**AMENDMENT**

**TO RULES COMMITTEE PRINT 116–19**

**OFFERED BY ________________**

At the end of title XXXV, add the following new subtitle:

1  **Subtitle C—Cable Security Fleet**

2 **SEC. 3521. ESTABLISHMENT OF CABLE SECURITY FLEET.**

3 (a) **IN GENERAL.**—Title 46, United States Code, is amended by inserting before chapter 533 the following new chapter:

6 **“CHAPTER 532—CABLE SECURITY FLEET**

“Sec.

“53201. Definitions.

“53202. Establishment of the Cable Security Fleet.

“53203. Award of operating agreements.

“53204. Effectiveness of operating agreements.

“53205. Obligations and rights under operating agreements.

“53206. Payments.

“53207. National security requirements.

“53208. Regulatory relief.


7 **“§ 53201. Definitions**

8 “In this chapter:

9 “(1) **CABLE SERVICES.**—The term ‘cable services’ means the installation, maintenance, or repair of submarine cables and related equipment, and related cable vessel operations.
“(2) CABLE VESSEL.—The term ‘cable vessel’ means a vessel—

“(A) classed as a cable ship or cable vessel by, and designed in accordance with the rules of, the American Bureau of Shipping, or another classification society accepted by the Secretary; and

“(B) capable of installing, maintaining, and repairing submarine cables.

“(3) CABLE FLEET.—The term ‘Cable Fleet’ means the Cable Security Fleet established under section 53202(a).

“(4) CONTINGENCY AGREEMENT.—The term ‘Contingency Agreement’ means the agreement required by section 53207.

“(5) CONTRACTOR.—The term ‘Contractor’ means an owner or operator of a vessel that enters into an Operating Agreement for a cable vessel with the Secretary under section 53203.

“(6) FISCAL YEAR.—The term ‘fiscal year’ means any annual period beginning on October 1 and ending on September 30.

“(7) OPERATING AGENCY.—The term ‘Operating Agency’ means that agency or component of
the Department of Defense so designated by the Secretary of Defense under this chapter.

“(8) Operating Agreement or Agreement.—The terms ‘Operating Agreement’ or ‘Agreement’ mean the agreement required by section 53203.

“(9) Person.—The term ‘person’ includes corporations, partnerships, and associations existing under or authorized by the laws of the United States, or any State, Territory, District, or possession thereof, or of any foreign country.

“(10) Secretary.—The term ‘Secretary’ means the Secretary of Transportation.

“(11) United States.—The term ‘United States’ includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

“(12) United States citizen trust.—

“(A) Subject to paragraph (C), the term ‘United States citizen trust’ means a trust that is qualified under this paragraph.

“(B) A trust is qualified under this paragraph with respect to a vessel only if—
“(i) it was created under the laws of a state of the United States;

“(ii) each of the trustees is a citizen of the United States; and

“(iii) the application for documentation of the vessel under chapter 121 of this title includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence, or limit the exercise of the authority of, the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

“(C) If any person that is not a citizen of the United States has authority to direct, or participate in directing, the trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the in-
terests of the United States or in removing a
trustee for a trust without cause, either directly
or indirectly through the control of another per-
son, the trust is not qualified under this para-
graph unless the trust instrument provides that
persons who are not citizens of the United
States may not hold more than 25 percent of
the aggregate authority to direct or remove a
trustee.

“(D) This paragraph shall not be consid-
ered to prohibit a person who is not a citizen
of the United States from holding more than 25
percent of the beneficial interest in a trust.

“§53202. Establishment of the Cable Security Fleet

“(a) IN GENERAL.—

“(1) The Secretary, in consultation with the
Operating Agency, shall establish a fleet of active,
commercially viable, cable vessels to meet national
security requirements. The fleet shall consist of pri-
vately owned, United States-documented cable ves-
sels for which there are in effect Operating Agree-
ments under this chapter, and shall be known as the
Cable Security Fleet.

“(2) The Fleet described under this section
shall include two vessels.
“(b) VESSEL ELIGIBILITY.—A cable vessel is eligible to be included in the Fleet if—

“(1) the vessel meets the requirements of paragraph (1), (2), (3), or (4) of subsection (c);

“(2) the vessel is operated (or in the case of a vessel to be constructed, will be operated) in commercial service providing cable services;

“(3) the vessel is 40 years of age or less on the date the vessel is included in the Fleet;

“(4) the vessel is—

“(A) determined by the Operating Agency to be suitable for engaging in cable services by the United States in the interest of national security; and

“(B) determined by the Secretary to be commercially viable, whether independently or taking any payments which are the consequence of participation in the Cable Fleet into account; and

“(5) the vessel—

“(A) is a United States-documented vessel;

or

“(B) is not a United States-documented vessel, but—
“(i) the owner of the vessel has demonstrated an intent to have the vessel documented under chapter 121 of this title if it is included in the Cable Fleet; and

“(ii) at the time an Operating Agreement is entered into under this chapter, the vessel is eligible for documentation under chapter 121 of this title.

“(c) Requirements Regarding Citizenship of Owners and Operators.—

“(1) Vessels owned and operated by section 50501 citizens.—A vessel meets the requirements of this paragraph if, during the period of an Operating Agreement under this chapter that applies to the vessel, the vessel will be owned and operated by one or more persons that are citizens of the United states under section 50501 of this title.

“(2) Vessels owned by a section 50501 citizen, or United States citizen trust, and chartered to a documentation citizen.—A vessel meets the requirements of this paragraph if—

“(A) during the period of an Operating Agreement under this chapter that applies to the vessel, the vessel will be—
“(i) owned by a person that is a citizen of the United States under section 50501 of this title or that is a United States citizen trust; and

“(ii) demise chartered to and operated by a person—

“(I) that is eligible to document the vessel under chapter 121 of this title;

“(II) the chairman of the board of directors, chief executive officer, and a majority of the members of the board of directors of which are citizens of the United States under section 50501 of this title, and are appointed and subject to removal only upon approval by the Secretary; and

“(III) that certifies to the Secretary that there are no treaties, statutes, regulations, or other laws that would prohibit the Contractor for the vessel from performing its obligations under an Operating Agreement under this chapter;
“(B) in the case of a vessel that will be demise chartered to a person that is owned or controlled by another person that is not a citizen of the United States under section 50501 of this title, the other person enters into an agreement with the Secretary not to influence the operation of the vessel in a manner that will adversely affect the interests of the United States; and

“(C) the Secretary and the Operating Agency notify the Committee on Armed Services and the Committee on Commerce, Science and Transportation of the Senate, and the Committee on Armed Services of the House of Representatives that they concur, and have reviewed the certification required under subparagraph (A)(ii)(III) and determined that there are no legal, operational, or other impediments that would prohibit the Contractor for the vessel from performing its obligations under an Operating Agreement under this chapter.

“(3) VESSEL OWNED AND OPERATED BY A DEFENSE CONTRACTOR.—A vessel meets the requirements of this paragraph if—
“(A) during the period of an Operating Agreement under this chapter that applies to the vessel, the vessel will be owned and operated by a person that—

“(i) is eligible to document a vessel under chapter 121 of this title;

“(ii) operates or manages other United States-documented vessels for the Secretary of Defense, or charters other vessels to the Secretary of Defense;

“(iii) has entered into a special security agreement for purposes of this paragraph with the Secretary of Defense;

“(iv) makes the certification described in paragraph (2)(A)(ii)(III); and

“(v) in the case of a vessel described in paragraph (2)(B), enters into an agreement referred to in that paragraph; and

“(B) the Secretary and the Secretary of Defense notify the Committee on Armed Services and Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives that they have reviewed the certification required by subparagraph (A)(iv) and de-
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olution, or other impediments that would pro-
hibit the Contractor for the vessel from per-
forming its obligations under an Operating
Agreement under this chapter.
“(4) VESSEL OWNED BY A DOCUMENTATION
CITIZEN AND CHARTERED TO A SECTION 50501 CIT-
IZEN.—A vessel meets the requirements of this para-
graph if, during the period of an Operating Agree-
ment under this chapter that applies to the vessel,
the vessel will be—
“(A) owned by a person that is eligible to
doctor a vessel under chapter 121 of this
title; and
“(B) demise chartered to a person that is
a citizen of the United States under section
50501 of this title.
“(d) VESSEL STANDARDS.—
“(1) CERTIFICATE OF INSPECTION.—A cable
vessel which the Secretary of the Department in
which the Coast Guard is operating determines
meets the criteria of subsection (b) of this section
but which, on the date of enactment of the Act, is
not documented under chapter 121 of this title, shall
be eligible for a certificate of inspection if that Secretary determines that—

“(A) the vessel is classed by, and designed in accordance with the rules of, the American Bureau of Shipping, or another classification society accepted by that Secretary;

“(B) the vessel complies with applicable international agreements and associated guidelines, as determined by the country in which the vessel was documented immediately before becoming documented under chapter 121; and

“(C) that country has not been identified by that Secretary as inadequately enforcing international vessel regulations as to that vessel.

“(2) Continued Eligibility for Certificate.—Paragraph (1) does not apply to a vessel after any date on which the vessel fails to comply with the applicable international agreements and associated guidelines referred to in paragraph (1)(B).

“(3) Reliance on Classification Society.—

“(A) In General.—The Secretary of the Department in which the Coast Guard is operating may rely on a certification from the American Bureau of Shipping or, subject to
subparagraph (B), another classification society accepted by that Secretary to establish that a vessel is in compliance with the requirements of paragraphs (1) and (2).

“(B) FOREIGN CLASSIFICATION SOCIETY.—The Secretary of the Department in which the Coast Guard is operating may accept certification from a foreign classification society under subparagraph (A) only—

“(i) to the extent that the government of the foreign country in which the society is headquartered provides access on a reciprocal basis to the American Bureau of Shipping; and

“(ii) if the foreign classification society has offices and maintains records in the United States.

“(e) WAIVER OF AGE REGISTRATION.—The Secretary, in conjunction with the Operating Agency, may waive the application of the age restriction under subsection (b)(3) if they jointly determine that the waiver—

“(1) is in the national interest;

“(2) the subject cable vessel and any associated operating network is and will continue to be economically viable; and
“(3) is necessary due to the lack of availability of other vessels and operators that comply with the requirements of this chapter.

§ 53203. Award of operating agreements

“(a) IN GENERAL.—The Secretary shall require, as a condition of including any vessel in the Cable Fleet, that the person that is the owner or operator of the vessel for purposes of section 53202(c) enter into an Operating Agreement with the Secretary under this section.

“(b) PROCEDURE FOR APPLICATIONS.—

“(1) ACCEPTANCE OF APPLICATIONS.—Beginning no later than 60 days after the effective date of this chapter, the Secretary shall accept applications for enrollment of vessels in the Cable Fleet.

“(2) ACTION ON APPLICATIONS.—Within 120 days after receipt of an application for enrollment of a vessel in the Cable Fleet, the Secretary shall approve the application in conjunction with the Operating Agency, and shall enter into an Operating Agreement with the applicant, or provide in writing the reason for denial of that application.

“(c) PRIORITY FOR AWARDING AGREEMENTS.—Subject to the availability of appropriations, the Secretary shall enter into Operating Agreements with those vessels determined by the Operating Agency, in its sole discretion,
1 to best meet the national security requirements of the
2 United States. After consideration of national security re-
3 quirements, priority shall be given to an applicant that
4 is a United States citizen under section 50501 of this title.

“§ 53204. Effectiveness of operating agreements

“(a) Effectiveness Generally.—The Secretary
may enter into an Operating Agreement under this chap-
ter for fiscal year 2021. Except as provided in subsection
(d), the agreement shall be effective only for one fiscal
year, but shall be renewable, subject to available appro-
priations, for each subsequent year.

“(b) Vessels Under Charter to the United
States.—Vessels under charter to the United States are
eligible to receive payments pursuant to their Operating
Agreements.

“(c) Termination.—

“(1) Termination by the Secretary.—If
the Contractor with respect to an Operating Agree-
ment materially fails to comply with the terms of the
Agreement—

“(A) the Secretary shall notify the Con-
tractor and provide a reasonable opportunity
for it to comply with the Operating Agreement;
“(B) the Secretary shall terminate the Operating Agreement if the Contractor fails to achieve such compliance; and

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

“(2) EARLY TERMINATION BY A CONTRACTOR.—An Operating Agreement under this chapter shall terminate on a date specified by the Contractor if the Contractor notifies the Secretary, not fewer than 60 days prior to the effective date of the termination, that the Contractor intends to terminate the Agreement.

“(d) NONRENEWAL FOR LACK OF FUNDS.—If, by the first day of a fiscal year, sufficient funds have not been appropriated under the authority provided by this chapter for that fiscal year for all Operating Agreements, then the Secretary shall notify the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives that Operating Agreements authorized under this chapter for which sufficient funds are not available will not be renewed for that fiscal year if sufficient funds are not appropriated by the 60th day of that fiscal year. If only partial funding is appro-
appropriated by the 60th day of such fiscal year, then the Sec- 
retary, in consultation with the Operating Agency, shall 
select the vessels to retain under Operating Agreements, 
based on their determinations of which vessels are most 
useful for national security. In the event that no funds 
are appropriated, then no Operating Agreements shall be 
renewed and each Contractor shall be released from its 
obligations under the Operating Agreement. Final pay-
ments under an Operating Agreement that is not renewed 
shall be made in accordance with section 53206. To the 
extent that sufficient funds are appropriated in a subse-
quent fiscal year, an Operating Agreement that has not 
been renewed pursuant to this subsection may be rein-
statement if mutually acceptable to the Secretary, in consulta-
tion with the Operating Agency, and the Contractor, pro-
vided the vessel remains eligible for participation pursuant 
to section 53202, without regard to subsection 53202 
(b)(3).

“(e) Release of Vessels From Obligations.—
If funds are not appropriated for payments under an Op-
erating Agreement under this chapter for any fiscal year 
by the 60th day of a fiscal year, and the Secretary, in 
consultation with the Operating Agency determines to not 
renew a Contractor’s Operating Agreement for a vessel, 
then—
“(1) each vessel covered by the Operating Agreement that is not renewed is thereby released from any further obligation under the Operating Agreement;

“(2) the owner or operator of the vessel whose Operating Agreement was not renewed may transfer and register such vessel under a foreign registry that is acceptable to the Secretary and the Operating Agency, notwithstanding section 56101 of this title; and

“(3) if chapter 563 of this title is applicable to such vessel after registration, then the vessel is available to be requisitioned by the Secretary pursuant to chapter 563.

§ 53205. Obligations and rights under operating agreements

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

“(1) shall be operated in the trade for Cable Services, or under a charter to the United States; and

“(2) shall be documented under chapter 121 of this title.
“(b) ANNUAL PAYMENTS BY THE SECRETARY.—

“(1) IN GENERAL.—An Operating Agreement under this chapter shall require, subject to the availability of appropriations, that the Secretary make payment to the Contractor in accordance with section 53206.

“(2) OPERATING AGREEMENT IS AN OBLIGATION OF THE UNITED STATES GOVERNMENT.—An Operating Agreement under this chapter constitutes a contractual obligation of the United States Government to pay the amounts provided for in the Operating Agreement to the extent of actual appropriations.

“(c) DOCUMENTATION REQUIREMENT.—Each vessel covered by an Operating Agreement (including an Agreement terminated under section 53204(c)(2)) shall remain documented under chapter 121 of this title, until the date the Operating Agreement would terminate according to its own terms.

“(d) NATIONAL SECURITY REQUIREMENTS.—

“(1) IN GENERAL.—A Contractor with respect to an Operating Agreement (including an Agreement terminated under section 53204(c)(2)) shall continue to be bound by the provisions of section 53207 until
the date the Operating Agreement would terminate according to its terms.

“(2) Contingency agreement with operating agency.—All terms and conditions of a Contingency Agreement entered into under section 53207 shall remain in effect until a date the Operating Agreement would terminate according to its terms, except that the terms of such Contingency Agreement may be modified by the mutual consent of the Contractor, and the Operating Agency.

“(e) Transfer of operating agreements.—Operating Agreements shall not be transferrable by the Contractor.

“(f) Replacement vessel.—A Contractor may replace a vessel under an Operating Agreement with another vessel that is eligible to be included in the Fleet under section 53202(b), if the Secretary and the Operating Agency jointly determine that the replacement vessel meets national security requirements and approve the replacement.

“§ 53206. Payments

“(a) Annual payment.—

“(1) In general.—The Secretary, subject to availability of appropriations and other provisions of this section, shall pay to the Contractor for an oper-
ating agreement, for each vessel that is covered by
the operating agreement, an amount equal to
$5,000,000 for each fiscal year 2021 through 2035.

“(2) TIMING.—This amount shall be paid in
equal monthly installments at the end of each
month. The amount shall not be reduced except as
provided by this section.

“(b) CERTIFICATION REQUIRED FOR PAYMENT.—As
a condition of receiving payment under this section for a
fiscal year for a vessel, the Contractor for the vessel shall
certify that the vessel has been and will be operated in
accordance with section 53205(a)(1) for 365 days in each
fiscal year. Up to thirty (30) days during which the vessel
is drydocked, surveyed, inspected, or repaired shall be con-
sidered days of operation for purposes of this subsection.

“(c) GENERAL LIMITATIONS.—The Secretary shall
not make any payment under this chapter for a vessel with
respect to any days for which the vessel is—

“(1) not operated or maintained in accordance
with an Operating Agreement under this chapter; or

“(2) more than 40 years of age.

“(d) REDUCTIONS IN PAYMENTS.—With respect to
payments under this chapter for a vessel covered by an
Operating Agreement, the Secretary shall make a pro rata
reduction for each day less than 365 in a fiscal year that
the vessel is not operated in accordance with section 53205(a)(1), with days during which the vessel is drydocked or undergoing survey, inspection or repair to be considered days on which the vessel is operated as provided in subsection (b).

“§ 53207. National security requirements

“(a) Contingency Agreement Required.—The Secretary shall include in each Operating Agreement under this chapter a requirement that the Contractor enter into a Contingency Agreement with the Operating Agency. The Operating Agency shall negotiate and enter into a Contingency Agreement with each Contractor as promptly as practicable after the Contractor has entered into an Operating Agreement under this chapter.

“(b) Terms of Contingency Agreement.—

“(1) In General.—A Contingency Agreement under this section shall require that a Contractor for a vessel covered by an Operating Agreement under this chapter make the vessel, including all necessary resources to engage in Cable Services required by the Operating Agency, available upon request by the Operating Agency.

“(2) Terms.—

“(A) In General.—The basic terms of a Contingency Agreement shall be established
(subject to subparagraph (B)) by the Operating Agency.

“(B) ADDITIONAL TERMS.—The Operating Agency and a Contractor may agree to additional or modifying terms appropriate to the Contractor’s circumstances.

“(c) DEFENSE MEASURES AGAINST UNAUTHORIZED SEIZURES.—

“(1) The Contingency Agreement shall require that any vessel operating under the direction of the Operating Agency operating in area that is designated by the Coast Guard as an area of high risk of piracy shall be equipped with, at a minimum, appropriate non-lethal defense measures to protect the vessel and crew from unauthorized seizure at sea.

“(2) The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating shall jointly prescribe the non-lethal defense measures that are required under this paragraph.

“(d) PARTICIPATION AFTER EXPIRATION OF OPERATING AGREEMENT.—Except as provided by section 53205(d), the Operating Agency may not require, through a Contingency Agreement or an Operating Agreement, that a Contractor continue to participate in a Contingency
Agreement after the Operating Agreement with the Contractor has expired according to its terms or is otherwise no longer in effect.

“(e) RESOURCES MADE AVAILABLE.—The resources to be made available in addition to the vessel under a Contingency Agreement shall include all equipment, personnel, supplies, management services, and other related services as the Operating Agency may determine to be necessary to provide the Cable Services required by the Operating Agency.

“(f) COMPENSATION.—

“(1) IN GENERAL.—The Operating Agency shall include in each Contingency Agreement provisions under which the Operating Agency shall pay fair and reasonable compensation for use of the vessel and all Cable Services provided pursuant to this section and the Contingency Agreement.

“(2) SPECIFIC REQUIREMENTS.—Compensation under this subsection—

“(A) shall be at the rate specified in the Contingency Agreement;

“(B) shall be provided from the time that a vessel is required by the Operating Agency under the Contingency Agreement until the time it is made available by the Operating
Agency available to reenter commercial service;

and

“(C) shall be in addition to and shall not

in any way reflect amounts payable under sec-

tion 53206.

“(g) LIABILITY OF THE UNITED STATES FOR DAM-

AGES.—

“(1) LIMITATION ON THE LIABILITY OF THE

U.S.—Except as otherwise provided by law, the Gov-

ernment shall not be liable for disruption of a Con-

tractor’s commercial business or other consequential
damages to a Contractor arising from the activation

of the Contingency Agreement.

“(2) AFFIRMATIVE DEFENSE.—In any action in

any Federal or State court for breach of third-party

contract, there shall be available as an affirmative
defense that the alleged breach of contract was

causeditly by action taken to carry out

a Contingent Agreement. Such defense shall not re-

lease the party asserting it from any obligation

under applicable law to mitigate damages to the

greatest extent possible.

§ 53208. Regulatory relief

“(a) APPLICABILITY OF COASTWISE LAWS.—A vessel
covered by an Operating Agreement that is operating pur-
suant to a Contingency Agreement, shall not be subject
to the coastwise laws (46 U.S.C. 55101, et seq.).

“(b) TELECOMMUNICATIONS EQUIPMENT.—The tele-
communications and other electronic equipment on an ex-
isting vessel that is redocumented under the laws of the
United States for operation under an Operating Agree-
ment under this chapter shall be deemed to satisfy all Fed-
eral Communication Commission equipment certification
requirements, if—

“(1) such equipment complies with all applica-
ble international agreements and associated guide-
lines as determined by the country in which the ves-
sel was documented immediately before becoming
documented under the laws of the United States;

“(2) that country has not been identified by the
Secretary of the Department in which the Coast
Guard is operating as inadequately enforcing inter-
national regulations as to that vessel; and

“(3) at the end of its useful life, such equip-
ment shall be replaced with equipment that meets
Federal Communication Commission equipment cer-
tification standards.
§ 53209. Authorization of appropriations

“There are authorized to be appropriated for payments under section 53206, $10,000,000 for each of the fiscal years 2021 through 2035.”.

(b) CONFORMING AMENDMENT.—The table of chapters at the beginning of subtitle V of title 46, United States Code, is amended by inserting before the item relating to chapter 533 the following new item:

“532. Cable Security Fleet .......................................................... 53201”.

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