congress.
- 53719. Best practices.

SUBCHAPTER II—DEFAULT PROVISIONS

- 53721. Rights of obligee.
- 53722. Actions by Secretary or Administrator.
- 53723. Payments by Secretary or Administrator and issuance of obligations.
- 53724. Rights to secured property.
- 53725. Actions against obligor.

SUBCHAPTER III—PARTICULAR PROJECTS

- 53731. Commercial demonstration ocean thermal energy conversion facilities and plantships.
- [53732. Repealed.]
- 53733. Shipyard modernization and improvement.
- 53734. Replacement of vessels because of changes in operating standards.
- 53735. Fisheries financing and capacity reduction.

Editorial Notes

AMENDMENTS

2019—Pub. L. 116-92, div. C, title XXXV, §3506(l), Dec. 20, 2019, 133 Stat. 1974, added item 53719 and struck out item 53732 “Eligible export vessels”.

2008—Pub. L. 110-181, div. C, title XXXV, §3522(a)(10)(A), Jan. 28, 2008, 122 Stat. 598, inserted “or Administrator” after “Secretary” in items 53722 and 53723.

SUBCHAPTER I—GENERAL

§ 53701. Definitions

In this chapter:

(1) ACTUAL COST.—The term “actual cost” means the sum of—

(A) all amounts paid by or for the account of the obligor as of the date on which a de-

termination is made under section 53715(d)(1) of this title; and

(B) all amounts that the Secretary or Administrator reasonably estimates the obligor will become obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of the vessel, including guarantee fees that will become payable under section 53714 of this title in connection with all obligations issued for construction, reconstruction, or reconditioning of the vessel or equipment to be delivered, and all obligations issued for the delivered vessel or equipment.

(2) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Maritime Administration.

(3) CONSTRUCTION, RECONSTRUCTION, AND RECONDITIONING.—The terms “construction”, “reconstruction”, and “reconditioning” include designing, inspecting, outfitting, and equipping.

(4) DEPRECIATED ACTUAL COST.—The term “depreciated actual cost” of a vessel means—

(A) if the vessel was not reconstructed or reconditioned, the actual cost of the vessel depreciated on a straight line basis over the useful life of the vessel as determined by the Secretary or Administrator, not to exceed 25 years from the date of delivery by the builder; or

(B) if the vessel was reconstructed or reconditioned, the sum of—

(i) the actual cost of the vessel depreciated on a straight line basis from the date of delivery by the builder to the date of the reconstruction or reconditioning, using the original useful life of the vessel, and from the date of the reconstruction or reconditioning, using a useful life of the vessel determined by the Secretary or Administrator; and

(ii) any amount paid or obligated to be paid for the reconstruction or reconditioning, depreciated on a straight line basis using a useful life of the vessel determined by the Secretary or Administrator.

(5) FISHERY FACILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), the term “fishery facility” means—

(i) for operations on land—

(I) a structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from a fishery;

(II) the land necessary for the structure or appurtenance; and

(III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in subclause (I);

(ii) for operations not on land, a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, the processing of fish; or

(iii) for aquaculture, including operations on land or elsewhere—

(I) a structure or appurtenance thereto designed for aquaculture;

¹Section catchline amended by Pub. L. 116-92 without corresponding amendment of analysis.

- (II) the land necessary for the structure or appurtenance;
- (III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in subclause (I); and
- (IV) a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, aquaculture.
- (B) **REQUIRED OWNERSHIP.**—Under subparagraph (A), the structure, appurtenance, land, equipment, or vessel must be owned by—
- (i) an individual who is a citizen of the United States; or
 - (ii) an entity that is a citizen of the United States under section 50501 of this title and that is at least 75 percent owned (as determined under that section) by citizens of the United States.
- (6) **FISHING VESSEL.**—The term “fishing vessel” has the meaning given that term in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802), and any reference in this chapter to a vessel designed principally for commercial use in the fishing trade or industry is deemed to be a reference to a fishing vessel.
- (7) **HISTORICAL USES.**—The term “historical uses” includes—
- (A) refurbishing, repairing, rebuilding, or replacing equipment on a fishing vessel, without materially increasing harvesting capacity;
 - (B) purchasing a used fishing vessel;
 - (C) purchasing, constructing, expanding, or reconditioning a fishery facility;
 - (D) refinancing existing debt;
 - (E) reducing fishing capacity; and
 - (F) making upgrades to a fishing vessel, including upgrades in technology, gear, or equipment, that improve—
 - (i) collection and reporting of fishery-dependent data;
 - (ii) bycatch reduction or avoidance;
 - (iii) gear selectivity;
 - (iv) adverse impacts caused by fishing gear; or
 - (v) safety.
- (8) **MORTGAGE.**—The term “mortgage” includes—
- (A) a preferred mortgage as defined in section 31301 of this title; and
 - (B) a mortgage on a vessel that will become a preferred mortgage when filed or recorded under chapter 313 of this title.
- (9) **OBLIGATION.**—The term “obligation” means an instrument of indebtedness issued for a purpose described in section 53706 of this title, except—
- (A) an obligation issued by the Secretary or Administrator under section 53723 of this title; and
 - (B) an obligation eligible for investment of funds under section 53715(f) or 53717 of this title.
- (10) **OBLIGEE.**—The term “obligee” means the holder of an obligation.
- (11) **OBLIGOR.**—The term “obligor” means a party primarily liable for payment of the principal of or interest on an obligation.
- (12) **OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.**—The term “ocean thermal energy conversion facility or plantship” means an at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, that uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes—
- (A) equipment installed on the facility or vessel to use the electricity or other form of energy to produce, process, refine, or manufacture a product;
 - (B) a cable or pipeline used to deliver the electricity, freshwater, or product to shore; and
 - (C) other associated equipment and appurtenances of the facility or vessel to the extent they are located seaward of the high water mark.
- (13) **SECRETARY.**—The term “Secretary” means the Secretary of Commerce with respect to fishing vessels and fishery facilities.
- (14) **VESSEL.**—The term “vessel” means any type of vessel, whether in existence or under construction, including—
- (A) a cargo vessel;
 - (B) a passenger vessel;
 - (C) a combination cargo and passenger vessel;
 - (D) a tanker;
 - (E) a tug or towboat;
 - (F) a barge;
 - (G) a dredge;
 - (H) a floating drydock with a capacity of at least 35,000 lifting tons and a beam of at least 125 feet between the wing walls;
 - (I) an oceanographic research vessel;
 - (J) an instruction vessel;
 - (K) a pollution treatment, abatement, or control vessel;
 - (L) a fishing vessel whose ownership meets the citizenship requirements under section 50501 of this title for documenting vessels to operate in the coastwise trade; and
 - (M) an ocean thermal energy conversion facility or plantship that is or will be documented under the laws of the United States.
- (15) **VESSEL OF NATIONAL INTEREST.**—The term “Vessel of National Interest” means a vessel deemed to be of national interest that meets characteristics determined by the 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 a service in the Department of the Navy, or the heads of other Federal agencies, as described in section 53703(d).

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1601; Pub. L. 109–163, div. C, title XXXV, §3507(a)(1)(A), (b)(1), Jan. 6, 2006, 119 Stat. 3555; Pub. L. 110–181, div. C, title XXXV, §3522(a)(1), (10)(B), (b), Jan. 28, 2008, 122 Stat. 596, 598; Pub. L. 114–120, title III, §302(a)(1), Feb. 8, 2016, 130 Stat. 51; Pub. L. 116–92, div. C, title XXXV, §3506(a), Dec. 20, 2019, 133 Stat. 1970.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53701(1)	46 App.:1271(f).	June 29, 1936, ch. 858, title XI, §1101, as added June 23, 1938, ch. 600, §46, 52 Stat. 969; Sept. 3, 1954, ch. 1265, §1, 68 Stat. 1267; Aug. 7, 1956, ch. 1026, §1(a), (b), 70 Stat. 1087; Pub. L. 86-127, §1(1), July 31, 1959, 73 Stat. 272; Pub. L. 86-685, §1, Sept. 2, 1960, 74 Stat. 733; Pub. L. 87-303, §2, Sept. 26, 1961, 75 Stat. 661; Pub. L. 91-469, §29, Oct. 21, 1970, 84 Stat. 1035; Pub. L. 92-507, §1, Oct. 19, 1972, 86 Stat. 909; Pub. L. 96-320, title II, §202(a), Aug. 3, 1980, 94 Stat. 992; Pub. L. 96-561, title II, §220(1), Dec. 22, 1980, 94 Stat. 3291; Pub. L. 97-31, §12(135), Aug. 6, 1981, 95 Stat. 165; Pub. L. 100-710, title I, §104(d), Nov. 23, 1988, 102 Stat. 4750; Pub. L. 102-567, title III, §304, Oct. 29, 1992, 106 Stat. 4283; Pub. L. 103-160, title XIII, §1356(1), 1357(b), Nov. 30, 1993, 107 Stat. 1812, 1815; Pub. L. 104-208, title I, §101 [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009-41; Pub. L. 104-239, §11(1), Oct. 8, 1996, 110 Stat. 3134; Pub. L. 108-136, title XXXV, §3521(b), Nov. 24, 2003, 117 Stat. 1799.
53701(2)	46 App.:1271(h).	
53701(3)	46 App.:1271(g).	
53701(4)	46 App.:1271(o).	
53701(5)	46 App.:1271(j), (k), (m).	
53701(6)	46 App.:1271(l).	
53701(7)	46 App.:1271(a).	
53701(8)	46 App.:1271(c).	
53701(9)	46 App.:1271(e).	
53701(10)	46 App.:1271(d).	
53701(11)	46 App.:1271(i).	
53701(12)	46 App.:1271(m).	
53701(13)	46 App.:1271(b).	

In paragraph (2), the words “but shall not be limited to” are omitted as unnecessary.

In paragraph (4)(B), the words “become or remain” are substituted for “be placed under or continued to be” for clarity.

In paragraph (5)(B)(i), the words “individual who is a citizen of the United States” are substituted for “individual who is a citizen or national of the United States or a citizen of the Northern Mariana Islands” in 46 App. U.S.C. 1271(k) because of the definition of “citizen of the United States” in chapter 1 of the revised title. Citizens of the Northern Mariana Islands became citizens or non-citizen nationals of the United States (either of which is a “citizen of the United States” as defined in chapter 1 of the revised title) when the Covenant establishing the Commonwealth of the Northern Mariana Islands became effective on November 4, 1986.

In paragraph (5)(B)(ii), the words “corporation, partnership, association, or other” are omitted as surplus [sic]. The words “the term ‘State’ as used therein includes any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other Commonwealth, territory, or possession of the United States” in 46 App. U.S.C. 1271(k) are omitted as unnecessary because of the definitions of “State” and “United States” in chapter 1 of the revised title. The definition of “United States” in 46 App. U.S.C. 1271(m) is omitted as unnecessary because of the definition of “United States” in chapter 1. The words “and nationals of the United States or citizens of the Northern Mariana Islands shall be treated as citizens of the United States in meeting such ownership requirement” are omitted as unnecessary because of the definition of “citizen of the United States” in chapter 1 of the revised title.

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