

shall be operated in the same way as the the account established under section 54106(a)(1) of this title. However--

(1) amounts received by the Secretary under chapter 543 of this title related to guarantees or commitments to guarantee made under this chapter shall be deposited only in the OTEC Demonstration Fund; and

(2) when obligations issued by the Secretary under section 54333 of this title related to the OTEC Demonstration Fund are outstanding, any amount received by the Secretary under chapter 543 of this title related to ocean thermal energy conversion facilities or plantships shall be deposited in the OTEC Demonstration Fund.

(c) Transfers.--Assets in the OTEC Demonstration Fund may be transferred to the the account established under section 54106(a)(1) of this title when and to the extent the balance in the OTEC Demonstration Fund exceeds the total guarantees or commitments to guarantee made under this chapter then outstanding, plus obligations issued by the Secretary under section 54333 of this title related to the OTEC Demonstration Fund.

(d) Non-Liability.--The the account established under section 54106(a)(1) of this title is not liable for a guarantee or commitment to guarantee issued under this chapter.

(e) Maximum Unpaid Principal Amount.--The total unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time may not exceed \$1,650,000,000.

Sec. 54506. Issuance and payment of obligations

Section 54333 of this title applies to the OTEC Demonstration Fund. However, obligations issued by the Secretary under section 54333 related to the OTEC Demonstration Fund shall be payable only from proceeds realized by the OTEC Demonstration Fund.

Sec. 54507. Taxation of interest

Interest on an obligation guaranteed under this chapter shall be included in gross income under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

CHAPTER 546--REPLACEMENT OF VESSELS BECAUSE OF CHANGES IN OPERATING STANDARDS

Sec.

54601. Guarantee of obligations.

54602. Term and amount of obligations.

54603. Vessel Replacement Guarantee Fund.

54604. Guarantee fees.

Sec. 54601. Guarantee of obligations

(a) General Authority.--Under chapter 543 of this title, the Secretary may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing or refinancing (including reimbursement of an obligor for expenditures previously made for) a contract for the construction or reconstruction of a vessel if--

(1) the vessel is designed and to be used for commercial use in coastwise trade, as specified by chapter 561 of this title, or foreign commerce;

(2) the construction or reconstruction is necessary to replace a vessel that cannot continue to be operated because of a change required by law in the standards for the operation of vessels, and the applicant for the guarantee or commitment would not otherwise legally be able to continue operating vessels in the types of trade or commerce in which the applicant operated vessels before the change;

(3) the applicant is presently engaged in transporting cargoes in vessels of the type and class that will be constructed or reconstructed under this chapter and agrees to employ vessels constructed or reconstructed under this chapter as replacements only for vessels made obsolete by the change in operating standards;

(4) the capacity of the vessels to be constructed or reconstructed under this chapter will not increase the cargo carrying capacity of the vessels being replaced;

(5) the Secretary has not found that the market demand for the vessel over its useful life will diminish so as to make granting the guarantee fiducially imprudent;

(6) the vessel, if to be reconstructed, will have a useful life of at least 15 years after the reconstruction; and

(7) the Secretary has considered the criteria specified in section 54306(3)-(5) of this title.

(b) Application of Chapter 543.--A guarantee or commitment to guarantee under this chapter is subject to chapter 543 of this title--

(1) except sections 54303(b), 54304, 54305(a)(3) and (b), 54306-54308, 54321, and 54322; and

(2) except to the extent this chapter contains a contrary provision.

Sec. 54602. Term and amount of obligations

(a) Term.--The term of an obligation guaranteed under this chapter may not be more than 25 years.

(b) Amount.--(1) The amount of an obligation guaranteed under this chapter may not be more than 87.5 percent of the actual cost or depreciated actual cost to the applicant for the construction or reconstruction of the vessel.

(2) The Secretary may not establish a percentage under paragraph (1) of this subsection that is to be applied uniformly to all guarantees or commitments to guarantee made under this chapter.

Sec. 54603. Vessel Replacement Guarantee Fund

(a) General.--The Secretary may establish a Vessel Replacement Guarantee Fund as a subaccount in the account established under section 54106(a)(1) of this title.

(b) Deposits.--(1) The Secretary shall deposit in the Vessel Replacement Guarantee Fund--

(A) amounts received by the Secretary under chapter 543 of this title (except subchapter III) related to guarantees or commitments to guarantee under this chapter;

(B) amounts received by the Secretary under chapter 543 of this title (except subchapter III) from applicants under this chapter, when obligations issued by the Secretary under section 54333 of this title related to the Vessel Replacement Guarantee Fund are outstanding; and

(C) fees collected under section 54604 of this title.

(2) Fees payable under section 54104 of this title shall be deposited in the account established under section 54106(a)(1) of this title and not the Vessel Replacement Guarantee Fund.

(c) Non-Liability.--The account established under section 54106(a)(1) of this title is not liable for a guarantee or commitment to guarantee made under this chapter.

Sec. 54604. Guarantee fees

The Secretary may establish a fee for the guarantee of an obligation under this chapter that is in addition to the fee established under section 54105 of this title. The fee may be--

(1) an annual fee of not more than an additional one percent of the fee established under section 54105 of this title; or

(2) a fee based on the amount of the obligation compared to the percentage of the obligor's fleet being replaced by vessels constructed or reconstructed under this section.

CHAPTER 547--SHIPYARD MODERNIZATION AND IMPROVEMENT

Sec.

54701. Definitions.

54702. Guarantee of obligations.

54703. Amount of obligations.

54704. Transfer of amounts.

Sec. 54701. Definitions

In this chapter--

(1) "advanced shipbuilding technology" includes--

(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving shipbuilding and related industrial production that advance the state-of-the-art; and

(B) novel techniques and processes designed to improve shipbuilding quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

(2) "general shipyard facility" means--

(A) for operations on land--

(i) a structure or appurtenance thereto designed for constructing, repairing, rehabilitating, refurbishing, or rebuilding a vessel, including a graving dock, building way, ship lift, wharf, or pier crane;

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

(iii) equipment for use with the structure or appurtenance that is necessary for performing a function referred to in subclause (i) of this clause; and

(B) for operations not on land, a vessel, floating drydock, or barge built in the United States and used for, equipped to be used for, or of a type normally used for, performing a function referred to in subclause (A)(i) of this clause.

(3) "modern shipbuilding technology" means the best available proven technology, techniques, and processes appropriate to enhance the productivity of shipyards

Sec. 54702. Guarantee of obligations

(a) General Authority.--Under chapter 543 of this title, the Secretary may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation for advanced shipbuilding technology and modern shipbuilding technology of a general shipyard facility in the United States. Only a private shipyard is eligible to receive a guarantee.

(b) Application of Chapter 543.--A guarantee or commitment to guarantee under this chapter is subject, to the extent applicable, to chapter 543 of this title.

Sec. 54703. Amount of obligations

The principal amount of an obligation guaranteed under this chapter may not be more than 87.5 percent of the actual cost of the advanced shipbuilding technology or modern shipbuilding technology.

Sec. 54704. Transfer of amounts

The Secretary may accept the transfer of amounts from a department, agency, or instrumentality of the United States Government and may use those amounts to cover the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of making guarantees or commitments to guarantee loans under this chapter.

CHAPTER 548--ELIGIBLE EXPORT VESSELS

Sec.

54801. Guarantee of obligations.

54802. Interagency council.

54803. Restrictions.

54804. Review by Secretary of Defense.

54805. Expiration of authority.

Sec. 54801. Guarantee of obligations

(a) General Authority.--(1) Under chapter 543 of this title, the Secretary of Transportation may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in--

(A) financing (including reimbursement of an obligor for expenditures previously made for) the building, rebuilding, or reconditioning of an eligible export vessel designed principally for commercial use in world-wide commerce;
or

(B) refinancing an existing obligation (regardless of whether guaranteed under this chapter) issued for a purpose described in clause (A) of this paragraph, including a short-term obligation incurred to obtain temporary capital with the intention of refinancing.

(2) A guarantee may not be made under paragraph (1)(A) of this subsection more than one year after delivery of the vessel (or redelivery if the vessel was rebuilt or reconditioned) unless the proceeds of the obligation are used to finance the building, rebuilding, or reconditioning of a vessel or of facilities or equipment related to marine operations.

(b) Applicable Terms.--The Secretary of Transportation may guarantee an obligation under this chapter in accordance with--

(1) the terms applicable under this part for vessels documented under the laws of the United States; or

(2) other terms that the Secretary decides are--

(A) more favorable than the terms under clause (1) of this section;
and

(B) compatible with export credit terms offered by governments of foreign countries for the sale of vessels built in foreign shipyards.

(c) Amount of Obligations.--The principal amount of an obligation guaranteed under this chapter may not be more than 87.5 percent of the actual cost or depreciated actual cost of the vessel.

Sec. 54802. Interagency council

(a) Establishment.--There is an interagency council to carry out this chapter.

(b) Composition.--The council is composed of the following individuals or their designees:

- (1) The Secretary of Transportation, who is the chairman of the council.
- (2) The Secretary of the Treasury.
- (3) The Secretary of State.
- (4) The Assistant to the President for Economic Policy.
- (5) The United States Trade Representative.
- (6) The President and Chairman of the Export-Import Bank of the United States.

(c) Functions.--The council shall--

- (1) obtain information on shipbuilding loan guarantees, subsidies, and other favorable treatment of shipyards provided by governments of foreign countries to shipyards in competition with United States shipyards;
- (2) consult regularly with United States shipbuilders to obtain the essential information about international shipbuilding competition on which to set terms for loan guarantees under section 54801(b)(2) of this title; and
- (3) provide guidance to the Secretary of Transportation in establishing terms for loan guarantees under section 54801(b)(2) of this title.

Sec. 54803. Restrictions

(a) Transition or Preservation of Shipbuilding Industry.--The Secretary of Transportation may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the Secretary finds that the building, rebuilding, or reconditioning of the vessel will aid in the transition of United States shipyards to commercial activities or will preserve shipbuilding assets that would be essential in time of war or national emergency.

(b) Priority of Documented Vessels.--The Secretary of Transportation may not make a commitment to guarantee an obligation for an eligible export vessel unless the Secretary decides that making the commitment will not result in denial of an economically sound application for a commitment to guarantee an obligation for a vessel documented under the laws of the United States and operating in the domestic or foreign commerce of the United States. The Secretary has sole discretion to make the decision under this subsection, but the Secretary shall consider--

(1) the status and economic soundness of pending applications for commitments to guarantee obligations for vessels documented under the laws of the United States that are operating or will be operating in the domestic or foreign commerce of the United States; and

(2) the amount of guarantee authority available.

(c) Transfer of Vessel.--The Secretary of Transportation may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the owner of the vessel agrees with the Secretary of Transportation that the vessel will not be transferred to a country designated by the Secretary of Defense as a country whose interests are hostile to the interests of the United States.

Sec. 54804. Review by Secretary of Defense

(a) Notification.--The Secretary of Transportation shall promptly notify the Secretary of Defense of the receipt of an application for a loan guarantee for an eligible export vessel.

(b) Disapproval.--(1) During the 30-day period beginning on the date on which the Secretary of Defense receives notice under subsection (a) of this section, the Secretary of Defense may disapprove the loan guarantee based on an assessment by the Secretary of Defense of the potential use of the vessel in a way that may harm the national security interests of the United States. The Secretary of Defense may not disapprove a loan guarantee under this section solely because of the type of vessel to be built.

(2) The Secretary of Transportation may not make a loan guarantee disapproved by the Secretary of Defense under this section.

(c) Delegation.--The authority of the Secretary of Defense to disapprove a loan guarantee under this section may be delegated only to a civilian officer of the Department of Defense appointed by the President by and with the advice and consent of the Senate.

Sec. 54805. Expiration of authority

The Secretary of Transportation may not issue a commitment to guarantee an obligation for an eligible export vessel under this chapter after the last date on which those commitments may be issued under any treaty or convention entered into after November 30, 1993, that prohibits guarantee of those obligations.

CHAPTER 549--FISHING VESSEL AND FISHERY FACILITY LOANS

Sec.

54901. Definition.

54902. Loans.

- 54903. Fishing Capacity Reduction Fund.
- 54904. Loan provisions.
- 54905. Loan restrictions.
- 54906. Cap on loan amount.
- 54907. Administration of loan program.

Sec. 54901. Definition; construction of term

(a) Definition.--In this chapter, the term "program" means a fishing capacity reduction program established under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a).

(b) Construction of Term.--In this chapter, the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility.

Sec. 54902. Loans

(a) General Authority.--The Secretary of Commerce may, after October 11, 1996, and on terms the Secretary prescribes, make a direct loan in aid of--

(1) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a fishing vessel owned only by citizens of the United States and designed principally for research or commercial use in the fishing industry.

(2) Financing the purchase, reconstruction, or reconditioning of a fishing vessel or fishery facility--

(A) for which an obligation was guaranteed under this part; and

(B) that, under subchapter III of chapter 543--

(i) is a fishing vessel or fishery facility for which an obligation was accelerated and paid; or

(ii) was sold at foreclosure begun by the Secretary.

(3) Refinancing an existing obligation (regardless of whether guaranteed under this part) issued for a purpose described in clause (1) or (2) of this section, including a short-term obligation incurred to obtain temporary capital with the intention of refinancing.

(4) Financing or refinancing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a fishery facility, including an aquaculture facility.

(f) Limit on Amount of Outstanding Loans.--The total amount of loans issued under this chapter may not exceed \$100,000,000 in an unpaid principal amount outstanding at any one time for a program.

Sec. 54903. Fishing Capacity Reduction Fund

(a) Fishing Capacity Reduction Fund.--There is a separate account in the Treasury, known as the Fishing Capacity Reduction Fund. Within the Fund, at least one subaccount shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

(b) Use of Fund.--Amounts in the Fund shall be available, without appropriation or fiscal year limitation, to the Secretary of Commerce to pay the cost of the program, including payments to pay debt obligations incurred by entities under this section. Funds available for this purpose from other amounts available for the program may also be used to pay those debt obligations.

(c) Treatment of Fund Balance.--Amounts in the Fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States.

Sec. 54904. Loan provisions

(a) General Requirements.--A loan obligation entered into under this chapter must--

(1) provide for payments by the obligor satisfactory to the Secretary of Commerce;

(2) provide for interest at a rate calculated under section 54902(c) of this title;

(3) have a maturity date satisfactory to the Secretary, but not in excess of 20 years or, in the case of a fishing vessel, the remaining years of useful life of the vessel (as determined by the Secretary) if less; and

(4) provide, or a related agreement must provide, that if the vessel that is security for the loan is a delivered vessel, the vessel shall be--

(A) in class A-1, American Bureau of Shipping, or meet other classification standards acceptable to the Secretary, with every required certificate, including every marine inspection certificate of the Coast Guard, and with every outstanding requirement and recommendation necessary for class retention accomplished, unless the Secretary permits a

deferral of repairs necessary to meet those classification and certification requirements; and

(B) well equipped, in good repair, and in every respect seaworthy and fit for service.

(b) Other Provisions To Protect Security Interests.--A loan obligation entered into under this chapter and any related agreement must contain other provisions for the protection of the security interests of the Government (including acceleration, assumption, and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payment of taxes, and other matters that the Secretary may prescribe.

Sec. 54905. Loan restrictions

(a) General Requirements.--The Secretary of Commerce may not make a loan under this chapter unless the Secretary finds, at or prior to the time the loan is made, that--

(1) the property or project for which the loan will be executed will be economically sound; and

(2) for a fishing vessel, the purpose of the financing or refinancing is consistent with--

(A) the wise use of the fisheries resources and the development, advancement, management, conservation, and protection of the fisheries resources; or

(B) the need for technical improvements, including increased fuel efficiency or improved safety.

(b) Limitations Involving Used Vessels and Facilities.--The Secretary may not make a loan for the purchase of a used fishing vessel or used fishery facility unless the vessel or facility will be--

(1) reconstructed or reconditioned in the United States and will contribute to the development of the United States fishing industry; or

(2) used--

(A) in the harvesting of fish from an underused fishery; or

(B) for a purpose described in the definition of "fishery facility" in section 54101 of this title, related to an underused fishery.

(c) Limitation on Obligor Qualifications.--The Secretary may not make a loan under this part unless the Secretary finds that the obligor is responsible and has the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of any vessel that will be security for the loan.
Sec. 54906. Cap on loan amount

(a) Percentage Limitations.--(1) For a fishing vessel or fishery facility, the principal amount of a loan made under this chapter may not be more than 80 percent of the actual cost or depreciated actual cost. However, debt for the vessel or facility may not be placed through the Federal Financing Bank.

(2) The principal amount of a loan made under this chapter may not be more than 87.5 percent of the actual cost or depreciated actual cost if--

(A) the size and speed of the vessel are approved by the Secretary of Commerce;

(B) the vessel is or would have been eligible for a construction-differential subsidy under section 53533 of this title (or would have been eligible except that the vessel was built with a construction-differential subsidy and the subsidy has been repaid); and

(C) the vessel is of a type described in section 53533 of this title for which the minimum down payment required by that section is 12.5 percent of the cost of the vessel.

(b) Prohibition on Uniform Percentage Limitations.--The Secretary may not establish a percentage under any provision of subsection (a) of this section that is to be applied uniformly to all loans made under that provision.

(c) Security Involving Multiple Vessels.--The principal amount of a loan having more than one vessel as security for the loan may not be more than the sum of the principal amount of loan obligations allowable for each vessel.

Sec. 54907. Administration of loan program

(a) Regulations.--The Secretary of Commerce shall prescribe regulations the Secretary considers necessary to carry out this chapter.

(b) Escrow Fund.--The Secretary may administer loan proceeds under the escrow provisions of Subchapter II of chapter 543 of this title, except for provisions that, by their nature, cannot be applied to direct loans of the federal government.

(c) Loan Defaults.--The Secretary may act on a loan default under the provisions of Subchapter III of chapter 543 of this title, except for provisions that, by their nature, cannot be applied to direct loans of the federal government.

PART E--INVESTMENT CAPITAL ACCUMULATION PROGRAMS

CHAPTER 551--CONSTRUCTION RESERVE FUNDS

Sec.

55101. Definitions.

55102. Authority for construction reserve funds.

55103. Persons eligible to establish funds.

55104. Vessel ownership.

55105. Eligible fund deposits.

55106. Recognition of gain for tax purposes.

55107. Basis for determining gain or loss and for depreciating new vessels.

55108. Order and proportions of deposits and withdrawals.

55109. Accumulation of deposits.

55110. Obligation of deposits and period for construction of certain vessels.

55111. Taxation of deposits on failure of conditions.

55112. Assessment and collection of deficiency tax.

Sec. 55101. Definitions

(a) General.--In this chapter--

(1) "contract for the construction" and "construction contract" include, for a taxpayer constructing a new vessel in a shipyard owned by that taxpayer, an agreement between the taxpayer and the Secretary for that construction containing provisions the Secretary considers advisable to carry out this chapter.

(2) "new vessel" means--

(A) a vessel--

(i) constructed in the United States after December 31, 1939, constructed with a construction-differential subsidy or financing guarantee under this subtitle, or constructed by the Secretary of Transportation under chapter 595 of this title;

(ii) documented or agreed with the Secretary to be documented under the laws of the United States; and

(iii)(I) of a type, size, and speed that the Secretary decides is suitable for use on the high seas or Great Lakes in carrying out this subtitle, but not less than 2,000 gross tons or less speed than 12 knots unless the Secretary certifies in each case that a vessel of lesser tonnage or

speed is desirable for use by the United States Government in case of war or national emergency; or

(II) constructed to replace a vessel bought or requisitioned by the Government; or

(B) a vessel reconstructed or reconditioned for use only on the Great Lakes, including the Saint Lawrence River and Gulf, if the Secretary finds that the reconstruction or reconditioning will promote this subtitle.

(b) Additional Tax-Related Terms.--Other terms used in this chapter have the same meaning as in chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

Sec. 55102. Authority for construction reserve funds

(a) General Authority.--An eligible person under section 55103 of this title may establish a construction reserve fund for the construction, reconstruction, reconditioning, or acquisition of a new vessel or for other purposes authorized by this chapter.

(b) Application of Certain Laws and Regulations.--The fund shall be established, maintained, expended, and used as provided by this chapter and regulations prescribed jointly by the Secretary and the Secretary of the Treasury.

Sec. 55103. Persons eligible to establish funds

A construction reserve fund may be established by a citizen of the United States that--

(1) is operating a vessel in the foreign or domestic commerce of the United States or in the fisheries;

(2) owns, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries;

(3) was operating a vessel in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the United States Government;

(4) owned, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government; or

(5) had acquired or was having constructed a vessel to operate in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government.

Sec. 55104. Vessel ownership

In this chapter, a vessel is deemed to be constructed or acquired by a taxpayer if constructed or acquired by a corporation when the taxpayer owns at least 95 percent of each class of stock of the corporation.

Sec. 55105. Eligible fund deposits

A construction reserve fund may include deposits of--

- (1) the proceeds from the sale of a vessel;
- (2) indemnities for the loss of a vessel;
- (3) earnings from the operation of a documented vessel and from services incident to the operation; and
- (4) interest or other amounts accrued on deposits in the fund.

Sec. 55106. Recognition of gain for tax purposes

(a) Definitions.--In this section, "net proceeds" and "net indemnity" mean the sum of--

- (1) the adjusted basis of the vessel; and
- (2) the amount of gain the taxpayer would recognize without regard to this section.

(b) Nonrecognition of Gain.--In computing net income under the income or excess profits tax laws of the United States, a taxpayer does not recognize a gain on the sale or the actual or constructive total loss of a vessel if the taxpayer--

(1) deposits an amount equal to the net proceeds of the sale or the net indemnity for the loss in a construction reserve fund within 60 days after receiving the payment of proceeds or indemnity; and

(2) elects under this section not to recognize the gain.

(c) When Election Must Be Made.--(1) Except as provided in paragraph (2) of this subsection, the taxpayer must make the election referred to in subsection (b) of this section in the taxpayer's income tax return for the taxable year in which the gain was realized.

(2) If the vessel is bought or requisitioned by the United States Government, or is lost, and the taxpayer receives payment for the vessel or indemnity for the loss from the

Government after the end of the taxable year in which it was bought, requisitioned, or lost, the taxpayer must make the election referred to in subsection (b) of this section within 60 days after receiving the payment or indemnity, on a form prescribed by the Secretary of the Treasury.

(d) Effect of Statute of Limitation.--If the taxpayer makes an election under subsection (c)(2) of this section, and computation or recomputation under this section is otherwise allowable but is prevented by a statute of limitation on the date the election is made or within 6 months thereafter, the computation or recomputation nevertheless shall be made notwithstanding the statute if the taxpayer files a claim for the computation or recomputation within 6 months after the date of making the election.

Sec. 55107. Basis for determining gain or loss and for depreciating new vessels

Under the income or excess profits tax laws of the United States, the basis for determining a gain or loss and for depreciating a new vessel constructed, reconstructed, reconditioned, or acquired by the taxpayer, or for which purchase-money indebtedness is liquidated as provided in section 55110 of this title, with amounts from a construction reserve fund, shall be reduced by that part of the deposits in the fund expended in the construction, reconstruction, reconditioning, acquisition, or liquidation of purchase-money indebtedness of the new vessel that represents a gain not recognized for tax purposes under section 55106 of this title.

Sec. 55108. Order and proportions of deposits and withdrawals

In this chapter--

(1) if the net proceeds of a sale or the net indemnity for a loss is deposited in more than one deposit, the amount consisting of the gain shall be deemed to be deposited first;

(2) amounts expended, obligated, or withdrawn shall be applied against the amounts deposited in the fund in the order of deposit; and

(3) if a deposit consists in part of a gain not recognized under section 55106 of this title, any expenditure, obligation, or withdrawal applied against that deposit shall be deemed to be a gain in the proportion that the part of the deposit consisting of a gain bears to the total amount of the deposit.

Sec. 55109. Accumulation of deposits

For any taxable year, amounts on deposit in a construction reserve fund on the last day of the taxable year, for which the requirements of section 55110 of this title have been satisfied (to the extent they apply on the last day of the taxable year), are deemed to have been retained for the reasonable needs of the business within the meaning of section 537(a) of the Internal Revenue Code of 1986 (26 U.S.C. 537(a)).

Sec. 55110. Obligation of deposits and period for construction of certain vessels

(a) Application of Sections 55106 and 55109.--Sections of this title apply to a deposit in a construction reserve fund only if, within 3 years after the date of the deposit (and any extension under subsection (c) of this section)--

(1)(A) a contract is made for the construction or acquisition of a new vessel or, with the approval of the Secretary, for a part interest in a new vessel or for the reconstruction or reconditioning of a new vessel;

(B) the deposit is expended or obligated for expenditure under that contract;

(C) at least 12.5 percent of the construction or contract price of the vessel is paid or irrevocably committed for payment; and

(D) the plans and specifications for the vessel are approved by the Secretary to the extent the Secretary considers necessary; or

(2) the deposit is expended or obligated for expenditure for the liquidation of existing or subsequently incurred purchase-money indebtedness to a person not a parent company of, or a company affiliated or associated with, the mortgagor on a new vessel.

(b) Additional Requirements for Certain Vessels.--In addition to the requirements of subsection (a)(1) of this section, for a vessel not constructed under under chapter 535 of this title or not bought from the Secretary--

(1) at least 5 percent of the construction (or, if the contract covers more than one vessel, at least 5 percent of the construction of the first vessel) must be completed within 6 months after the date of the construction contract (or within the period of an extension under subsection (c) of this section), as estimated by the Secretary and certified by the Secretary to the Secretary of the Treasury; and

(2) construction under the contract must be completed with reasonable dispatch thereafter.

(c) Extensions.--The Secretary may grant extensions of the period within which the deposits must be expended or obligated or within which the construction must have progressed to the extent of 5 percent completion under this section. However, the extensions may not be for a total of more than 2 years for the expenditure or obligation of deposits or one year for the progress of construction.

Sec. 55111. Taxation of deposits on failure of conditions

A deposited gain, if otherwise taxable income under the law applicable to the taxable year in which the gain was realized, shall be included in gross income for that taxable year, except for purposes of the declared value excess profits tax and the capital stock tax, if--

(1) the deposited gain is not expended or obligated within the appropriate period under section 55110 of this title;

(2) the deposited gain is withdrawn before the end of that period;

(3) the construction related to that deposited gain has not progressed to the extent of 5 percent of completion within the appropriate period under section 55110 of this title; or

(4) the Secretary finds and certifies to the Secretary of the Treasury that, for causes within the control of the taxpayer, the entire construction related to that deposited gain is not completed with reasonable dispatch.

Sec. 55112. Assessment and collection of deficiency tax

A deficiency in tax for a taxable year resulting from the inclusion of an amount in gross income as provided by section 55111 of this title, and the amount to be treated as a deficiency under section 55111 instead of as an adjustment for the declared value excess profits tax, may be assessed or a civil action may be brought to collect the deficiency without assessment, at any time. Interest on a deficiency or amount to be treated as a deficiency does not begin until the date the deposited gain or part of the deposited gain in question is required to be included in gross income under section 51111.

CHAPTER 553--CAPITAL CONSTRUCTION FUNDS

Sec.

55301. Definitions.

55302. Regulations.

55303. Establishing a capital construction fund.

55304. Deposits and withdrawals.

55305. Ceiling on deposits.

55306. Investment and fiduciary requirements.

55307. Nontaxation of deposits.

55308. Separate accounts within a fund.

55309. Qualified withdrawals.

55310. Tax treatment of qualified withdrawals and basis of property.

55311. Tax treatment of nonqualified withdrawals.

55312. FIFO and LIFO withdrawals.

55313. Corporate reorganizations and partnership changes.

55314. Relationship of old fund to new fund.

55315. Records and reports.

55316. Termination of agreement after change in regulations.
55317. Reports.

Sec. 55301. Definitions

In this chapter--

(1) "agreement vessel" means--

(A) an eligible vessel or a qualified vessel that is subject to an agreement made under this chapter; and

(B) a barge or container that is part of the complement of a vessel described in subclause (A) of this clause if provided for in the agreement.

(2) "eligible vessel" means--

(A) a vessel--

(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign commerce under a contract made before April 15, 1970;

(ii) documented under chapter 121 of this title; and

(iii) operated in the foreign or domestic commerce of the United States or in the fisheries of the United States; or

(B) a commercial fishing vessel--

(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

(ii) of at least 2 net tons but less than 5 net tons;

(iii) owned only by citizens of the United States;

(iv) having its home port in the United States; and

(v) operated in the commercial fisheries of the United States.

(3) "joint regulations" means regulations prescribed jointly by the Secretary and the Secretary of the Treasury under section 55302(b) of this title.

(4) "noncontiguous commerce" means--

(A) commerce between--

(i) one of the contiguous 48 States; and

(ii) Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

(B) commerce between--

(i) a place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

(ii) another place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States.

(5) "qualified vessel" means--

(A) a vessel--

(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign commerce under a contract made before April 15, 1970;

(ii) documented under chapter 121 of this title; and

(iii) agreed, between the Secretary and the person maintaining the capital construction fund established under section 55303 of this title, to be operated in the United States foreign, Great Lakes, or noncontiguous domestic commerce or in the fisheries of the United States; and

(B) a commercial fishing vessel--

(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

(ii) of at least 2 net tons but less than 5 net tons;

- (iii) owned only by citizens of the United States;
- (iv) having its home port in the United States; and
- (v) operated in the commercial fisheries of the United States.

(6) "Secretary" means--

(A) the Secretary of Commerce to the extent this chapter applies to an eligible vessel or a qualified vessel operated or to be operated in the fisheries of the United States; and

(B) the Secretary of Transportation to the extent this chapter applies to other vessels.

(7) "United States foreign commerce" includes those areas in domestic commerce in which a vessel constructed with a construction-differential subsidy is allowed to operate under section 53525(a) of this title.

(8) "vessel" includes--

(A) cargo handling equipment that the Secretary finds is intended for use primarily on the vessel; and

(B) an ocean-going towing vessel, an ocean-going barge, or a comparable towing vessel or barge operated on the Great Lakes.

Sec. 55302. Regulations

(a) General Requirement.--Except as provided in subsection (b) of this section, the Secretary shall prescribe regulations to carry out this chapter.

(b) Tax Liability.--The Secretary and the Secretary of the Treasury shall prescribe joint regulations not inconsistent with this section on determining tax liability under this chapter.

Sec. 55303. Establishing a capital construction fund

(a) Authority To Establish Fund.--A citizen of the United States owning or leasing an eligible vessel may enter into an agreement with the Secretary under this chapter to establish a capital construction fund for the vessel.

(b) Allowable Purpose.--The purpose of the agreement shall be to provide replacement, additional, or reconstructed vessels constructed in the United States and documented under chapter 121 of this title for operation in the United States foreign,

Great Lakes, or noncontiguous domestic commerce or in the fisheries of the United States.

Sec. 55304. Deposits and withdrawals

(a) Required Deposits.--An agreement to establish a capital construction fund shall provide for the deposit in the fund of the amounts agreed to be appropriate to provide for subsequent qualified withdrawals to carry out the agreement.

(b) Applicable Requirements.--Deposits in and withdrawals from the fund are subject to the requirements included in the agreement or prescribed by the Secretary by regulation. However, the Secretary may not require a person to deposit in the fund for a taxable year more than 50 percent of that part of the person's taxable income for that year (as determined under section 55305(a)(1) of this title) that is attributable to the operation of an agreement vessel.

Sec. 55305. Ceiling on deposits

(a) Maximum Deposits.--The amount deposited in a capital construction fund for a taxable year shall not exceed the sum of--

(1) that portion of the taxable income of the owner or lessee for the taxable year (computed under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) but without regard to the carryback of net operating loss or net capital loss or this chapter) that is attributable to the operation of an agreement vessel in the foreign or domestic commerce of the United States or in the fisheries of the United States;

(2) the amount allowable as a deduction under section 167 of the Internal Revenue Code of 1986 (26 U.S.C. 167) for the taxable year for an agreement vessel;

(3) the net proceeds (as defined in joint regulations) from the disposition of an agreement vessel or from insurance or indemnity attributable to an agreement vessel, to the extent the net proceeds are not otherwise accounted for under clause (1) of this subsection; and

(4) the receipts from the investment or reinvestment of amounts held in the fund.

(b) Reductions for Lessees.--For a lessee, the maximum amount that may be deposited for an agreement vessel under subsection (a)(2) of this section for any period shall be reduced by any amount the owner is required or permitted, under the capital construction fund agreement, to deposit for that period for the vessel under subsection (a)(2).

Sec. 55306. Investment and fiduciary requirements

(a) General Requirements.--Amounts in a capital construction fund shall be kept in the depository specified in the agreement and shall be subject to trustee and other fiduciary requirements prescribed by the Secretary. Except as provided in subsection (b) of this section, amounts in the fund may be invested only in interest-bearing securities approved by the Secretary.

(b) Stock Investments.--(1) With the approval of the Secretary, an agreed percentage (but not more than 60 percent) of the assets of the fund may be invested in the stock of domestic corporations that--

(A) is fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange; and

(B) would be acquired by a prudent investor seeking a reasonable income and the preservation of capital.

(2) The preferred stock of a corporation is deemed to satisfy the requirements of this subsection, even though it may not be registered and listed because it is nonvoting stock, if the common stock of the corporation satisfies the requirements and the preferred stock otherwise would satisfy the requirements.

(c) Maintaining Agreed Percentage.--If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in a way that tends to restore the fair market value of the stock to not more than the agreed percentage.

Sec. 55307. Nontaxation of deposits

(a) Tax Treatment.--Subject to subsection (b) of this section, under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)--

(1) taxable income (determined without regard to this chapter) for the taxable year shall be reduced by the amount deposited for the taxable year out of amounts referred to in section 55305(a)(1) of this title and section 7518 of the Internal Revenue Code of 1986 (26 U.S.C. 7518);

(2) a gain from a transaction referred to in section 55305(a)(3) of this title is not to be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from the transaction is deposited in the fund;

(3) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund are not to be taken into account;

(4) the earnings and profits of a corporation (within the meaning of section 316 of the Internal Revenue Code of 1986 (26 U.S.C. 316)) shall be determined without regard to this chapter and section 7518 of the Internal Revenue Code of 1986 (26 U.S.C. 7518); and

(5) in applying the tax imposed by section 531 of the Internal Revenue Code of 1986 (26 U.S.C. 531), amounts held in the fund are not to be taken into account.

(b) Condition.--This section applies to an amount only if the amount is deposited in the fund under the agreement within the time provided in joint regulations.

Sec. 55308. Separate accounts within a fund

(a) Three Accounts.--A capital construction fund shall have 3 accounts:

- (1) The capital account.
- (2) The capital gain account.
- (3) The ordinary income account.

(b) Capital Account.--The capital account shall consist of--

- (1) amounts referred to in section 55305(a)(2) of this title;
- (2) amounts referred to in section 55305(a)(3) of this title, except that part representing a gain not considered because of section 55307(a)(2) of this title;
- (3) the percentage applicable under section 243(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 243(a)(1)) of any dividend received by the fund for which the person maintaining the fund would be allowed (were it not for section 55307(a)(3) of this title) a deduction under section 243 of the Internal Revenue Code of 1986 (26 U.S.C. 243); and
- (4) interest income exempt from taxation under section 103 of the Internal Revenue Code of 1986 (26 U.S.C. 103).

(c) Capital Gain Account.--The capital gain account shall consist of--

- (1) amounts representing capital gains on assets held for more than 6 months and referred to in section 55305(a)(3) or (4) of this title; less
- (2) amounts representing capital losses on assets held in the fund for more than 6 months.

(d) Ordinary Income Account.--The ordinary income account shall consist of--

(1) amounts referred to in section 55305(a)(1) of this title;

(2)(A) amounts representing capital gains on assets held for not more than 6 months and referred to in section 55305(a)(3) or (4) of this title; less

(B) amounts representing capital losses on assets held in the fund for not more than 6 months;

(3) interest (except tax-exempt interest referred to in subsection (b)(4) of this section) and other ordinary income (except any dividend referred to in clause (5) of this subsection) received on assets held in the fund;

(4) ordinary income from a transaction described in section 55305(a)(3) of this title; and

(5) that part of any dividend referred to in subsection (b)(3) of this section not considered under subsection (b)(3).

(e) When Losses Allowed.--Except on termination of a fund, capital losses referred to in subsection (c) or (d)(2) of this section shall be allowed only as an offset to gains referred to in subsection (c) or (d)(2), respectively

Sec. 55309. Qualified withdrawals

(a) General Requirements.--(1) A withdrawal from a capital construction fund is a qualified withdrawal if it is made under the terms of the agreement and is for--

(A) the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel; or

(B) the payment of the principal on indebtedness incurred in the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel.

(2) Except as provided in regulations prescribed by the Secretary, paragraph (1) of this subsection applies to a barge or container only if it is constructed in the United States.

(b) Nonqualified Withdrawals.--Under joint regulations, if the Secretary determines that a substantial obligation under an agreement is not being fulfilled, the Secretary, after notice and opportunity for a hearing to the person maintaining the fund, may treat any amount in the fund as an amount withdrawn from the fund in a nonqualified withdrawal.

Sec. 55310. Tax treatment of qualified withdrawals and basis of property

(a) Order of Withdrawals.--A qualified withdrawal from a capital construction fund shall be treated as made--

- (1) first from the capital account;
- (2) second from the capital gain account; and
- (3) third from the ordinary income account.

(b) Ordinary Income Account Withdrawals.--If a part of a qualified withdrawal for a vessel, barge, or container is made from the ordinary income account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that part.

(c) Capital Gain Account Withdrawals.--If a part of a qualified withdrawal for a vessel, barge, or container is made from the capital gain account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that part.

(d) Withdrawals To Pay Principal.--If a part of a qualified withdrawal to pay the principal on indebtedness is made from the ordinary income account or the capital gain account, an amount equal to the total reduction that would be required by subsections (b) and (c) of this section if the withdrawal were a qualified withdrawal for a purpose described in those subsections shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. The remaining amount of the withdrawal shall be treated as a nonqualified withdrawal.

(e) Gain on Property With Reduced Basis.--If property, the basis of which was reduced under subsection (b), (c), or (d) of this section, is disposed of, any gain realized on the disposition, to the extent it is not more than the total reduction in the basis of the property under those subsections, shall be treated as an amount referred to in section 55311(c)(1) of this title made on the date of disposition of the property. Subject to conditions prescribed in joint regulations, this subsection does not apply to a disposition if there is a redeposit, in an amount determined under joint regulations, that restores the fund as far as practicable to the position it was in before the withdrawal.

Sec. 55311. Tax treatment of nonqualified withdrawals

(a) General Requirement.--Except as provided in section 55313 of this title, a withdrawal from a fund that is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

(b) Order of Withdrawals.--A nonqualified withdrawal shall be treated as made--

- (1) first from the ordinary income account;
- (2) second from the capital gain account; and
- (3) third from the capital account.

(c) Tax Treatment.--Under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)--

(1) a nonqualified withdrawal from the ordinary income account shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made;

(2) a nonqualified withdrawal from the capital gain account shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during that year from the disposition of an asset held for more than 6 months; and

(3) for the period through the last date prescribed for payment of tax for the taxable year in which the withdrawal is made--

(A) no interest shall be payable under section 6601 of the Internal Revenue Code of 1986 (26 U.S.C. 6601) and no addition to the tax shall be payable under section 6651 of the Code (26 U.S.C. 6651);

(B) interest on the amount of the additional tax attributable to an amount treated as a nonqualified withdrawal from the ordinary income account or the capital gain account shall be paid at the rate determined under subsection (d) of this section from the last date prescribed for payment of the tax for the taxable year for which the amount was deposited in the fund; and

(C) no interest shall be payable on amounts treated as withdrawn on a last-in-first-out basis under section 55312 of this title.

(d) Interest Rate.--The rate of interest under subsection (c)(3)(B) of this section for a nonqualified withdrawal made in a taxable year beginning after 1971 shall be determined and published jointly by the Secretary and the Secretary of the Treasury. The rate shall be such that its relationship to 8 percent is comparable, as determined by the Secretaries under joint regulations, to the relationship between--

(1) the money rates and investment yields for the calendar year immediately before the beginning of the taxable year; and

(2) the money rates and investment yields for the calendar year 1970.

(e) Nonqualified Withdrawals.--(1) The following applicable percentage of any amount that remains in a capital construction fund at the close of the following specified taxable year following the taxable year for which the amount was deposited shall be treated as a nonqualified withdrawal:

If the amount remains in the fund at the close of the--	The applicable percentage is--
-	
26th taxable year	20 percent
27th taxable year	40 percent
28th taxable year	60 percent
29th taxable year	80 percent
30th taxable year	100 percent.

(2) The earnings of a capital construction fund for any taxable year (except net gains) shall be treated under this subsection as an amount deposited for the taxable year.

(3) Under paragraph (1) of this subsection, an amount is not to be treated as remaining in a capital construction fund at the close of a taxable year to the extent there is a binding contract at the close of the taxable year for a qualified withdrawal of the amount for an identified item for which the withdrawal may be made.

(4) If the Secretary determines that the balance in a capital construction fund is more than the amount appropriate to satisfy the vessel construction program objectives of the person that established the fund, the amount of the excess shall be treated as a nonqualified withdrawal under paragraph (1) of this subsection unless the person develops appropriate program objectives within 3 years to use the excess.

(5) Under this subsection, amounts in a capital construction fund on January 1, 1987, shall be treated as having been deposited in that fund on January 1, 1987.

(f) Tax Determinations.--(1)(A) For a taxable year for which there is a nonqualified withdrawal (including an amount treated as a nonqualified withdrawal under subsection (e) of this section), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) shall be determined by--

(i) excluding the withdrawal from gross income; and

(ii) increasing the tax imposed by chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) by the product of the amount of the withdrawal and the highest tax rate specified in section 1 (or section 11 for a corporation) of the Code (26 U.S.C. 1, 11).

(B) For that part of a nonqualified withdrawal made from the capital gain account during a taxable year to which section 1(h) or 1201(a) of the Internal Revenue Code of

1986 (26 U.S.C. 1(h), 1201(a)) applies, the tax rate used under subparagraph (A)(ii) of this paragraph may not be more than 20 percent (or 34 percent for a corporation).

(2) If any part of a nonqualified withdrawal is properly attributable to deposits (except earnings on deposits) made by the taxpayer in a taxable year that did not reduce the taxpayer's liability for tax under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) for a taxable year before the taxable year in which the withdrawal occurs--

(A) that part is not to be considered under paragraph (1) of this subsection; and

(B) an amount equal to that part shall be allowed as a deduction under section 172 of the Internal Revenue Code of 1986 (26 U.S.C. 172) for the taxable year in which the withdrawal occurs.

(3) A nonqualified withdrawal excluded from gross income under paragraph (1) of this subsection shall be excluded in determining taxable income under section 172(b)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 172(b)(2)).

Sec. 55312. FIFO and LIFO withdrawals

(a) FIFO.--Except as provided in subsection (b) of this section, an amount withdrawn from an account under this chapter shall be treated as withdrawn on a first-in-first-out basis.

(b) LIFO.--An amount withdrawn from an account under this chapter shall be treated as withdrawn on a last-in-first-out basis if it is--

(1) a nonqualified withdrawal for research, development, and design expenses incident to new and advanced vessel design, machinery, and equipment; or

(2) an amount treated as a nonqualified withdrawal under section 55310(d) of this title.

Sec. 55313. Corporate reorganizations and partnership changes

Under joint regulations--

(1) a transfer of a capital construction fund from one person to another person in a transaction to which section 381 of the Internal Revenue Code of 1986 (26 U.S.C. 381) applies may be treated as if the transaction is not a nonqualified withdrawal; and

(2) a similar rule shall be applied to a continuation of a partnership (within the meaning of subchapter K of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 701 et seq.)).

Sec. 55314. Relationship of old fund to new fund

(a) Definition.--In this section, "old fund" means a capital construction fund maintained before October 21, 1970.

(b) Election To Maintain Old Fund.--A person maintaining an old fund may elect to continue the old fund, but may not--

(1) hold amounts in the old fund beyond the expiration date provided in the agreement under which the old fund is maintained (determined without regard to an extension or renewal made after April 14, 1970); or

(2) maintain simultaneously the old fund and a new fund established under this chapter.

(c) Application of New Fund Agreement to Old Fund Amounts.--If a person makes an agreement under this chapter to establish a new fund, the person may agree to extend the agreement to some or all of the amounts in an old fund. Each item in the old fund to be transferred shall be transferred in a nontaxable transaction to the appropriate account in the new fund. For purposes of section 55311(c)(3) of this title, the date of the deposit of an item so transferred shall be July 1, 1971, or the date of the deposit in the old fund, whichever is later.

Sec. 55315. Records and reports

A person maintaining a fund under this chapter shall keep records and make reports as required by the Secretary or the Secretary of the Treasury.

Sec. 55316. Termination of agreement after change in regulations

If, after an agreement has been made under this chapter, a change is made either in the joint regulations or in the regulations prescribed by the Secretary under this chapter that could have a substantial effect on the rights or duties of a person maintaining a fund under this chapter, that person may terminate the agreement.

Sec. 55317. Reports

(a) General Requirement.--Within 120 days after the close of each calendar year, each Secretary shall provide the Secretary of the Treasury with a written report for the capital construction funds under their jurisdiction for the calendar year.

(b) Contents.--The report shall state the name and taxpayer identification number of each person--

- (1) establishing a capital construction fund during the calendar year;
- (2) maintaining a capital construction fund on the last day of the calendar year;
- (3) terminating a capital construction fund during the calendar year;
- (4) making a deposit to or withdrawal from a capital construction fund during the calendar year, and the amount of the deposit or withdrawal; or
- (5) for which a determination has been made during the calendar year that the person failed to fulfill a substantial obligation under a capital construction fund agreement to which the person is a party.

PART F--PROMOTIONAL PROGRAMS

CHAPTER 561--COASTWISE TRADE

Sec.

- 56101. Requirements for engaging in the coastwise trade.
- 56102. Assistance to foreign vessels and salvage operations.
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Sec. 56101. Requirements for engaging in the coastwise trade

(a) Definition.--In this section, "United States" when used in the geographic sense does not include (1) American Samoa and the Commonwealth of the Northern Mariana Islands, or (2) the Virgin Islands until the President declares by proclamation a date for their inclusion within the requirements of this chapter.

(b) Transportation of Cargo Between United States Points.--Except as provided in chapter 121 of this title and this chapter, a vessel may transport cargo (including cargo owned by the United States Government, a State, or a subdivision of a State), or provide any part of the transportation of cargo, by water, or by land and water, between points in the United States, whether directly or through a place outside the United States, only if the vessel has been issued a certificate of documentation with a coastwise endorsement under chapter 121.

(c) Transportation of Passengers Between United States Points.--Except as provided in chapter 121 of this title and this chapter, a vessel may transport passengers between points in the United States, whether directly or through a place outside the United States, only if the vessel has been issued a certificate of documentation with a coastwise endorsement under chapter 121.

(d) Dredging in United States Navigable Waters.--(1) Except as provided in paragraph (2) and in chapter 121 of this title, a vessel may engage in dredging in the navigable waters of the United States only if--

(A) the vessel has been issued a certificate of documentation with a coastwise endorsement under chapter 121 (or, if less than 5 net tons, would be eligible to engage in the coastwise trade under the provisions of section 12102(b) of this title); and

(B) when chartered, the charterer is a citizen of the United States eligible to own a vessel with a coastwise endorsement.

(2) A documented vessel with a registry endorsement may engage in the dredging of gold in Alaska.

(e) Towing Vessels Between United States Points.--Except as provided in chapter 121 of this title and this chapter, a vessel may tow another vessel, or provide any part of the towing, between points in the United States, whether directly or through a place outside the United States, only if the vessel has been issued a certificate of documentation with a coastwise endorsement under chapter 121.

(f) Transporting Valueless Material or Dredged Material.--Except as provided in chapter 121 of this title and this chapter, a vessel may tow another vessel transporting valueless material or dredged material (regardless of whether it has commercial value) from (1) a point in the United States or in the exclusive economic zone to (2) another point in the United States or the zone only if the vessel has been issued a certificate of documentation with a coastwise endorsement under chapter 121.

(g) Penalties.--The penalties in section 12151 of this title apply to a violation of this chapter or a regulation prescribed under this chapter.

(h) Loss of Coastwise Trade Privileges.--A vessel that has been issued a certificate of documentation with a coastwise endorsement under chapter 121 is subject to the loss of coastwise trade privileges under section 12132 of this title in the event it is sold in whole or in part to a person not a citizen of the United States, documented under the laws of a foreign country, or rebuilt in whole or in part outside the United States.

Sec. 56102. Assistance to foreign vessels and salvage operations

(a) Use of Term.--In this section, "citizen of the United States" includes a corporation that is a citizen of the United States as defined in section 12113 of this title.

(b)(1) Restriction on salvaging operations by foreign vessels.--A foreign vessel may not, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico, except when authorized by a treaty or under section 70704 of this title.

(2) If, on investigation, the Secretary of the Treasury is satisfied that a suitable vessel of the United States owned by a person who is a citizen of the United States is not available for salvage operations in a particular locality, the Secretary may authorize use of a foreign vessel to engage in salvage operations in that locality.

(3) A vessel used in violation of this subsection may be seized by, and forfeited to, the United States Government.

(c) Chapter 121 of this title and this chapter do not restrict or prohibit assistance to vessels or salvage operations authorized by--

(1) article II of the Treaty between the United States and Great Britain concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage, signed at Washington, May 18, 1908 (35 Stat. 2036); or

(2) the Treaty between the United States of America and Mexico to facilitate assistance to and salvage of vessels in territorial waters, signed at Mexico City, June 13, 1935 (49 Stat. 3359).

Sec. 56103. Canadian rail lines

The provisions of section 56101(b) of this title do not apply to transportation of merchandise between places in the continental United States (including Alaska) over through routes in part over Canadian rail lines and connecting water facilities if the routes have been recognized by the Surface Transportation Board.

Sec. 56104. Yukon River

The provisions of section 56101(b) of this title do not apply to transportation of merchandise on the Yukon River until the Alaska Railroad is completed and the Secretary of Transportation finds that proper facilities will be available for transportation by citizens of the United States to properly handle the traffic.

Sec. 56105. Empty cargo containers

(a) Exemptions.--Subject to subsections (b) and (c) of this section and conditions the Secretary of the Treasury may prescribe by regulation, the provisions of section 56101(b) of this title do not apply to transportation of--

(1) empty cargo vans, empty lift vans, or empty shipping tanks;

(2) equipment for use with cargo vans, lift vans, or shipping tanks;

(3) empty barges specifically designed for carriage on a vessel and equipment (except propulsion equipment) for use with those barges;

(4) empty instruments for international traffic exempted from the customs laws by the Secretary of the Treasury under section 322(a) of the Tariff Act of 1930 (19 U.S.C. 1322(a)); or

(5) stevedoring equipment and material.

(b) Exemption Requirements.--(1) Subsection (a)(1)-(4) of this section applies only if the items named are owned or leased by the owner or operator of the vessel and transported for use in handling the cargo of that owner or operator in foreign commerce.

(2) Subsection (a)(5) of this section applies only if the items named are--

(A) owned or leased by the owner or operator of the vessel or by the stevedoring company having the contract for the loading or unloading of the vessel; and

(B) transported without charge for its use in the handling of cargo in foreign commerce.

(c) Application to Foreign Vessels.--This section applies to a foreign vessel only if the Secretary of the Treasury finds, based on information from the Secretary of State, that the government of the country of documentation accords the same kind of privileges provided by this section to vessels of the United States.

Sec. 56106. Merchandise transferred between barges

(a) Suspension of Coastwise Endorsement Requirement.--On conditions the Secretary of the Treasury may prescribe by regulation, the Secretary of the Treasury may suspend the requirement for application of section 56101(b) to the transportation of merchandise that is transferred, when moving in the foreign commerce of the United States, from a barge certified by the owner or operator as designed specifically for carriage on a vessel and carried regularly on a vessel in foreign commerce, to another such barge owned or leased by the same owner or operator. However, this subsection does not apply to transportation between the continental United States and noncontiguous States, territories, or possessions embraced within the coastwise laws.

(b) Application to Foreign Vessels.--This section applies to a foreign vessel only if the Secretary of the Treasury finds, based on information from the Secretary of State, that the government of the country of documentation accords the same kind of privileges provided by this section to vessels of the United States.

Sec. 56107. Transportation of hazardous waste

(a) When Deemed Coastwise Trade.--The transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a place in the United States for incineration at sea is deemed to be transportation of cargo in coastwise trade, as specified by chapter 561 of this title.

(b) Nonapplication to Certain Foreign Vessels.--(1) Subsection (a) of this section does not apply to transportation performed by an ocean incineration vessel--

(A) documented under the laws of a foreign country; and

(B) owned by, or under construction on May 1, 1982, for, a corporation owned only by citizens of the United States as defined in section 171(a) and (c) of this title.

(2) Incineration equipment on a vessel described in paragraph (1) of this subsection must meet standards of the Coast Guard and the Environmental Protection Agency.

(3) Regardless of whether inspected by the country of documentation, a vessel described in paragraph (1) of this subsection shall be inspected by the Coast Guard. The inspection shall be the same as would be required of a vessel of the United States, including drydock inspection and internal examination of tanks and void spaces. The inspection may be made concurrently with an inspection by the country of documentation or within one year after the initial issuance or next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making the inspection, the Coast Guard shall refer to the condition of the hull and superstructure established by the initial foreign certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of fittings, material, apparatus, equipment, and appliances different from those required for vessels of the United States if satisfied they are equivalent and at least as effective as those required for vessels of the United States. A satisfactory inspection under this paragraph shall be certified in writing by the Secretary of Transportation.

(c) Effective Date.--Subsection (a) of this section is not effective until an appropriate vessel has been built and documented under chapter 121 of this title.

Sec. 56108. Transportation of passengers between Puerto Rico and other ports in the United States

(a) Definitions.--In this section--

(1) "certificate" means a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation issued by the Federal Maritime Commission under section 44102 of this title.

(2) "passenger vessel" means a vessel of similar size, or offering similar service, as any other vessel transporting passengers under subsection (b) of this section.

(b) Exemption.--Except as otherwise provided in this section, a vessel is not required to have a coastwise endorsement to transport passengers between a port in Puerto Rico and another port in the United States.

(c) Expiration of Exemption.--(1) On a showing to the Secretary of Transportation, by the vessel owner or charterer, that a United States passenger vessel

with a coastwise endorsement is offering or advertising passenger service between a port in Puerto Rico and another port in the United States under a certificate, the Secretary shall notify the owner or operator of each vessel transporting passengers under subsection (b) of this section to stop that transportation within 270 days after the Secretary's notification. Except as provided in subsection (d) of this section, the authority to transport passengers under subsection (b) expires at the end of that 270-day period.

(2) On a showing to the Secretary, by the vessel owner or charterer, that a United States passenger vessel without a coastwise endorsement is offering or advertising passenger service between a port in Puerto Rico and another port in the United States under a certificate, the Secretary shall notify the owner or operator of each foreign vessel transporting passengers under subsection (b) of this section to stop that transportation within 270 days after the Secretary's notification. Except as provided in subsection (d) of this section, the authority of a foreign vessel to transport passengers under subsection (b) expires at the end of that 270-day period.

(d) Delaying Expiration.--If the vessel offering or advertising the service described in subsection (c) of this section has not begun that service within 270 days after the Secretary's notification, the expiration provided by subsection (c) is delayed until 90 days after the vessel offering or advertising the service begins that service.

(e) Reinstatement of Exemption.--If the Secretary finds that the service on which an expiration was based is no longer available, the expired authority to transport passengers is reinstated.

Sec. 56109. Unloading fish from foreign vessels

(a) Prohibitions.--Except as otherwise provided by this section or a treaty or convention to which the United States Government is a party, a foreign vessel may not unload, in a port of the United States--

(1) its catch of fish taken on board on the high seas or fish products processed from that catch of fish; or

(2) fish or fish products taken on board that vessel on the high seas from a vessel engaged in fishing operations or the processing of fish or fish products.

(b) Regulations on Obtaining Information.--The Secretary of Commerce may prescribe regulations the Secretary considers necessary to obtain information on the transportation of fish products by vessels of the United States from foreign fish processing vessels to places in the United States.

(c) Virgin Islands Exemption.--A foreign vessel of not more than 50 feet overall in length may unload its catch of fresh fish (whole or with the heads, viscera, or fins removed, but not frozen, otherwise processed, or further advanced) in a port of the Virgin Islands for immediate consumption in those islands. Fish unloaded under this subsection

may be sold or transferred only for immediate consumption. In the absence of satisfactory evidence that a sale or transfer to an agent, representative, or employee of a freezer or cannery is for immediate consumption, the sale or transfer is deemed not to be for immediate consumption. This subsection does not prohibit the freezing, smoking, or other processing of fresh fish by the ultimate consumer of the fish.

(d) Seizure, Forfeiture, and Penalty.--Fish unloaded in the Virgin Islands that are retained, sold, or transferred except for immediate consumption may be seized by, and forfeited to, the Government. A person retaining, selling, transferring, buying, or receiving the fish is liable to the Government for a civil penalty of not more than \$1,000. The Secretary of the Treasury may compromise or remit, with or without consideration, a penalty or forfeiture incurred under this section until the matter is referred to the Attorney General.

Sec. 56110. Supplies on fish processing vessels

Supplies aboard a United States documented fish processing vessel, which are necessary and used for the processing or assembling of fishery products aboard the vessel, are deemed to be ship's equipment and not merchandise for purposes of the coastwise laws.

Sec. 56111. Sailing school vessels

A sailing school vessel (as defined in section 2101 of this title) is deemed not to be engaged in coastwise trade, as specified by chapter 561 of this title.

Sec. 56112. Oceanographic research vessels

An oceanographic research vessel (as defined in section 2101 of this title) is deemed not to be engaged in coastwise trade, as specified by chapter 561 of this title.

Sec. 56113. Platform jackets

(a) Exemption.--A vessel is not required to have a coastwise endorsement to transport a platform jacket on a launch barge between places in the United States, at one of which there is an installation or other device described by section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), if--

(1) the launch barge has a launch capacity of at least 12,000 long tons, was built not later than June 7, 1988, and is documented under chapter 121 of this title; and

(2) the platform jacket cannot be transported on and launched from a launch barge of lesser launch capacity that is on the list published under subsection (b) of this section and is available for the transportation.

(b) Launch Barges List.--The Secretary of Transportation shall publish periodically in the Federal Register a current list of launch barges with a capacity of less than 12,000 long tons that are qualified to engage in coastwise trade, as specified by chapter 561 of this title. For each launch barge, the Secretary shall include the name, launch capacity, length, beam, depth, and other distinguishing characteristics, and the name and address of the person to whom inquiries may be made.

Sec. 56114. Use of foreign documented oil spill response vessels

Notwithstanding any other provision of law, an oil spill response vessel documented under the laws of a foreign country may operate in waters of the United States on an emergency and temporary basis, for the purpose of recovering, transporting, and unloading in a United States port oil discharged as a result of an oil spill in or near those waters, if--

(1) an adequate number and type of oil spill response vessels documented under the laws of the United States cannot be engaged to recover oil from an oil spill in or near those waters in a timely manner, as determined by the Federal On-Scene Coordinator for a discharge or threat of a discharge of oil; and

(2) that foreign country has by its laws accorded to vessels of the United States the same privileges accorded to vessels of that foreign country under this section.

Sec. 56115. Great Lakes rail route

The provisions of section 51601(b) of this title do not apply to the transportation of merchandise loaded on railroad cars or motor vehicles (with or without trailers), and with their passengers or contents when accompanied by the operator, when the railroad cars or motor vehicles are transported in any railroad car ferry operated between fixed termini on the Great Lakes as part of a rail route with approval of the Surface Transportation Board, and if the stock of the common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920, and if the stock of the common carrier owning the car ferry is, with the approval of the Board, now owned or controlled by any common carrier by rail and if the car ferry is built in and documented under the laws of the United States.

CHAPTER 563--PASSENGER AND CARGO PREFERENCES

SUBCHAPTER I--GENERAL

Sec.

56301. Priority loading for coal.

56302. Transportation of United States Government personnel.

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SUBCHAPTER I--GENERAL

Sec. 56301. Priority loading for coal

A vessel engaged in the coastwise transportation of coal produced in the United States, from a port in the United States to another port in the United States, shall be given priority in loading at any of those ports ahead of a waiting vessel engaged in the export transportation of coal produced in the United States. However, if the Secretary of Transportation finds that it is in the national interest, the Secretary may eliminate this priority loading at any port. The Secretary shall report to Congress within 30 days an action eliminating priority loading under this section.

Sec. 56302. Transportation of United States Government personnel

(a) General Requirements.--(1) An officer or employee of the United States Government traveling by sea on official business overseas or to or from a territory or possession of the United States shall travel and transport personal effects on a documented vessel, unless--

(A) a documented vessel is not available; or

(B) the necessity of the mission requires the use of a foreign vessel.

(2) The Administrator of General Services shall prescribe regulations under which agencies may not pay for or reimburse an officer or employee for travel or transportation expenses incurred on a foreign vessel in the absence of satisfactory proof of the necessity of using the vessel.

(b) Customs Service Personnel.--The Comptroller General shall credit an allowance (within the limitations prescribed by law) for travel and transportation expenses incurred by an officer or employee of the Customs Service on a foreign vessel, if the Secretary of the Treasury certifies to the Comptroller General that the use of the vessel was necessary to protect the revenue.

Sec. 56303. Motor vehicles owned by United States Government personnel

When motor vehicles owned by personnel of the United States Government are authorized by law to be transported at Government expense, the vehicles may be transported by a privately-owned documented vessel.

Sec. 56304. Exports financed by the United States Government

It is the sense of Congress that any loans made by an agency of the United States Government to foster the exporting of agricultural or other products shall provide that the products may be transported only on documented vessels unless the Secretary of Transportation, after investigation, certifies to the agency that, for any of those products, documented vessels are not available--

- (1) in sufficient number;
- (2) in sufficient tonnage capacity;
- (3) on necessary schedules; or
- (4) at reasonable rates.

Sec. 56305. Cargo procured, provided, or financed by the United States Government

(a) Definition.--In this section, "privately-owned documented vessel" does not include a vessel that, after September 21, 1961, was built or rebuilt outside the United States or documented under the laws of a foreign country, until the vessel has been documented under the laws of the United States for at least 3 years.

(b) Minimum Tonnage.--When the United States Government procures, contracts for, or otherwise obtains for its own account, or provides to or for the account of a foreign country without provision for reimbursement, any cargo, within or without the United States, or advances money or credits, or guarantees the convertibility of foreign currencies, in connection with the furnishing of such cargo, the appropriate agency shall take steps necessary and practicable to ensure that at least 50 percent of the gross tonnage of the cargo (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels is transported on privately-owned documented vessels, to the extent those vessels are available at fair and reasonable rates for documented commercial vessels, in a way that will ensure a reasonable participation of documented commercial vessels in the transportation by geographic areas.

(c) Waivers.--The President, the Secretary of Defense, or Congress (by means that comply with Article I of the Constitution) may waive this section temporarily by--

- (1) declaring the existence of an emergency justifying a waiver; and
- (2) notifying the appropriate agency of the waiver.

(d) Programs of Other Agencies.--(1) An agency having responsibility under this section shall administer its applicable programs under regulations issued by the Secretary of Transportation.

(2) The Secretary shall review the administration of these programs and report annually to Congress on their administration.

SUBCHAPTER II--EXPORT TRANSPORTATION OF AGRICULTURAL COMMODITIES

Sec. 56311. Findings and purposes

(a) Findings.--Congress finds that--

(1) a productive and healthy agricultural industry and a strong and active United States maritime industry are vitally important to the economic well-being and security of the United States;

(2) both industries must compete in international markets increasingly dominated by foreign trade barriers and the subsidization practices of governments of foreign countries; and

(3) increased agricultural exports and the use of merchant vessels of the United States contribute positively to the United States balance of trade and generate employment opportunities in the United States.

(b) Purposes.--The purposes of this subchapter are to--

(1) enable the Secretary of Agriculture to plan agricultural export programs effectively, by clarifying the ocean transportation requirements applicable to those programs;

(2) take immediate and positive steps to promote the growth of the cargo-carrying capacity of the United States merchant marine;

(3) expand international trade in United States agricultural commodities and products and develop, maintain, and expand markets for United States agricultural exports;

(4) improve the efficiency of administration of both the commodity purchasing and selling activities and the ocean transportation activities associated with export programs sponsored by the Secretary;

(5) stimulate and promote the agricultural and maritime industries of the United States and encourage cooperative efforts by both industries to address their common problems; and

(6) provide for the appropriate disposition of these findings and purposes.

Sec. 56312. Determining prevailing world market price

(a) Agricultural Commodities and Products.--The prevailing world market price for agricultural commodities or their products shall be determined under this subchapter under procedures prescribed by the Secretary of Agriculture. The Secretary shall prescribe the procedures by regulation, with notice and opportunity for public comment under section 553 of title 5.

(b) Services and Non-Agricultural Commodities and Products.--If a determination of the prevailing world market price of any other type of property or service is required to determine whether a barter or exchange transaction is subject to section 56314(b)(6) or (7) of this title, the determination shall be made by the Secretary of Agriculture in consultation with the heads of other appropriate agencies.

Sec. 56313. Exemption of certain agricultural exports from property preference provisions

Sections 56304 and 56305 of this title do not apply to export activities of the Secretary of Agriculture or the Commodity Credit Corporation under which--

(1) agricultural commodities or their products acquired by the Corporation are made available to United States exporters, users, processors, or foreign buyers for the purpose of developing, maintaining, or expanding export markets for United States agricultural commodities or their products at prevailing world market prices;

(2) payments are made available to United States exporters, users, or processors or, except as provided in section 56314 of this title, cash grants are made available to foreign buyers, for the purpose described in clause (1) of this section;

(3) commercial credit guarantees are blended with direct credits from the Corporation to reduce the effective rate of interest on export sales of United States agricultural commodities or their products;

(4) credit or credit guarantees for not more than 3 years are extended by the Corporation to finance or guarantee export sales of United States agricultural commodities or their products; or

(5) agricultural commodities or their products owned or controlled by or under loan from the Corporation are exchanged or bartered for property or services at least equal in value to the agricultural commodities or their products for which they are exchanged or bartered (determined on the basis of prevailing world market prices at the time of the exchange or barter), but this clause does not exempt the property or services imported under the transaction from cargo preference requirements of section 56305(b) referred to in section 56314(b) of this title.

Sec. 56314. Transportation requirements for certain exports sponsored by the Secretary of Agriculture

(a) Minimum Tonnage.--(1) In addition to the requirement under section 56305 of this title for the transportation of a percentage of gross tonnage on documented commercial vessels, 25 percent of the gross tonnage of agricultural commodities or their products specified in subsection (b) of this section shall be transported each year on documented commercial vessels that--

(A) are necessary for national security; and

(B) if more than 25 years old, were rebuilt within the last 5 years and certified by the Secretary of Transportation as having a useful life of at least 5 years after that rebuilding.

(2) The year for the purpose of compliance with section 56305 and paragraph (1) of this subsection begins on April 1.

(b) Applicable Export Activity.--This section applies to export activity (except inspection or weighing activities, other activities carried out for health or safety, or technical assistance provided in the handling of commercial transactions) of the Secretary of Agriculture or the Commodity Credit Corporation--

(1) carried out under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(2) carried out under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(3) carried out under the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f-1);

(4) under which agricultural commodities or their products are--

(A) donated through governments of foreign countries or private or public agencies, including intergovernmental organizations; or

(B) sold for currencies of foreign countries or for dollars on credit terms of more than 10 years;

(5) under which agricultural commodities or their products are made available for emergency food relief at less than prevailing world market prices;

(6) under which a cash grant is made directly or through an intermediary to a foreign buyer to enable the buyer to obtain United States agricultural commodities or their products in an amount greater than the difference between the prevailing world market price and the United States market price, free along side vessel at a United States port; or

(7) under which agricultural commodities owned or controlled by or under loan from the Corporation are exchanged or bartered for cargo or services produced in foreign countries, except export activities described in section 56313(5) of this title.

(c) Additional Requirements.--(1) The requirement under subsection (a) of this section for transportation on documented commercial vessels is subject to the same conditions as provided in section 56305 of this title.

(2)(A) Subject to subparagraph (B) of this paragraph, in carrying out this section and section 56305 of this title, the Corporation shall take steps necessary and practicable, and consistent with this section and section 56305, without detriment to any port range to allocate, on the principle of lowest landed cost without regard to the country of documentation of the vessel, 25 percent of the bagged, processed, or fortified commodities provided under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

(B)(i) In carrying out this paragraph (2), first there shall be calculated the allocation of 100 percent of the quantity to be procured on an overall lowest landed cost basis without regard to the country of documentation of the vessel, and then there shall be allocated to the Great Lakes port range any cargoes for which it has the lowest landed cost under that calculation.

(ii) The requirements for transportation on documented commercial vessels under this section and section 56305 of this title do not apply to commodities allocated to the Great Lakes port range under subparagraph (A) of this paragraph.

(iii) To the extent that the Great Lakes port range is used to furnish and transport less than 25 percent of the total annual tonnage of commodities to which subparagraph (A) of this paragraph applies, the commodities allocated to the Great Lakes port range

under subparagraph (A) may not be reallocated or diverted to another port range to meet the requirements for documented commercial vessel transportation under this section and section 56305 of this title.

(C) In awarding a contract for the transportation of commodities by vessel from the Great Lakes port range pursuant to an export activity referred to in subsection (b) of this section, an agency--

(i) shall consider expressions of freight interest for any vessel from a vessel operator who meets reasonable requirements for financial and operational integrity; and

(ii) may not deny award of the contract to a person based on the type of vessel on which the transportation would be provided (including on the basis that the transportation would not be provided on a liner vessel, as that term is used in the Shipping Act of 1984, as in effect on November 14, 1995), if the person otherwise satisfies reasonable requirements for financial and operational integrity.

(3) A determination of nonavailability of documented commercial vessels resulting from the application of this subsection may not reduce the gross tonnage of commodities required by this section and section 56305 of this title to be transported on documented commercial vessels.

Sec. 56315. Minimum tonnage

(a) General Requirement and Waivers.--(1) For each fiscal year, the minimum quantity of agricultural commodities to be exported under programs subject to section 56314 of this title is the average of the tonnage exported under those programs during the base period defined in subsection (b) of this section, discarding the high and low years.

(2) The President may waive the minimum quantity for a fiscal year under paragraph (1) of this subsection if the President determines and reports to Congress, together with reasons, that the quantity cannot be used effectively for the purposes of those programs or, based on a certification by the Secretary of Agriculture, that the commodities are not available for reasons that include the unavailability of money.

(b) Base Period.--For each fiscal year, the base period referred to in subsection (a) of this section is the 5-year period running from the 6th through the 2d prior fiscal years.

Sec. 56316. Financing the transportation of agricultural commodities

(a) General Requirement.--The Secretary of Transportation shall finance any increased ocean freight charges incurred in a fiscal year because of section 56314 of this title.

(b) Amount of Reimbursement.--(1) The Secretary of Transportation shall reimburse the Secretary of Agriculture and the Commodity Credit Corporation for the amount by which, in any fiscal year--

(A) the total cost of ocean freight and ocean freight differential for which obligations are incurred by the Secretary of Agriculture and the Corporation on exports of agricultural commodities and their products under the agricultural export programs specified in section 56314(b) of this title; exceeds

(B) 20 percent of the value of the commodities and their products and the cost of the ocean freight and ocean freight differential on which obligations are incurred by the Secretary of Agriculture and the Corporation during that fiscal year.

(2) Under this subsection, commodities shipped from the inventory of the Corporation shall be valued as provided in section 412(e) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f(e)).

(c) Issuing and Purchasing Obligations.--(1) To meet the expenses required to be assumed under subsections (a) and (b) of this section, the Secretary of Transportation shall issue obligations to the Secretary of the Treasury. The Secretary of Transportation, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations, considering the current average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

(2) The Secretary of the Treasury shall buy the obligations issued under this subsection. To buy the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. Securities may be issued under chapter 31 to buy the obligations. A redemption or purchase of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

(d) Reimbursement.--Reimbursement of the Secretary of Transportation for costs incurred under this section shall be made with appropriated amounts rather than through cancellation of notes.

(e) Appropriations.--(1) Necessary amounts are appropriated to the Secretary of Transportation each fiscal year to pay interest and to liquidate debt on obligations issued to the Secretary of the Treasury under this section.

(2) An additional amount may be appropriated each fiscal year to reimburse the Secretary of Transportation for administrative expenses incurred under this section.

(f) Notification to Congress of Insufficiency.--If the Secretary of Transportation is unable to obtain the amounts necessary to finance the increased ocean freight charges resulting from the requirements of subsections (a) and (b) of this section and section 56314(a) of this title, the Secretary shall notify Congress within 10 working days of the discovery of the insufficiency.

Sec. 56317. Termination of subchapter

This subchapter terminates 90 days after the date on which a notification is made under section 56316(f) of this title, except for shipments of agricultural commodities and their products subject to contracts made before the end of that 90-day period, unless within that 90-day period the Secretary of Transportation proclaims that amounts are available to finance increased freight charges resulting from the requirements of sections 56314(a) and 56316(a) and (b) of this title. On the termination of this subchapter under this section--

(1) this subchapter does not exempt export activities from, or subject export activities to, the cargo preference laws; and

(2) the 50-percent requirement in section 56305 of this title shall be in effect.

Sec. 56318. Effect on other law

This subchapter does not affect chapter 5 of title 5.

SUBCHAPTER III--AMERICAN GREAT LAKES VESSELS

Sec. 56331. Definitions

In this subchapter--

(1) "American Great Lakes vessel" means a vessel so designated under section 56332 of this title, but only during the period the designation is in effect.

(2) "Great Lakes" means Lake Superior, Lake Michigan, Lake Huron, Lake Erie, Lake Ontario, the Saint Lawrence River west of Saint Regis, New York, and their connecting and tributary waters.

(3) "Great Lakes shipping season" means the period each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation.

Sec. 56332. Designating American Great Lakes vessels

(a) Designations.--The Secretary of Transportation shall designate a vessel as an American Great Lakes vessel if--

(1) an application for designation is submitted to the Secretary under regulations prescribed by the Secretary;

(2) the vessel is documented under chapter 121 of this title;

(3) the vessel, on the effective date of the designation, is--

(A) at least one, but not more than 6, years old; or

(B) at least one, but not more than 11, years old if the Secretary finds that suitable vessels are not available to provide the type of service for which the vessel will be used after the designation;

(4) the vessel has not previously been designated as an American Great Lakes vessel; and

(5) the owner makes an agreement as provided under subsection (b) of this section.

(b) Agreements.--A vessel may be designated as an American Great Lakes vessel only if the person that will be the owner of the vessel at the time of the designation makes an agreement with the Secretary providing that if the Secretary decides that the vessel is necessary to the defense of the United States, the United States Government will have an exclusive right, during the 120-day period following the date of a revocation of the designation under section 56335 of this title, to purchase the vessel for a price equal to the greater of--

(1) the approximate world market value of the vessel; or

(2) the cost of the vessel to the owner less a reasonable amount for depreciation.

(c) Certain Foreign Documentation and Sale Not Prohibited.--Notwithstanding any other provision of law, if the Government does not exercise its right of purchase under an agreement under subsection (b) of this section, the owner of the vessel is not prohibited from--

(1) documenting the vessel under the laws of a foreign country; or

(2) selling the vessel to a person not a citizen of the United States.

(d) Regulations.--The Secretary shall prescribe regulations establishing requirements for submitting applications under this section.

Sec. 56333. Exemption from restriction on transporting certain property

Section 56305(a)(1) of this title does not apply to a vessel designated as an American Great Lakes vessel during the period of its designation.

Sec. 56334. Restrictions on operations

(a) Prohibitions.--Except as provided in subsection (b) of this section, an American Great Lakes vessel may not be used--

(1) to engage in commerce--

(A) from a port in the United States that is not located on the Great Lakes; or

(B) between ports in the United States;

(2) to transport bulk cargo (as defined in section 40102 of this title) that is subject to section 56305, or 56314 of this title, or section 2631 of title 10; or

(3) to provide a service (except ocean freight service) as--

(A) a contract carrier; or

(B) a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in foreign commerce.

(b) Off-Season Exception.--An American Great Lakes vessel may be used for not more than 90 days during any 12-month period to engage in commerce prohibited by subsection (a)(1)(A) of this section, except during the Great Lakes shipping season.

Sec. 56335. Revocations and terminations of designations

(a) Revocations.--After notice and an opportunity for a hearing, the Secretary of Transportation may revoke a designation of a vessel as an American Great Lakes vessel if the Secretary finds that--

(1) the vessel does not meet a requirement for the designation;

(2) the vessel has been operated in violation of this subchapter; or

(3) the owner or operator of the vessel has violated an agreement made under section 56332(b) of this title.

(b) Terminations.--On petition and a showing of good cause by the owner of a vessel, the Secretary may terminate the designation of a vessel as an American Great

Lakes vessel. The Secretary may impose conditions in a termination order to prevent significant adverse effects on other operators of documented vessels.

Sec. 56336. Civil penalty

After notice and an opportunity for a hearing, the Secretary of Transportation may impose a civil penalty of not more than \$1,000,000 on the owner of an American Great Lakes vessel for any act for which the designation may be revoked under section 56335 of this title.

CHAPTER 565--MOBILE TRADE FAIRS

Sec.

56501. Responsibility of the Secretary of Commerce.

56502. Technical and financial assistance.

56503. Funding.

56504. Report to Congress.

Sec. 56501. Responsibility of the Secretary of Commerce

The Secretary of Commerce shall encourage and promote the development and use of mobile trade fairs designed to show and sell the products of United States business and agriculture at foreign ports and at other commercial centers throughout the world at which the operators of the fairs, to the extent practicable, use vessels and aircraft of the United States in transporting their exhibits.

Sec. 56502. Technical and financial assistance

When the Secretary of Commerce decides that a mobile trade fair provides an economical and effective means of promoting export sales, the Secretary may provide to the operator of the fair--

(1) technical assistance and support; and

(2) financial assistance to defray certain expenses incurred outside the United States, except the cost of transportation on foreign vessels and aircraft

Sec. 56503. Funding

To carry out this chapter, the President may use, in addition to amounts appropriated to carry out trade promotion activities, currencies of foreign countries owned by or owed to the United States Government.

Sec. 56504. Report to Congress

The Secretary of Commerce shall submit an annual report to Congress on the Secretary's activities under this chapter.

PART G--CONTROL OF MERCHANT MARINE CAPABILITIES

CHAPTER 571--RESTRICTIONS ON TRANSFERS

Sec.

57101. Definition.

57102. Approval required to transfer vessel to noncitizen.

57103. Additional controls during wars and national emergencies.

57104. Conditional approvals.

57105. Penalties.

57106. Forfeitures.

57107. Status of prohibited transactions.

57108. Vessel use and performance reports.

Sec. 57101. Definition

In this chapter, "citizen of the United States" includes a citizen of the United States as defined in section 12103 of this title.

Sec. 57102. Approval required to transfer vessel to noncitizen

(a) Prohibitions.--Except as provided in subsection (b) of this section, and in sections 12112(c) and 53328 of this title, a person may not, without the approval of the Secretary of Transportation--

(1) sell, lease, charter, deliver, or otherwise transfer, or agree to sell, lease, charter, deliver, or otherwise transfer, to a person not a citizen of the United States, an interest in or control of a documented vessel or a vessel last documented under the laws of the United States, except a vessel that has been operated only for pleasure or only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of this title); or

(2) place under foreign registry, or operate under the authority of a foreign country, a documented vessel or a vessel last documented under the laws of the United States.

(b) Approval of Certain Vessel Transactions Before Documentation.--To promote financing with respect to a vessel to be documented under chapter 121 of this title, the Secretary may grant approval under subsection (a) of this section before the vessel is documented.

(c) Exceptions.--Notwithstanding this subtitle or any contract with the Secretary made under this subtitle, a person may place a vessel under foreign registry without the approval of the Secretary if--

(1)(A) the Secretary determines that at least one replacement vessel of at least equivalent capacity, as measured by deadweight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of this title by the owner of the vessel placed under foreign registry; and

(B) the replacement vessel is not more than 10 years old on the date of that documentation;

(2)(A) an application for an operating agreement under chapter 531 of this title has been filed for a vessel that is eligible to be included in the Maritime Security Fleet under section 53102(b)(2) of this title; and

(B) the Secretary has not awarded an operating agreement for that vessel within 90 days after the date of that application;

(3) a contract covering the vessel under chapter 533 of this title has expired and the vessel was more than 15 years old on the date the contract expired; or

(4) an operating agreement covering the vessel under chapter 531 of this title has expired.

Sec. 57103. Additional controls during wars and national emergencies

(a) Prohibitions.--During war, or a national emergency declared by Presidential proclamation, a person may not, without the approval of the Secretary of Transportation--

(1) place under foreign registry, or operate under the authority of a foreign country, a vessel owned in any part by a citizen of the United States or a corporation incorporated under the laws of the United States or of a State;

(2) sell, mortgage, lease, charter, deliver, or otherwise transfer, or agree to sell, mortgage, lease, charter, deliver, or otherwise transfer, to a person not a citizen of the United States, an interest in--

(A) a vessel owned in any part by a citizen of the United States or a corporation incorporated under the laws of the United States or of a State;

(B) a documented vessel; or

(C) a facility for building or repairing vessels;

(3) issue, assign, or transfer to a person not a citizen of the United States an instrument of indebtedness secured by a mortgage of a vessel to a trustee, by an assignment of an owner's interest in a vessel under construction to a trustee, or by a mortgage of a facility for building or repairing vessels to a trustee, unless the trustee is a citizen of the United States and is approved by the Secretary of Transportation. The Secretary of Transportation shall grant approval (but only for the period in which the following qualifications are met) if the trustee or a substitute trustee is a bank or trust company that--

(A) is organized as a corporation, and is doing business, under the laws of the United States or a State;

(B) is authorized under those laws to exercise corporate trust powers;

(C) is a citizen of the United States;

(D) is subject to supervision or examination by Federal or State authority; and

(E) has a combined capital and surplus (as set forth in its most recent published report of condition) of at least \$3,000,000;

(4) agree to construct a vessel in the United States for or to be delivered to a person not a citizen of the United States without expressly stipulating that construction will begin only after the war or national emergency has ended;

(5) agree to vest in, or for the benefit of, a person not a citizen of the United States the controlling interest in a corporation that is incorporated under the laws of the United States or a State and that owns a vessel or facility for building or repairing vessels; or

(6) order or request a vessel, any part of which was constructed in the United States, that has never been cleared for a foreign port, to depart from a port of the United States before it has been documented under the laws of the United States.

(b) Trustee Limitation.--During a war or national emergency described in subsection (a) of this section, a trustee referred to in subsection (a)(3) of this section, even though approved as a trustee by the Secretary, may not operate the vessel under the mortgage or assignment without the Secretary's approval.

Sec. 57104. Conditional approvals

(a) General Authority.--The Secretary of Transportation may grant an approval under this chapter, which may contain conditions the Secretary considers advisable. The Secretary shall state the conditions in the notice of approval.

(b) Violations.--A violation of a condition of approval is subject to the same penalties as a violation resulting from an act done without the required approval. The violation occurs at the time the condition is violated.

Sec. 57105. Penalties

(a) General Criminal Penalty.--A person violating, or attempting or conspiring to violate, this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.

(b) Criminal Penalty for False Statements.--A person knowingly making a false statement of a material fact to the Secretary of Transportation or another officer or employee of the Department of Transportation, to obtain the Secretary's approval to perform an act requiring the Secretary's approval under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

(c) Civil Penalty.--A person violating section 57102(a)(1) of this title is liable to the United States Government for a civil penalty of not more than \$10,000.

Sec. 57106. Forfeitures

(a) Property Subject to Seizure and Forfeiture.--The following may be seized by, and forfeited to, the United States Government:

(1) A vessel, a facility for building or repairing vessels, or an interest in a vessel or such a facility, that is sold, mortgaged, leased, chartered, delivered, or otherwise transferred, or agreed to be sold, mortgaged, leased, chartered, delivered, or otherwise transferred, in violation of this chapter.

(2) A vessel placed under foreign registry or operated under the authority of a foreign country in violation of this chapter.

(3) Stock and other securities sold or transferred, or agreed to be sold or transferred, in violation of section 57103 of this title.

(4) A vessel departing in violation of section 57103(a)(6) of this title.

(b) Enforcement.--A forfeiture incurred under this chapter may be enforced in the same way as a forfeiture incurred under the laws on the collection of duties. However, a forfeiture may be remitted without seizure of the vessel.

(c) Prior Convictions.--In a proceeding or civil action to enforce a forfeiture, a prior conviction of a person for violating this chapter related to the subject matter of the forfeiture is prima facie evidence of the violation against the person convicted.

Sec. 57107. Status of prohibited transactions

(a) Void Transactions.--A transaction in violation of this chapter is void.

(b) Recovering Consideration.--(1) With respect to transactions prohibited under section 57103 of this title, and except as provided in paragraph (2) of this subsection, a person that deposited or paid consideration in connection with the transaction is entitled to recover the consideration after--

(A) tender of the person's interest in the vessel, facility, stock, or other security to the person entitled to it; or

(B) forfeiture of the vessel, facility, stock, or other security to the United States Government.

(2) A transaction shall be void under paragraph (1) of this subsection if the person in whose interest the consideration was deposited, or to whom it was paid, entered into the transaction in the belief that the person depositing or paying the consideration was a citizen of the United States.

Sec. 57108. Vessel use and performance reports

(a) Filing Requirement.--To assist the Secretary of Transportation in carrying out this subtitle, the Secretary by regulation may require the operator of a vessel in the waterborne foreign commerce of the United States to file a verified report on the use and performance of the vessel. The Secretary may prescribe the form of the report and the times and the way that it must be filed.

(b) Civil Penalty.--An operator not filing a report required by the Secretary under this section is liable to the United States Government for a civil penalty of \$50 for each day the report is late. A penalty imposed under this section on the operator of a vessel is a lien on the vessel involved in the violation. The Secretary may remit or mitigate any penalty imposed under this section.

CHAPTER 573--EMERGENCY ACQUISITION OF VESSELS

Sec.

57301. Authority to acquire vessels.

57302. Compensation to owners.

57303. Disputed compensation.

57304. Charter terms for use of vessels.

57305. Returning vessels requisitioned for use.

- 57306. Vessel encumbrances.
- 57307. Transfer and operation of vessels.
- 57308. Repairing, rebuilding, and reconditioning vessels.

Sec. 57301. Authority to acquire vessels

(a) Application.--This section applies during a period for which the President proclaims that--

- (1) there is a national emergency; or
- (2) the security of the national defense makes it advisable.

(b) Secretary's Authority.--The Secretary of Transportation may acquire by requisition or agreement the ownership or use of--

- (1) a documented vessel;
- (2) a vessel owned by a citizen of the United States; or
- (3) a vessel being built in the United States.

(c) President's Authority.--The President, through the Secretary, may--

(1) buy or charter a merchant vessel not owned by a citizen of the United States; or

(2) requisition the ownership or use of a merchant vessel not owned by a citizen of the United States if the vessel is--

(A) lying idle in waters within the jurisdiction of the United States; and

(B) considered by the President to be necessary to national defense.

(d) Requisitioned Vessels.--A vessel requisitioned for use but not ownership under this section may be used only during the period for which the vessel was requisitioned.

Sec. 57302. Compensation to owners

(a) General Requirements.--As soon as practicable, the Secretary of Transportation shall determine and pay reasonable compensation to the owner of a vessel requisitioned under this chapter.

(b) Value and Compensation.--The value of the vessel may not be considered enhanced by the circumstances requiring its requisition. The owner may not be paid consequential damages arising from the requisition.

(c) Effect of Construction-Differential Subsidy.--(1) If a construction-differential subsidy has been paid on the vessel, the value of the vessel at the time of requisition shall be determined under section 53524 of this title.

(2) If a construction-differential subsidy has not been paid on the vessel, the value of any national defense features previously paid for by the United States Government shall be excluded.

(d) Deposits in Separate Fund.--When a vessel is requisitioned under section 57301(c) of this title, the Secretary shall deposit the compensation in a separate fund in the Treasury. Amounts in the fund shall be available to pay the compensation or any encumbrances on the vessel as provided in section 57306 of this title.

Sec. 57303. Disputed compensation

If the owner of a vessel disputes the amount of reasonable compensation determined by the Secretary of Transportation under this chapter, the Secretary shall pay the owner, as a tentative advance, 75 percent of the amount determined. The owner may bring a civil action against the United States Government to recover reasonable compensation. If the tentative advance paid under this section is greater than the amount of the court's judgment, the owner shall refund the difference.

Sec. 57304. Charter terms for use of vessels

(a) General Requirements.--If a vessel is requisitioned for use but not ownership under this chapter, the Secretary of Transportation, at the time of requisition or as soon thereafter as the situation allows, shall offer the person entitled to possession of the vessel a charter stating--

(1) the terms the Secretary believes should govern the relationship between the United States Government and the person; and

(2) the rate of compensation the Secretary considers reasonable for the use of the vessel and the services required under the charter.

(b) Loss or Damage.--If a vessel is lost or damaged by a risk assumed by the Government under the charter, but a valuation for the vessel or a means of compensation has not been agreed to, the Secretary shall pay reasonable compensation for the loss or damage, to the extent the person is not reimbursed through insurance.

Sec. 57305. Returning vessels requisitioned for use

When a vessel requisitioned for use but not ownership is returned to the owner, the Secretary of Transportation shall--

(1) return the vessel in a condition at least as good as when taken, less ordinary wear and tear; or

(2) pay the owner an amount sufficient to recondition the vessel to that condition, less ordinary wear and tear.

Sec. 57306. Vessel encumbrances

(a) Requisitioning Encumbered Vessels.--The existence of an encumbrance on a vessel does not prevent the Secretary of Transportation from requisitioning the vessel under this chapter.

(b) Deposits in Separate Fund.--(1) If an encumbrance exists, the Secretary may deposit part of the compensation or advance of compensation to be paid under this chapter (but not more than the total amount of all encumbrances) in a separate fund in the Treasury. The Secretary shall publish notice of the creation of the fund in the Federal Register.

(2) Amounts deposited in the fund shall be available to pay the compensation or any of the encumbrances (including encumbrances stipulated to in a court of the United States or a State) existing at the time the vessel was requisitioned.

(c) Civil Action.--(1) Within 6 months after publication of notice under subsection (b) of this section, the holder of an encumbrance may bring a civil action in admiralty against the fund. The action must be brought in the district court of the United States--

(A) from whose custody the vessel was or may be requisitioned; or

(B) in whose district the vessel was located when it was requisitioned.

(2) Notice of the action shall be given to all interested persons as ordered by the court.

(3) The action shall proceed and be decided according to the principles of law and rules of practice applicable in like cases between private parties.

Sec. 57307. Transfer and operation of vessels

(a) Transfers to Other Agencies.--The Secretary of Transportation may transfer the ownership or use of a vessel acquired under this chapter to the head of another agency without regard to chapter 595 of this title. The head of the agency promptly shall reimburse the Secretary for expenditures for reasonable compensation, purchase price,

charter compensation, repairs, rebuilding, or reconditioning. The head of the agency may charter a vessel under this subsection.

Sec. 57308. Repairing, rebuilding, and reconditioning vessels

The Secretary of Transportation and the head of another agency to which ownership or use is transferred may repair, rebuild, or recondition a vessel acquired under this chapter or provide facilities for the repair, rebuilding, or reconditioning--

- (1) with any funds available; and
- (2) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

CHAPTER 575--ESSENTIAL VESSELS AFFECTED BY NEUTRALITY ACT

Sec.

57501. Definition.

57502. Adjusting obligations and arranging maintenance.

57503. Types of adjustments and arrangements.

57504. Changes in adjustments and arrangements.

Sec. 57501. Definition

In this chapter, "essential vessel" means a vessel that is--

- (1)(A) security for a mortgage indebtedness to the United States Government; or
- (B) built under this subtitle or required by a contract under this subtitle to be operated on a certain essential foreign commerce route; and
- (2) necessary in the interests of commerce and national defense to be maintained in condition for prompt use.

Sec. 57502. Adjusting obligations and arranging maintenance

(a) General Authority.--On written application, the Secretary of Transportation may adjust obligations and arrange for maintenance of an essential vessel as provided in this chapter if the Secretary decides, after any investigation or proceeding the Secretary considers desirable, that--

- (1) the operation of the vessel in the service, route, or line to which it is assigned under this subtitle, or in which it otherwise would be operated, is not--
 - (A) lawful under the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or a proclamation issued under that Act; or

(B) compatible with maintaining the availability of the vessel for national defense and commerce;

(2) it is not feasible under existing law to employ the vessel in another service or operation in foreign or domestic commerce (except temporary or emergency operation under section 57503(b)(5) of this title); and

(3) the applicant, because of the restrictions of the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or the withdrawal of vessels for national defense under clause (1) of this subsection, is not earning or will not earn a reasonable return on the capital necessarily employed in its business.

(b) Effective Period.--Adjustments and arrangements under subsection (a) of this section shall continue in effect only as long as the circumstances described in subsection (a) continue to exist.

Sec. 57503. Types of adjustments and arrangements

(a) Suspension Requirements.--An adjustment or arrangement under this chapter shall include suspension of--

(1) the requirement to operate the vessel in foreign commerce under the applicable operating-differential or construction-differential subsidy contract or mortgage or other agreement; and

(2) the right to operating-differential subsidy for the vessel.

(b) Discretionary Adjustments and Arrangements.--To the extent the Secretary of Transportation considers appropriate to carry out this subtitle, an adjustment or arrangement under this chapter may include any of the following:

(1) Lay-up of the vessel by the owner or in the custody of the Secretary, with payment or reimbursement by the Secretary of necessary and proper expenses (including reasonable overhead and insurance) or a fixed periodic allowance instead of payment or reimbursement.

(2) Postponement, for not more than the total period of the lay-up, of the maturity date of each installment of the principal of obligations to the United States Government for the vessel (regardless of whether the maturity date is during a lay-up period), or rearrangement of those maturities.

(3) Postponement or cancellation of interest accruing on the obligations during a lay-up period.