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**AMENDMENTS**

2000—Pub. L. 106-398, §1 [[div. A], title X, §1087(g)(6)], Oct. 30, 2000, 114 Stat. 1654, 1654A-294, substituted “mariner benefits” for “Mariner Benefits” in item 112.

1998—Pub. L. 105-368, title IV, §402(b), Nov. 11, 1998, 112 Stat. 3337, added item 112.

1996—Pub. L. 104-324, title VI, §602(b), Oct. 19, 1996, 110 Stat. 3930, added item 32.

1992—Pub. L. 102-587, title V, §5304, Nov. 4, 1992, 106 Stat. 5083, added item 47.

1988—Pub. L. 100-710, title I, §101(b), Nov. 23, 1988, 102 Stat. 4738, added item 125.

Pub. L. 100-424, §6(b), Sept. 9, 1988, 102 Stat. 1592, added item 106.

1986—Pub. L. 99-509, title V, §5101(1), Oct. 21, 1986, 100 Stat. 1913, inserted items for parts C and J.

1985—Pub. L. 99-36, §1(a)(9)(A), May 15, 1985, 99 Stat. 67, substituted “Merchant Seamen Licenses, Certifications, and” for “Licenses, Certificates, and Merchant Mariners’” in heading for part E.

1984—Pub. L. 98-364, title IV, §402(7)(A), July 17, 1984, 98 Stat. 446, inserted “generally” in item 41, reenacted item 43 without change, and added item 45.

**SUBTITLE REFERRED TO IN OTHER SECTIONS**

This subtitle is referred to in title 33 section 59ii.

**PART A—GENERAL PROVISIONS****HISTORICAL AND REVISION NOTES**

Part A contains general provisions that apply throughout the subtitle and provisions that apply generally to the operation of all vessels.

**PART REFERRED TO IN OTHER SECTIONS**

This part is referred to in section 14305 of this title.

**CHAPTER 21—GENERAL****Sec.**

2101.	General definitions.
2102.	Limited definitions.
2103.	Superintendence of the merchant marine.
2104.	Delegation.
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**HISTORICAL AND REVISION NOTES**

Chapter 21 contains definitions that are general in nature and applicable to all references within Subtitle II—Vessels and Seamen. The chapter provides the basic authority and responsibility for the enforcement and administration of this subtitle with appropriate delegation and reporting requirements.

**AMENDMENTS**

1996—Pub. L. 104-324, title III, §303(b), Oct. 19, 1996, 110 Stat. 3917, added item 2115.

1990—Pub. L. 101-508, title X, §10401(b), Nov. 5, 1990, 104 Stat. 1388-398, substituted “Fees” for “Fees prohibited” in item 2110.

1984—Pub. L. 98-557, §13(b), Oct. 30, 1984, 98 Stat. 2864, added item 2114.

**CHAPTER REFERRED TO IN OTHER SECTIONS**

This chapter is referred to in title 16 section 1862.

**§ 2101. General definitions**

In this subtitle—

(1) “associated equipment”—

(A) means—

- (i) a system, accessory, component, or appurtenance of a recreational vessel; or
- (ii) a marine safety article intended for use on board a recreational vessel; but

(B) does not include radio equipment.

(2) “barge” means a non-self-propelled vessel.

(3) “Boundary Line” means a line established under section 2(b) of the Act of February 19, 1895 (33 U.S.C. 151).

(3a) “citizen of the United States” means a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an individual citizen of the Trust Territory of the Pacific Islands who is exclusively domiciled in the Northern Mariana Islands within the meaning of section 1005(e) of the Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note).<sup>1</sup>

(4) “Coast Guard” means the organization established and continued under section 1 of title 14.

(5) “commercial service” includes any type of trade or business involving the transportation of goods or individuals, except service performed by a combatant vessel.

<sup>2</sup> So in original. Only first word should be capitalized.

<sup>1</sup> See References in Text note below.

(5a) “consideration” means an economic benefit, inducement, right, or profit including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage, by monetary contribution or donation of fuel, food, beverage, or other supplies.

(6) “consular officer” means an officer or employee of the United States Government designated under regulations to grant visas.

(7) “crude oil” means a liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, and includes crude oil from which certain distillate fractions may have been removed, and crude oil to which certain distillate fractions may have been added.

(8) “crude oil tanker” means a tanker engaged in the trade of carrying crude oil.

(8a) “dangerous drug” means a narcotic drug, a controlled substance, or a controlled substance analog (as defined in section 102 of the Comprehensive Drug Abuse<sup>2</sup> and Control Act of 1970 (21 U.S.C. 802)).

(9) “discharge”, when referring to a substance discharged from a vessel, includes spilling, leaking, pumping, pouring, emitting, emptying, or dumping, however caused.

(10) “documented vessel” means a vessel for which a certificate of documentation has been issued under chapter 121 of this title.

(10a) “Exclusive Economic Zone” means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983.

(11) “fish” means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life, except marine mammals and birds.

(11a) “fishing vessel” means a vessel that commercially engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

(11b) “fish processing vessel” means a vessel that commercially prepares fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing, or brine chilling.

(11c) “fish tender vessel” means a vessel that commercially supplies, stores, refrigerates, or transports fish, fish products, or materials directly related to fishing or the preparation of fish to or from a fishing, fish processing, or fish tender vessel or a fish processing facility.

(12) “foreign vessel” means a vessel of foreign registry or operated under the authority of a country except the United States.

(13) “freight vessel” means a motor vessel of more than 15 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title that carries freight for hire, except an oceanographic research vessel or an offshore supply vessel.

(13a) “Great Lakes barge” means a non-self-propelled vessel of at least 3,500 gross tons as measured under section 14502 of this title, or

an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title operating on the Great Lakes.

(14) “hazardous material” means a liquid material or substance that is—

(A) flammable or combustible;

(B) designated a hazardous substance under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321); or

(C) designated a hazardous material under section 5103(a) of title 49;

(14a) “major conversion” means a conversion of a vessel that—

(A) substantially changes the dimensions or carrying capacity of the vessel;

(B) changes the type of the vessel;

(C) substantially prolongs the life of the vessel; or

(D) otherwise so changes the vessel that it is essentially a new vessel, as decided by the Secretary.

(15) “marine environment” means—

(A) the navigable waters of the United States and the land and resources in and under those waters;

(B) the waters and fishery resources of an area over which the United States asserts exclusive fishery management authority;

(C) the seabed and subsoil of the outer Continental Shelf of the United States, the resources of the Shelf, and the waters superjacent to the Shelf; and

(D) the recreational, economic, and scenic values of the waters and resources referred to in subclauses (A)–(C) of this clause.

(15a) “mobile offshore drilling unit” means a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources.

(16) “motor vessel” means a vessel propelled by machinery other than steam.

(17) “nautical school vessel” means a vessel operated by or in connection with a nautical school or an educational institution under section 13 of the Coast Guard Authorization Act of 1986.

(17a) “navigable waters of the United States” includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.

(17b) “numbered vessel” means a vessel for which a number has been issued under chapter 123 of this title.

(18) “oceanographic research vessel” means a vessel that the Secretary finds is being employed only in instruction in oceanography or limnology, or both, or only in oceanographic or limnological research, including those studies about the sea such as seismic, gravity meter, and magnetic exploration and other marine geophysical or geological surveys, atmospheric research, and biological research.

(19) “offshore supply vessel” means a motor vessel of more than 15 gross tons but less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this

<sup>2</sup> So in original. Probably should be “Abuse Prevention”.

title that regularly carries goods, supplies, individuals in addition to the crew, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

(20) “oil” includes oil of any type or in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes except dredged spoil.

(20a) “oil spill response vessel” means a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material.

(20b) “overall in length” means—

(A) for a foreign vessel or a vessel engaged on a foreign voyage, the greater of—

(i) 96 percent of the length on a waterline at 85 percent of the least molded depth measured from the top of the keel (or on a vessel designed with a rake of keel, on a waterline parallel to the designed waterline); or

(ii) the length from the fore side of the stem to the axis of the rudder stock on that waterline; and

(B) for any other vessel, the horizontal distance of the hull between the foremost part of the stem and the aftermost part of the stern, excluding fittings and attachments.

(21) “passenger”—

(A) means an individual carried on the vessel except—

(i) the owner or an individual representative of the owner or, in the case of a vessel under charter, an individual charterer or individual representative of the charterer;

(ii) the master; or

(iii) a member of the crew engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for on board services;

(B) on an offshore supply vessel, means an individual carried on the vessel except—

(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

(ii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

(iii) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

(iv) an individual employed in a phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel;

(C) on a fishing vessel, fish processing vessel, or fish tender vessel, means an individual carried on the vessel except—

(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

(ii) a managing operator;

(iii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

(iv) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

(v) an observer or sea sampler on board the vessel pursuant to a requirement of State or Federal law; or

(D) on a sailing school vessel, means an individual carried on the vessel except—

(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

(ii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

(iii) an employee of the demise charterer of the vessel engaged in the business of the demise charterer; or

(iv) a sailing school instructor or sailing school student.

(21a) “passenger for hire” means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.

(22) “passenger vessel” means a vessel of at least 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—

(A) carrying more than 12 passengers, including at least one passenger for hire;

(B) that is chartered and carrying more than 12 passengers; or

(C) that is a submersible vessel carrying at least one passenger for hire.

(23) “product carrier” means a tanker engaged in the trade of carrying oil except crude oil.

(24) “public vessel” means a vessel that—

(A) is owned, or demise chartered, and operated by the United States Government or a government of a foreign country; and

(B) is not engaged in commercial service.

(25) “recreational vessel” means a vessel—

(A) being manufactured or operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter’s pleasure.

(26) “recreational vessel manufacturer” means a person engaged in the manufacturing, construction, assembly, or importation of recreational vessels, components, or associated equipment.

(27) “sailing instruction” means teaching, research, and practical experience in operating vessels propelled primarily by sail and may include—

(A) any subject related to that operation and to the sea, including seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature; and

(B) only when in conjunction with a subject referred to in subclause (A) of this clause, instruction in mathematics and language arts skills to sailing school students having learning disabilities.

(28) “sailing school instructor” means an individual who is on board a sailing school ves-

sel to provide sailing instruction, but does not include an operator or crewmember who is among those required to be on board the vessel to meet a requirement established under part F of this subtitle.

(29) "sailing school student" means an individual who is on board a sailing school vessel to receive sailing instruction.

(30) "sailing school vessel" means a vessel—

(A) that is less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title;

(B) carrying more than 6 individuals who are sailing school instructors or sailing school students;

(C) principally equipped for propulsion by sail, even if the vessel has an auxiliary means of propulsion; and

(D) owned or demise chartered, and operated by an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of that Code, or by a State or political subdivision of a State, during times that the vessel is operated by the organization, State, or political subdivision only for sailing instruction.

(31) "scientific personnel" means individuals on board an oceanographic research vessel only to engage in scientific research, or to instruct or receive instruction in oceanography or limnology.

(33) "seagoing motor vessel" means a motor vessel of at least 300 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title making voyages beyond the Boundary Line.

(34) "Secretary", except in part H, means the head of the department in which the Coast Guard is operating.

(35) "small passenger vessel" means a vessel of less than 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—

(A) carrying more than 6 passengers, including at least one passenger for hire;

(B) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying more than 6 passengers;

(C) that is chartered with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers; or

(D) that is a submersible vessel carrying at least one passenger for hire.

(36) "State" means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

(37) "steam vessel" means a vessel propelled in whole or in part by steam, except a recreational vessel of not more than 40 feet in length.

(37a) "submersible vessel" means a vessel that is capable of operating below the surface of the water.

(38) "tanker" means a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous material in bulk in the cargo spaces.

(39) "tank vessel" means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that—

(A) is a vessel of the United States;

(B) operates on the navigable waters of the United States; or

(C) transfers oil or hazardous material in a port or place subject to the jurisdiction of the United States.

(40) "towing vessel" means a commercial vessel engaged in or intending to engage in the service of pulling, pushing, or hauling along side, or any combination of pulling, pushing, or hauling along side.

(41) "undocumented" means not having and not required to have a document issued under chapter 121 of this title.

(42) "uninspected passenger vessel" means an uninspected vessel—

(A) of at least 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—

(i) carrying not more than 12 passengers, including at least one passenger for hire; or

(ii) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 12 passengers; and

(B) of less than 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—

(i) carrying not more than 6 passengers, including at least one passenger for hire; or

(ii) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 6 passengers.

(43) "uninspected vessel" means a vessel not subject to inspection under section 3301 of this title that is not a recreational vessel.

(44) "United States", when used in a geographic sense, means the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

(45) "vessel" has the same meaning given that term in section 3 of title 1.

(46) "vessel of the United States" means a vessel documented or numbered under the laws of the United States or titled under the law of a State.

(47) "vessel of war" means a vessel—

(A) belonging to the armed forces of a country;

(B) bearing the external marks distinguishing vessels of war of that country;

(C) under the command of an officer commissioned by the government of that country and whose name appears in the appropriate service list or its equivalent; and

(D) staffed by a crew under regular armed forces discipline.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 501; Pub. L. 98–364, title IV, § 402(1), July 17, 1984, 98 Stat. 445; Pub. L. 98–454, title III, § 301(a), Oct. 5, 1984, 98 Stat. 1734; Pub. L. 98–557, § 34(a), Oct. 30, 1984, 98 Stat. 2876; Pub. L. 99–307, § 1(1), (2), May 19, 1986, 100 Stat. 444; Pub. L. 99–509, title V, § 5102(b)(1), Oct. 21, 1986, 100 Stat. 1926; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–640, §§ 10(b)(1), 11(a), 13(d), Nov. 10, 1986, 100 Stat. 3549–3551; Pub. L. 100–239, § 6(a)(1), Jan. 11, 1988, 101 Stat. 1781; Pub. L. 100–424, § 8(c)(1), Sept. 9, 1988, 104 Stat. 1593; Pub. L. 100–710, title I, § 104(a)(1), (2), Nov. 23, 1988, 102 Stat. 4749; Pub. L. 101–225, title II, § 209, Dec. 12, 1989, 103 Stat. 1913; Pub. L. 101–380, title IV, § 4103(a)(2)(A), Aug. 18, 1990, 104 Stat. 511; Pub. L. 101–595, title VI, § 603(1), Nov. 16, 1990, 104 Stat. 2993; Pub. L. 102–587, title V, § 5208(a), Nov. 4, 1992, 106 Stat. 5075; Pub. L. 103–206, title V, §§ 502–510, Dec. 20, 1993, 107 Stat. 2439–2441; Pub. L. 103–272, § 5(D), July 5, 1994, 108 Stat. 1375; Pub. L. 104–324, title VII, § 709, title XI, § 1104(a), Oct. 19, 1996, 110 Stat. 3934, 3966; Pub. L. 105–383, title III, § 301(b)(1), Nov. 13, 1998, 112 Stat. 3417.)

#### HISTORICAL AND REVISION NOTES

A number of definitions are provided because of the need to define jurisdictional and applicability limits of various sections to the many types and classes of vessels.

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2101(1) .....	46:1452(8)
2101(2) .....	.....
2101(3) .....	.....
2101(4) .....	14:1
2101(5) .....	46:391a(2)(H)
2101(6) .....	.....
2101(7) .....	46:391a(2)(S)
2101(8) .....	46:391a(2)(N)
2101(9) .....	46:391a(2)(A)
2101(10) .....	46:65(1)
2101(11) .....	46:65(2)
2101(12) .....	46:391a(2)(B)
.....	46:597
.....	46:599
2101(13) .....	46:404
.....	46:390(e)
2101(14) .....	46:391a(2)(C)
2101(15) .....	46:391a(2)(D)
2101(16) .....	46:361
.....	46:367
.....	46:404
2101(17) .....	46:404
.....	46:1295f(c)
.....	46:1295g(e)(1)
2101(18) .....	46:441(1)
2101(19) .....	46:404–1(1)
2101(20) .....	46:391a(2)(E)
2101(21) .....	46:390(a)
.....	46:404–1(4)
.....	46:1452(5)
2101(22) .....	46:391(c)
2101(23) .....	46:391a(2)(O)
2101(24) .....	46:391a(2)(G)
2101(25) .....	46:1452(1)(A), (B)
2101(26) .....	46:1452(7)
2101(27) .....	46:390(f)
2101(28) .....	46:390(h)
2101(29) .....	46:390(i)
2101(30) .....	46:390(g)
2101(31) .....	46:441(2)
2101(32) .....	46:395(e)
2101(33) .....	46:367
2101(34) .....	33:151
.....	46:216(b)
.....	46:239a(b)
.....	46:390(d)
.....	46:391a(2)(I)
.....	46:405(b)(1)(A)
.....	46:481(a)
.....	46:672(a)
.....	46:1452(9)

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2101(35) .....	46:390(b)
2101(36) .....	.....
2101(37) .....	46:361
2101(38) .....	46:391a(2)(M)
2101(39) .....	46:391a(3)
2101(40) .....	46:405
2101(41) .....	46:1452(3)
2101(42) .....	46:1452(1)(C)
2101(43) .....	46:526
2101(44) .....	.....
2101(45) .....	1:3
.....	46:1452(2)
2101(46) .....	46:391a(2)(L)

Section 2101(1) defines the type of “associated equipment” that is involved in the use of recreational boats that are subject to Federal regulatory authority. This equipment is subject to a number of controls under federally established construction and performance standards. Radio equipment is exempt from these regulatory controls, since this equipment continues to be regulated by the Federal Communications Commission.

Section 2101(2) defines “barge” as a vessel that is non-self-propelled and that is often pushed ahead, towed alongside, or towed astern on a hawser by a towing vessel. It does not include a vessel that is propelled by sail only.

Section 2101(3) defines “boundary line” for the establishment of jurisdictional parameters for various maritime safety laws. Public Law 96–324, codified at 33 U.S.C. 151, permits the Secretary to establish appropriate identifiable lines dividing inland waters of the U.S. from the high seas for the purpose of determining the applicability of these laws. These laws will now be included within subtitle II of title 46—Shipping. These lines may not be located more than twelve nautical miles seaward of the baseline from which the territorial sea is measured and may differ in position for the purposes of different parts or sections of subtitle II.

Section 2101(4) defines “Coast Guard”.

Section 2101(5) provides that wherever the term “commercial service” is used it is to include all vessels except those that are primarily used for combatant purposes. This is to make sure that vessels that are engaged in the transportation of goods or individuals are subject to the applicable maritime and environmental safety laws, even if they are sovereign controlled vessels.

Section 2101(6) defines “consular officer” as one who has authority to issue visas. Traditionally this person is knowledgeable and familiar with the maritime safety and seamen’s welfare laws.

Section 2101(7) defines “crude oil” because certain equipment requirements like inert gas systems, segregated ballast tanks, crude oil washing systems or special ballast arrangements are applicable only to tank vessels that carry crude oil. Crude oil is still included within the definition of “hazardous material” and “oil”.

Section 2101(8) defines a “crude oil tanker” as one engaged in carrying crude oil. The definition does not include a tank barge since a tanker is defined as a self-propelled tank vessel. See also 2101(38).

Section 2101(9) makes it clear that the term “discharge” when referring to a substance that emanates from a vessel and is related to the marine environmental laws concerning pollution by oil or hazardous substances.

Section 2101(10) defines a “documented vessel” as any vessel of the United States that has been issued a certificate of documentation that might include a register, enrollment, license, or enrollment and license for various trades.

Section 2101(11) lists what is included in the term “fisheries” for the purpose of documentation of vessels and is intended to be all-inclusive of the numerous types of fishing activities.

Section 2101(12) defines “foreign vessel” as any foreign flag or foreign operated vessel that is operated under the jurisdiction or authority of a government other than the United States.

Section 2101(13) defines a “freight vessel” as a motor vessel or any vessel propelled by diesel or other internal combustion engines and that carries freight for hire.

Section 2101(14) defines “hazardous materials” as a broad range of materials that are not only flammable or combustible but are also designated under related maritime safety and environmental laws.

Section 2101(15) defines “marine environment” as an all-inclusive term that was developed to cover land and water areas that could be affected by pollution from all vessels and not only tank vessels.

Section 2101(16) defines “motor vessel” as a vessel propelled by machinery other than steam to make it clear that these vessels are not steam vessels.

Section 2101(17) defines “nautical school vessel” as a vessel that can be a privately owned and operated as well as a publicly owned and operated school vessel.

Section 2101(18) defines “oceanographic research vessel” as a vessel employed in oceanography or limnology research or instruction. It is defined because this type of vessel, while not inspected and certified as such, is subject to a number of special statutory and regulatory requirements.

Section 2101(19) defines “offshore supply vessel” as a class of vessel that is limited by tonnage and its employment in the mineral and oil industry and while so employed it is not a small passenger vessel.

Section 2101(20) defines “oil” to include oil of any type, in any form, or in any mixture. This is the definition that originated with marine environment and pollution laws and continues the definition that was adopted by port and tanker safety laws.

Section 2101(21) defines the term “passengers” in relation to various types of vessels. Due to the complexity of existing laws with respect to the definitions of “passenger” on various categories of vessels and the need to not make any changes of a substantive nature that could be construed as controversial, four definitions of “passenger” have been included.

Section 2101(22) defines “passenger vessel” as one that is at least 100 gross tons and carries at least one passenger for hire.

Section 2101(23) defines “product carrier” as a tanker that is engaged in carrying oil. This definition when read with the definition of tanker means that it is a self-propelled vessel. A tank barge carrying oil products is a tank vessel but is not subject to the special standards or requirements for a product carrier.

Section 2101(24) defines a “public vessel” as a governmental vessel that is not in commercial service. It should be noted that a sovereign-controlled foreign-flag vessel that is engaged in commercial service is not a public vessel and is subject to maritime safety and environment laws.

Section 2101(25) defines a “recreational vessel” as a class of vessel whose primary purpose is for pleasure. These vessels while not subject to inspection are subject to certain requirements of law to improve boating safety.

Section 2101(26) defines a “recreational vessel manufacturer” as one that is involved with not only the recreational vessels themselves but also with their components or associated equipment.

Section 2101(27), (28), (29), and (30) provides a number of definitions that define the type of instruction, instructor, student, and vessel that is involved in the teaching of sailing.

Section 2101(31) defines “scientific personnel” as individuals engaged in oceanography or limnology because they are specially treated under various maritime safety requirements.

Section 2101(32) defines a “seagoing barge” as a vessel that is at least 100 gross tons making voyages to sea beyond the boundary line.

Section 2101(33) defines a “seagoing motor vessel” as a vessel that must be a motor vessel, as defined in 2101(15), of at least 300 gross tons making voyages to sea beyond the boundary line.

Section 2101(34) defines “Secretary” so that maritime safety and seamen’s welfare jurisdiction remains within the Coast Guard at all times.

Section 2101(35) defines “small passenger vessel” as one that is less than 100 gross tons carrying more than six passengers as defined in section 2101(21).

Section 2101(36) defines “State” as a State, territory or possession of the United States and is used to establish jurisdictional limits for the application of the various maritime safety and environmental safety laws of this subtitle. This definition is further limited by definitions in section 2102 that relate to recreational boating safety and facility improvement programs.

Section 2101(37) defines a “steam vessel” as a vessel propelled by steam. However, steam vessels of not more than 40 feet that are used exclusively for pleasure are not included.

Section 2101(38) defines “tanker” as a self-propelled tank vessel that has been constructed or primarily adapted to carry oil or hazardous material in bulk in the cargo spaces. This vessel is a subclass of tank vessel, which is defined in section 2101(39). This subclass definition is necessary because certain statutory minimum requirements that are consistent with internationally accepted standards are solely applicable to these vessels.

Section 2101(39) defines a “tank vessel” as a vessel carrying oil or hazardous materials in bulk or residue including a tanker as defined in section 2101(38).

Section 2101(40) defines “towing vessel” as a vessel in commercial service that pushes, pulls, or tows alongside and includes what is traditionally known as a tug.

Section 2101(41) defines “undocumented” which, in part, facilitates the classification of vessels that may be numbered by the proper issuing authority in a State.

Section 2101(42) defines an “uninspected passenger vessel” as a vessel carrying six or less passengers.

Section 2101(43) defines an “uninspected vessel” as a vessel not subject to inspection and certification by the Coast Guard under section 3301. Recreational vessels and inland towing vessels are typical uninspected vessels.

Section 2101(44) defines “United States” to establish geographical boundaries for the applicability of the various maritime safety and environmental safety laws of this subtitle. This definition is further limited by definitions in section 2102 that relate to recreational boating safety and facility improvement programs.

Section 2101(45) makes it clear that “vessel” as used in this subtitle has the same meaning as is provided in section 3 of title 1, of the U.S.C.

Section 2101(46) defines “vessel of the United States” as a vessel that is documented or numbered under the laws of the United States. A documented vessel and those vessels that are numbered by a State or Federal authority are afforded the protection of the laws of the United States.

#### REFERENCES IN TEXT

Section 1005(e) of the Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, referred to in par. (3a), is set out as a note under section 1801 of Title 48, Territories and Insular Possessions.

Presidential Proclamation Numbered 5030, referred to in par. (10a), is set out under section 1453 of Title 16, Conservation.

Section 13 of the Coast Guard Authorization Act of 1986, referred to in par. (17), is section 13 of Pub. L. 99-640, which enacted section 484d of Title 40, Public Buildings, Property, and Works and amended sections 2101 and 3305 of this title.

Presidential Proclamation No. 5928, referred to in par. (17a), is set out under section 1331 of Title 43, Public Lands.

#### AMENDMENTS

1998—Pars. (17a), (17b). Pub. L. 105-383 added par. (17a) and redesignated former par. (17a) as (17b).

1996—Par. (13). Pub. L. 104-324, §709(1), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title

as prescribed by the Secretary under section 14104 of this title” after “15 gross tons”.

Par. (13a). Pub. L. 104-324, § 709(2), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “3,500 gross tons”.

Par. (19). Pub. L. 104-324, § 709(3), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “500 gross tons”.

Par. (20a). Pub. L. 104-324, § 1104(a)(2), added par. (20a). Former par. (20a) redesignated (20b).

Par. (20b). Pub. L. 104-324, § 1104(a)(1), redesignated par. (20a) as (20b).

Par. (22). Pub. L. 104-324, § 709(4), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “100 gross tons”.

Par. (30)(A). Pub. L. 104-324, § 709(5), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “500 gross tons”.

Par. (32). Pub. L. 104-324, § 709(6), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “100 gross tons”.

Par. (33). Pub. L. 104-324, § 709(7), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “300 gross tons”.

Par. (35). Pub. L. 104-324, § 709(8), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “100 gross tons”.

Par. (42). Pub. L. 104-324, § 709(9), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “100 gross tons” in subpars. (A) and (B).

1994—Par. (14)(C). Pub. L. 103-272 substituted “section 5103(a) of title 49” for “section 104 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1803)”.

1993—Par. (5a). Pub. L. 103-206, § 507, added par. (5a).

Par. (19). Pub. L. 103-206, § 508, inserted “individuals in addition to the crew,” after “supplies,” and struck out “and is not a small passenger vessel” after “resources”.

Par. (21). Pub. L. 103-206, § 502, amended par. (21) generally, substituting subpars. (A) to (D) defining “passenger” for former subpars. (A) to (F) defining “passenger”.

Par. (21a). Pub. L. 103-206, § 506, added par. (21a).

Par. (22). Pub. L. 103-206, § 503, amended par. (22) generally. Prior to amendment, par. (22) read as follows: “‘passenger vessel’ means a vessel of at least 100 gross tons carrying at least one passenger for hire.”

Par. (30)(B). Pub. L. 103-206, § 509, substituted “more than 6” for “at least 6”.

Par. (35). Pub. L. 103-206, § 504, amended par. (35) generally. Prior to amendment, par. (35) read as follows: “‘small passenger vessel’ means a vessel of less than 100 gross tons carrying more than 6 passengers (as defined in clause (21)(B) and (C) of this section).”

Par. (37a). Pub. L. 103-206, § 510, added par. (37a).

Par. (42). Pub. L. 103-206, § 505, amended par. (42) generally. Prior to amendment, par. (42) read as follows: “‘uninspected passenger vessel’ means an uninspected vessel carrying not more than 6 passengers.”

1992—Par. (13a). Pub. L. 102-587 added par. (13a).

1990—Par. (8a). Pub. L. 101-380 added par. (8a).

Par. (14)(C). Pub. L. 101-595 substituted “(49 App. U.S.C. 1803)” for “(49 U.S.C. 1803)”.

1989—Par. (17a). Pub. L. 101-225 added par. (17a).

1988—Par. (10a). Pub. L. 100-239 added par. (10a).

Par. (14a). Pub. L. 100-424 added par. (14a).

Par. (34). Pub. L. 100-710, § 104(a)(1), inserted “, except in part H,” before “means”.

Par. (46). Pub. L. 100-710, § 104(a)(2), inserted “or titled under the law of a State” before period at end.

1986—Par. (11b). Pub. L. 99-640, § 10(b)(1), inserted “freezing,”.

Par. (14)(C). Pub. L. 99-307, § 1(1), substituted “Materials” for “Material”.

Par. (15a). Pub. L. 99-640, § 11(a), added par. (15a).

Par. (17). Pub. L. 99-640, § 13(d), inserted “or an educational institution under section 13 of the Coast Guard Authorization Act of 1986”.

Par. (20a). Pub. L. 99-509, § 5102(b)(1)(A), added par. (20a).

Par. (21)(A)(ii). Pub. L. 99-307, § 1(2)(A), inserted “or other individual engaged in the business of the vessel who has not contributed consideration for carriage on board the vessel” after “crewmember”.

Par. (21)(B). Pub. L. 99-307, § 1(2)(D), struck out “or a sailing school vessel,” after “passenger vessel”.

Par. (21)(B)(v) to (vii). Pub. L. 99-307, § 1(2)(B), added cls. (v) and (vi) and struck out former cls. (v) to (vii) which read as follows:

“(v) a guest on board a vessel that is being operated only for pleasure, or a guest on board a sailing school vessel, who has not contributed consideration for carriage on board;

“(vi) an individual on board a towing vessel of at least 50 gross tons who has not contributed consideration for carriage on board; or

“(vii) a sailing school instructor or sailing school student.”

Par. (21)(F). Pub. L. 99-307, § 1(2)(C), added subpar. (F).

Par. (30)(D). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Par. (47). Pub. L. 99-509, § 5102(b)(1)(B), added par. (47).

1984—Par. (3a). Pub. L. 98-454 added par. (3a).

Par. (11). Pub. L. 98-364, § 402(1)(A), substituted “‘fish’ means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life, except marine mammals and birds” for “‘fisheries’ includes planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation at a place in the fishery conservation zone established by section 101 of the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811)”, which is now covered in section 12101 of this title.

Pars. (11a) to (11c). Pub. L. 98-364, § 402(1)(B), added pars. (11a) to (11c).

Par. (21)(B). Pub. L. 98-557, § 34(a)(1), inserted reference to a sailing school vessel in provisions preceding cl. (i).

Par. (21)(E). Pub. L. 98-364, § 402(1)(C), added subpar. (E).

Par. (27). Pub. L. 98-557, § 34(a)(2), designated existing provisions as subpar. (A) and added subpar. (B).

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 5208(c), (d) of Pub. L. 102-587 provided that:

“(c) For Great Lakes barges placed in operation after the date of enactment of this Act [Nov. 4, 1992], the amendments made by this section [amending this section and section 3301 of this title] take effect on the date of enactment of this Act.

“(d)(1) For Great Lakes barges in operation on the date of enactment of this Act, the amendments made by this section take effect one year after the date of enactment of this Act.

“(2) The Secretary of Transportation may impose reasonable interim requirements to assure safe operation of the barges affected by paragraph (1).”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-710 effective Jan. 1, 1989, with certain exceptions and qualifications, see section 107 of Pub. L. 100-710, set out as an Effective Date note under section 30101 of this title.

## SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-277, div. C, title II, § 201, Oct. 21, 1998, 112 Stat. 2681-616, provided that: "This title [amending sections 12102, 12122, and 31322 of this title, enacting provisions set out as notes under section 12102 of this title and section 1851 of Title 16, Conservation, amending provisions set out as a note under section 1274 of the Appendix to this title, and repealing provisions set out as a note under section 12102 of this title] may be cited as the 'American Fisheries Act'."

## SHORT TITLE OF 1996 AMENDMENT

Section 601 of title VI of Pub. L. 104-324 provided that: "This title [enacting sections 3103 and 3201 to 3205 of this title, amending sections 3306 to 3309, 3316, and 3710 of this title, and enacting provisions set out as notes under sections 3201 and 3306 of this title] may be cited as the 'Coast Guard Regulatory Reform Act of 1996'."

## SHORT TITLE OF 1993 AMENDMENT

Section 501 of title V of Pub. L. 103-206 provided that: "This title [amending this section and sections 2113, 3306, and 4105 of this title and enacting provisions set out as notes under this section and section 3306 of this title] may be cited as the 'Passenger Vessel Safety Act of 1993'."

## SHORT TITLE OF 1990 AMENDMENT

Section 601 of title VI of Pub. L. 101-595 provided that: "This title [amending this section and sections 2102, 3302, 4502, 5102, 5114, 8103, 8104, 8702, 12109, 12501, 12503, 12505, and 31308 of this title, repealing sections 4104, 5115, 8105, and 14102 of this title, and enacting provisions set out as notes under sections 4502 and 7306 of this title] may be cited as the 'Aleutian Trade Act of 1990'."

## SHORT TITLE OF 1988 AMENDMENTS

Section 1 of Pub. L. 100-424 provided that: "This Act [enacting chapter 106 and sections 4505 to 4508 and 6104 of this title, amending this section and sections 3102, 3701, 4101, 4102, 4501 to 4504, and 6103 of this title, repealing sections 531 to 534 of the Appendix to this title, and enacting provisions set out as notes under sections 4501, 4502, 4508, and 7101 of this title] may be cited as the 'Commercial Fishing Industry Vessel Safety Act of 1988'."

Section 1 of Pub. L. 100-239 provided that: "This Act [enacting section 8704 of this title, amending this section, sections 8103, 8702, 12101, 12102, 12106 to 12108 of this title, sections 251 and 883 of the Appendix to this title, and section 1802 of title 16, Conservation, and enacting provisions set out as notes under sections 8103, 8704, 12102, 12105, and 12108 of this title and section 883 of the Appendix of this title] may be cited as the 'Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987'."

## SHORT TITLE OF 1984 AMENDMENT

Section 401 of title IV of Pub. L. 98-364 provided that: "This title [enacting sections 4501 to 4504, and 7311a of this title, amending this section and sections 3301, 3302, 3304, 3306, 3702, 7111, 7301, 7306, 7312, 8102, 8104, 8701, 8702, 10101, 11108, 11109, and 12101 of this title and enacting provisions set out as a note under section 3302 of this title] may be cited as the 'Commercial Fishing Industry Vessel Act'."

## TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

## FISHING AND FISH TENDER VESSELS

Section 321 of Pub. L. 103-206 provided that:

"(a) In this section, 'fish tender vessel', 'fishing vessel', and 'tank vessel' have the meanings given those terms under section 2101 of title 46, United States Code.

"(b) A fishing vessel or fish tender vessel of not more than 750 gross tons, when engaged only in the fishing industry, shall not be deemed to be a tank vessel for the purposes of any law.

"(c)(1) This section does not affect the authority of the Secretary of Transportation under chapter 33 of title 46, United States Code, to regulate the operation of the vessels listed in subsection (b) to ensure the safe carriage of oil and hazardous substances.

"(2) This section does not affect the requirement for fish tender vessels engaged in the Aleutian trade to comply with chapters 33, 45, 51, 81, and 87 of title 46, United States Code, as provided in the Aleutian Trade Act of 1990 (Public Law 101-595) [see Short Title of 1990 Amendment note above]."

## APPLICABILITY DATE FOR REVISED REGULATIONS

Section 513 of Pub. L. 103-206 provided that:

"(a) APPLICABILITY DATE FOR CERTAIN CHARTERED VESSELS.—Revised regulations governing small passenger vessels and passenger vessels (as the definitions of those terms in section 2101 of title 46, United States Code, are amended by this Act) shall not, before the date that is 6 months after the date of enactment of this Act [Dec. 20, 1993], apply to such vessels when chartered with no crew provided.

"(b) EXTENSION OF PERIOD.—The Secretary of the department in which the Coast Guard is operating shall extend for up to 30 additional months or until issuance of a certificate of inspection, whichever occurs first, the period of inapplicability specified in subsection (a) if the owner of the vessel concerned carries out the provisions of subsection (c) to the satisfaction of the Secretary.

"(c) CONDITIONS FOR EXTENSION.—To receive an extension authorized by subsection (b), the owner of the vessel shall—

"(1) make application for inspection with the Coast Guard within 6 months after the date of enactment of this Act [Dec. 20, 1993];

"(2) make the vessel available for examination by the Coast Guard prior to the carriage of passengers;

"(3)(A) correct especially any hazardous conditions involving the vessel's structure, electrical system, and machinery installation, such as (i) grossly inadequate, missing, unsound, or severely deteriorated frames or major structural members; (ii) wiring systems or electrical appliances without proper grounding or overcurrent protection; and (iii) significant fuel or exhaust system leaks;

"(B) equip the vessel with lifesaving and fire fighting equipment, or the portable equivalent, required for the route and number of persons carried; and

"(C) verify through stability tests, calculations, or other practical means (which may include a history of safe operations) that the vessel's stability is satisfactory for the size, route, and number of passengers; and

"(4) develop a work plan approved by the Coast Guard to complete in a good faith effort all requirements necessary for issuance of a certificate of inspection as soon as practicable.

"(d) OPERATION OF VESSEL DURING EXTENSION PERIOD.—The owner of a vessel receiving an extension under this section shall operate the vessel under the conditions of route, service, number of passengers, manning, and equipment as may be prescribed by the Coast Guard for the extension period."

## TANK VESSEL DEFINITION CLARIFICATION

Pub. L. 102-587, title V, § 5209, Nov. 4, 1992, 106 Stat. 5076, as amended by Pub. L. 105-383, title IV, § 422, Nov. 13, 1998, 112 Stat. 3439, provided that:

"(a) In this section, 'offshore supply vessel', 'fish tender vessel', 'fishing vessel', and 'tank vessel' have the



meanings given those terms under section 2101 of title 46, United States Code.

“(b) The following vessels are deemed not to be a tank vessel for the purposes of any law:

“(1) An offshore supply vessel.

“(2) A fishing or fish tender vessel of not more than 750 gross tons that transfers without charge to a fishing vessel owned by the same person.

“(3) A vessel—

“(A) configured, outfitted, and operated primarily for dredging operations; and

“(B) engaged in dredging operations which transfers fuel to other vessels engaged in the same dredging operations without charge.

“(c)(1) This section does not affect the authority of the Secretary of Transportation under chapter 33 of title 46, United States Code, to regulate the operation of the vessels listed in subsection (b) to ensure the safe carriage of oil and hazardous substances.

“(2) This section does not affect the requirement for fish tender vessels engaged in the Aleutian trade to comply with chapters 33, 45, 51, 81, and 87 of title 46, United States Code, as provided in the Aleutian Trade Act of 1990 ([title VI of] Public Law 101–595) [see Short Title of 1990 Amendment note above].

“(d) Current regulations governing the vessels in subsection (b) remain in effect.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2102, 2113, 3202, 4105 of this title; sections 121, 446c, 808, 808a, 883, 1160, 1807 of Appendix to this title; title 8 section 1184; title 15 section 2052; title 16 sections 1383a, 1802; title 22 section 1980b; title 33 sections 1225, 1321, 2602, 2704, 2732; title 42 section 7511b; title 49 sections 1101, 5117.

### § 2102. Limited definitions

(a) In chapters 37, 43, 51, and 123 of this title and part I of this subtitle—

(1) “eligible State” means a State that has a State recreational boating safety program accepted by the Secretary.

(2) “State” and “United States”, in addition to their meanings under section 2101(36) and (44) of this title, include the Trust Territory of the Pacific Islands.

(3) “State recreational boating safety program” means education, assistance, and enforcement activities conducted for marine casualty prevention, reduction, and reporting for recreational boating.

(b) In chapters 33, 45, 51, 81, and 87 of this title, “Aleutian trade” means the transportation of cargo (including fishery related products) for hire on board a fish tender vessel to or from a place in Alaska West of 153 degrees west longitude and east of 172 degrees East longitude, if that place receives weekly common carrier service by water, to or from a place in the United States (except a place in Alaska).

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 505; Pub. L. 98–369, div. A, title X, §1011(a), July 18, 1984, 98 Stat. 1013; Pub. L. 99–509, title V, §5102(b)(2), Oct. 21, 1986, 100 Stat. 1926; Pub. L. 101–595, title VI, §602(a), Nov. 16, 1990, 104 Stat. 2990.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2102 .....	46:1452(10)–(14)

Section 2102 contains a number of definitions that are limited to recreational vessels in Chapter 43 of Part B and the numbering of these vessels in Chapter 123 of Part H.

#### AMENDMENTS

1990—Pub. L. 101–595 designated existing provisions as subsec. (a) and added subsec. (b).

1986—Pub. L. 99–509 inserted reference to chapters 37 and 51.

1984—Par. (1). Pub. L. 98–369, §1011(a)(1), struck out “and facilities improvement” after “recreational boating safety”.

Par. (3). Pub. L. 98–369, §1011(a)(2), (3), redesignated par. (5) as (3) and struck out former par. (3) which defined a State recreational boating facilities improvement program.

Par. (4). Pub. L. 98–369, §1011(a)(2), struck out par. (4) which defined State recreational boating safety and facilities improvement program.

Par. (5). Pub. L. 98–369, §1011(a)(3), redesignated par. (5) as (3).

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective Oct. 1, 1984, to apply with respect to fiscal years beginning after Sept. 30, 1984, see section 1013 of Pub. L. 98–369, set out as a note under section 13101 of this title.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### § 2103. Superintendence of the merchant marine

The Secretary has general superintendence over the merchant marine of the United States and of merchant marine personnel insofar as the enforcement of this subtitle is concerned and insofar as those vessels and personnel are not subject, under other law, to the supervision of another official of the United States Government. In the interests of marine safety and seamen's welfare, the Secretary shall enforce this subtitle and shall carry out correctly and uniformly administer this subtitle. The Secretary may prescribe regulations to carry out the provisions of this subtitle.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 506; Pub. L. 99–307, §9, May 19, 1986, 100 Stat. 447.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2103 .....	46:2 46:372 46:689

Section 2103 provides the Secretary with the authority to superintend the merchant marine and those involved personnel insofar as the vessels and personnel are not subject, under other laws, to the supervision of another official. The Secretary has the duty to enforce the laws with respect to vessels and seamen and to carry out correctly and uniformly these laws and regulations. The term “superintendence” is used to indicate the Secretary's broad responsibility for overseeing maritime safety and seamen's welfare, including employment, shipping, navigation, and protection of the marine environment.

#### AMENDMENTS

1986—Pub. L. 99–307 substituted “subtitle. The Secretary may prescribe regulations to carry out the provisions of this subtitle” for “subtitle and regulations prescribed under this subtitle”.

### § 2104. Delegation

(a) The Secretary may delegate the duties and powers conferred by this subtitle to any officer,

employee, or member of the Coast Guard, and may provide for the subdelegation of those duties and powers.

(b) When this subtitle authorizes an officer or employee of the Customs Service to act in place of a Coast Guard official, the Secretary may designate that officer or employee subject to the approval of the Secretary of the Treasury.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 506.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2104 .....	46:65v(1) 46:382b 46:416 46:543 46:689

Section 2104 provides the Secretary with authority to delegate duties and powers to others. It also contains the authority to designate an officer or employee of the United States Customs Service to act in the place of a Coast Guard official.

### § 2105. Report

The Secretary shall provide for the investigation of the operation of this subtitle and of all laws related to marine safety, and shall require that a report be made to the Secretary annually about those matters that may require improvement or amendment.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 506.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2105 .....	46:4

Section 2105 requires the Secretary to investigate the operation of this subtitle and all laws related to maritime safety and requires appropriate reports to ensure that the Secretary is attentive to all the shipping laws under the Secretary's superintendence.

### § 2106. Liability in rem

When a vessel is made liable in rem under this subtitle, the vessel may be libeled and proceeded against in a district court of the United States in which the vessel is found.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 506.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2106 .....	46:170(14) 46:216e(e) 46:390d 46:391a(14)(C) 46:436 46:462 46:481(c) 46:497 46:526o 46:672(j) 46:1484(b)

Section 2106 provides that when a vessel is made liable in rem the vessel may be libeled and proceeded against in a United States district court.

### § 2107. Civil penalty procedures

(a) After notice and an opportunity for a hearing, a person found by the Secretary to have violated this subtitle or a regulation prescribed under this subtitle for which a civil penalty is provided, is liable to the United States Govern-

ment for the civil penalty provided. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(b) The Secretary may compromise, modify, or remit, with or without consideration, a civil penalty under this subtitle until the assessment is referred to the Attorney General.

(c) If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 506.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2107 .....	33:364 46:7 46:65u 46:216e(d) 46:391a(14) 46:526o 46:526p 46:1484(c)

Section 2107 provides for standard procedures for the handling of civil penalties for infractions of law or regulation. Some changes were made to increase some antiquated and inadequate penalties.

The assessment of civil penalties under this section should not require an “on the record” hearing within the meaning of the Administrative Procedures Act (APA). It is intended that these civil penalties be assessed in a fair manner. However, the Committee recognizes that statutes passed in the last decade have involved the Coast Guard in tens of thousands of civil penalty enforcement cases and that it is necessary that the penalties be assessed efficiently. The Coast Guard's procedural regulations for assessing civil penalties ensure that the essential elements of due process, notice, and opportunity to be heard, are provided to alleged violators (see 33 CFR Subpart 1.07). The more rigid and time-consuming procedures applicable to APA adjudications are unwarranted in the case of Coast Guard civil penalty assessment procedures and would seriously hamper the orderly enforcement of these administrative penalties.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 251a, 883–1, 883a of Appendix to this title.

### § 2108. Refund of penalties

The Secretary may refund or remit a civil penalty collected under this subtitle if—

(1) application has been made for refund or remission of the penalty within one year from the date of payment; and

(2) the Secretary finds that the penalty was unlawfully, improperly, or excessively imposed.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 507.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2108 .....	46:8

Section 2108 provides for the refunding of civil penalties.

**§ 2109. Public vessels**

Except as otherwise provided, this subtitle does not apply to a public vessel of the United States. However, this subtitle does apply to a vessel (except a Coast Guard or a Saint Lawrence Seaway Development Corporation vessel) owned or operated by the Department of Transportation or by any corporation organized or controlled by the Department.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 507; Pub. L. 99–509, title V, §5102(b)(3), Oct. 21, 1986, 100 Stat. 1927.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2109 .....	46:362 46:363 46:391a(4)

Section 2109 exempts public vessels from the applicability of the maritime safety and seamen's welfare laws of this subtitle although some public vessels are inspected under interagency voluntary agreements.

## AMENDMENTS

1986—Pub. L. 99–509 substituted “Except as otherwise provided, this” for “This”.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 App. section 1744.

**§ 2110. Fees**

(a)(1) Except as otherwise provided in this title, the Secretary shall establish a fee or charge for a service or thing of value provided by the Secretary under this subtitle, in accordance with section 9701 of title 31.

(2) The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a non-self-propelled tank vessel under part B of this title<sup>1</sup> that is more than \$500 annually. The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a small passenger vessel under this title that is more than \$300 annually for such vessels under 65 feet in length, or more than \$600 annually for such vessels 65 feet in length and greater. The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination under this title for any publicly-owned ferry.

(3) The Secretary may, by regulation, adjust a fee or charge collected under this subsection to accommodate changes in the cost of providing a specific service or thing of value, but the adjusted fee or charge may not exceed the total cost of providing the service or thing of value for which the fee or charge is collected, including the cost of collecting the fee or charge.

(4) The Secretary may not collect a fee or charge under this subsection that is in conflict with the international obligations of the United States.

(5) The Secretary may not collect a fee or charge under this subsection for any search or rescue service.

(b)(1) The Secretary shall establish a fee or charge as provided in paragraph (2) of this sub-

section, and collect it annually in fiscal years 1993 and 1994, from the owner or operator of each recreational vessel to which paragraph (2) of this subsection applies.

(2) The fee or charge established under paragraph (1) of this subsection is as follows:

(A) in fiscal year 1993—

(i) for vessels of more than 21 feet in length but less than 27 feet, not more than \$35;

(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than \$50; and

(iii) for vessels of at least 40 feet in length, not more than \$100.<sup>2</sup>

(B) in fiscal year 1994—

(i) for vessels of at least 37 feet in length but less than 40 feet, not more than \$50; and

(ii) for vessels of at least 40 feet in length, not more than \$100.

(3) The fee or charge established under this subsection applies only to vessels operated on the navigable waters of the United States where the Coast Guard has a presence.

(4) The fee or charge established under this subsection does not apply to a—

(A) public vessel; or

(B) vessel deemed to be a public vessel under section 827 of title 14.

(5) The Secretary shall provide to each person who pays a fee or charge under this subsection a separate document on which appears, in readily discernible print, only the following statement: “The fees<sup>3</sup> for which this document was provided was established under the Omnibus Budget Reconciliation Act of 1990. Persons paying this fee can expect no increase in the quantity, quality, or variety of services the person receives from the Coast Guard as a result of that payment.”

(c) In addition to the collection of fees and charges established under subsections (a) and (b), the Secretary may recover appropriate collection and enforcement costs associated with delinquent payments of the fees and charges.

(d)(1) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section. A private enterprise or business selected by the Secretary to collect fees or charges—

(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

(B) shall provide appropriate accounting to the Secretary; and

(C) may not institute litigation as part of that collection.

(2) A Federal agency shall account for the agency's costs of collecting the fee or charge under this subsection as a reimbursable expense, and the costs shall be credited to the account from which expended.

(e) A person that violates this section by failing to pay a fee or charge established under this section is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation.

<sup>1</sup> So in original. Probably should be “subtitle”.

<sup>2</sup> So in original. The period probably should be “; and”.

<sup>3</sup> So in original. Probably should be “fee”.

(f) When requested by the Secretary, the Secretary of the Treasury shall deny the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) to a vessel for which a fee or charge established under this section has not been paid until the fee or charge is paid or until a bond is posted for the payment.

(g) The Secretary may exempt a person from paying a fee or charge established under this section if the Secretary determines that it is in the public interest to do so.

(h) Fees and charges collected by the Secretary under this section shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

(i) The collection of a fee or charge under this section does not alter or expand the functions, powers, responsibilities, or liability of the United States under any law for the performance of services or the provision of a thing of value for which a fee or charge is collected under this section.

(j) The Secretary may not establish or collect a fee or charge for the inspection under part B of this subtitle of training vessels operated by state<sup>4</sup> maritime academies.

(k) The Secretary may not plan, implement or finalize any regulation that would promulgate any new maritime user fee which was not implemented and collected prior to January 1, 1998, including a fee or charge for any domestic ice-breaking service or any other navigational assistance service. This subsection expires on September 30, 2001.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 507; Pub. L. 99–509, title V, §5102(b)(4), Oct. 21, 1986, 100 Stat. 1927; Pub. L. 100–710, title I, §104(a)(3), Nov. 23, 1988, 102 Stat. 4749; Pub. L. 101–508, title X, §10401(a), Nov. 5, 1990, 104 Stat. 1388–397; Pub. L. 102–241, §53, Dec. 19, 1991, 105 Stat. 2232; Pub. L. 102–582, title V, §501(a), Nov. 2, 1992, 106 Stat. 4909; Pub. L. 102–587, title V, §5207, Nov. 4, 1992, 106 Stat. 5075; Pub. L. 104–324, title XI, §1112, Oct. 19, 1996, 110 Stat. 3970; Pub. L. 105–383, title II, §207, Nov. 13, 1998, 112 Stat. 3416.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2110 .....	46:331

Section 2110 prevents the assessment of user fees for certain maritime safety and seamen's welfare services unless otherwise provided for by law. These include:

Measurement of tonnage and certifying the same, except that the compensation and necessary travel and subsistence expenses of the officers so measuring or certifying such vessels at the request of the owners thereof at a place other than a port of entry or a customs station shall be paid by such owners; issuing of license or granting of certificate of registry, record, or enrollment, including all indorsements on the same and oath; indorsement of change of master; certifying and receiving manifest, including master's oath and permit; granting permit to vessels licensed for the fisheries to touch and trade; granting certificate of payment of tonnage dues; recording bill of sale, mortgage, hypothecation or conveyance, or the discharge of such

mortgage or hypothecation; furnishing certificate of title; furnishing the crew list; certificate of protection to seamen; bill of health; shipping or discharging of seamen; apprenticing boys to the merchant service; inspecting, examining, and licensing steam vessels, including inspection certificate and copies thereof; and licensing of master, engineer, pilot, or mate of a vessel.

#### REFERENCES IN TEXT

The Omnibus Budget Reconciliation Act of 1990, referred to in subsec. (b)(5), is Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

1998—Subsec. (k). Pub. L. 105–383 added subsec. (k).

1996—Subsec. (a)(2). Pub. L. 104–324, §1112, which directed amendment of section 10401(g) of Pub. L. 101–508 by inserting “The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a small passenger vessel under this title that is more than \$300 annually for such vessels under 65 feet in length, or more than \$600 annually for such vessels 65 feet in length and greater. The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination under this title for any publicly-owned ferry.” after “annually.”, was executed by making insertion in subsec. (a)(2) of this section to reflect the probable intent of Congress, because section 10401(a) of Pub. L. 101–508 amended this section generally, and section 10401 of Pub. L. 101–508 did not contain a subsec. (g).

1992—Subsec. (b)(1). Pub. L. 102–582, §501(a)(1), substituted “1993 and 1994” for “1991, 1992, 1993, 1994, and 1995” and “to which paragraph (2) of this subsection applies” for “that is greater than 16 feet in length”.

Subsec. (b)(2). Pub. L. 102–582, §501(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The fee or charge established under paragraph (1) of this subsection is as follows:

“(A) for vessels greater than 16 feet in length but less than 20 feet, not more than \$25;

“(B) for vessels of at least 20 feet in length but less than 27 feet, not more than \$35;

“(C) for vessels of at least 27 feet in length but less than 40 feet, not more than \$50; and

“(D) for vessels of at least 40 feet in length, not more than \$100.”

Subsec. (j). Pub. L. 102–587 added subsec. (j).

1991—Subsec. (b)(5). Pub. L. 102–241 added par. (5).

1990—Pub. L. 101–508, as amended by Pub. L. 104–324, substituted “Fees” for “Fees prohibited” as section catchline and amended text generally. Prior to amendment, text read as follows: “Fees may not be charged or collected by the Secretary for services provided for in this subtitle related to the engagement and discharge of seamen, the inspection and examination of vessels under part B of this subtitle, and the licensing of masters, mates, pilots, and engineers, except when specifically provided for in this subtitle.” See 1996 Amendment note above.

1988—Pub. L. 100–710 substituted “and the licensing of masters, mates, pilots, and engineers” for “the licensing of masters, mates, pilots, and engineers, and the documentation of vessels”.

1986—Pub. L. 99–509 substituted “examination of vessels under part B of this subtitle” for “examination of vessels” and struck out “measurement or” before “documentation”.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 501(b) of Pub. L. 102–582 provided that: “The amendments made by this section [amending this section] are effective October 1, 1992.”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–710 effective Jan. 1, 1989, with certain exceptions and qualifications, see section 107 of Pub. L. 100–710, set out as an Effective Date note under section 30101 of this title.

<sup>4</sup> So in original. Probably should be capitalized.

ACCEPTANCE OF EVIDENCE OF PAYMENT OF COAST  
GUARD FEES

Section 5214 of Pub. L. 102-587 provided that: “The Secretary of Transportation may not issue a citation for failure to pay a fee or charge established under section 2110 of title 46, United States Code, to an owner or operator of a recreational vessel who provides reasonable evidence of prior payment of the fee or charge to a Coast Guard boarding officer.”

**§ 2111. Pay for overtime services**

(a) The Secretary may prescribe a reasonable rate of extra pay for overtime services of civilian officers and employees of the Coast Guard required to remain on duty between 5 p.m. and 8 a.m., or on Sundays or holidays, to perform services related to—

- (1) the inspection of vessels or their equipment;
- (2) the engagement and discharge of crews of vessels;
- (3) the measurement of vessels; and
- (4) the documentation of vessels.

(b) Except for Sundays and holidays, the overtime rate provided under subsection (a) of this section is one-half day's additional pay for each 2 hours of overtime (or part of 2 hours of at least one hour). The total extra pay may be not more than 2 and one-half days' pay for any one period from 5 p.m. to 8 a.m.

(c) The overtime rate provided under subsection (a) of this section for Sundays and holidays is 2 additional days' pay.

(d) The owner, charterer, managing operator, agent, master, or individual in charge of the vessel shall pay the amount of the overtime pay provided under this section to the official designated by regulation. The official shall deposit the amount paid to the Treasury as miscellaneous receipts. Payment to the officer or employee entitled to the pay shall be made from the annual appropriations for salaries and expenses of the Coast Guard.

(e) The overtime pay provided under this section shall be paid if the authorized officers and employees have been ordered to report for duty and have reported, even if services requested were not performed.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 507.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2111 .....	46:382b

Section 2111 provides for the payment of overtime rates for work performed by civilian officers and employees of the Coast Guard for certain specified activities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2112 of this title; title 5 section 5549.

**§ 2112. Authority to change working hours**

In a port at which the customary working hours begin before 8 a.m. or end after 5 p.m., the Secretary may regulate the working hours of the officers and employees referred to in section 2111 of this title so that those hours conform to the prevailing working hours of the port. However—

(1) the total period for which overtime pay may be required under section 2111 of this title may not be more than 15 hours between any 2 periods of ordinary working hours on other than Sundays and holidays;

(2) the length of the working day for the officers and employees involved may not be changed; and

(3) the rate of overtime pay may not be changed.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 508.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2112 .....	46:382b

Section 2112 provides the Secretary with the authority to regulate the working hours of civilian officers and employees of the Coast Guard to conform with the prevailing working hours of a port.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5549.

**§ 2113. Authority to exempt certain vessels**

If the Secretary decides that the application of a provision of part B, C, F, or G of this subtitle is not necessary in performing the mission of the vessel engaged in excursions or an oceanographic research vessel, or not necessary for the safe operation of certain vessels carrying passengers, the Secretary by regulation may—

(1) for a vessel, issue a special permit specifying the conditions of operation and equipment;

(2) exempt an oceanographic research vessel from that provision under conditions the Secretary may specify;

(3) establish different operating and equipment requirements for vessels defined in section 2101(42)(A) of this title;

(4) establish different structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less than 300 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title carrying not more than 150 passengers on domestic voyages if the owner of the vessel—

(A) makes application for inspection to the Coast Guard within 6 months of the date of enactment of the Passenger Vessel Safety Act of 1993; and

(B) provides satisfactory documentation that the vessel was chartered at least once within the previous 12 months prior to the date of enactment of that Act; and

(5) establish different structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, carrying not more than 150 passengers on domestic voyages, if the owner of the vessel—

(A) makes application for inspection to the Coast Guard within 6 months of the date of enactment of the Passenger Vessel Safety Act of 1993; and

(B) provides satisfactory documentation that the vessel was chartered at least once within the previous 12 months prior to the date of enactment of that Act.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 508; Pub. L. 103-206, title V, §511(a), Dec. 20, 1993, 107 Stat. 2441; Pub. L. 104-324, title VII, §710, Oct. 19, 1996, 110 Stat. 3935.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2113 .....	46:445 46:453

Section 2113 provides the Secretary with the authority to exempt certain vessels from the inspection and manning requirements of law when vessels are engaged in excursions or oceanographic research. This is the authority of the issuance of excursion permits when special circumstances justify the waiver of certain maritime safety and seamen's welfare laws for a short period of time. It also contains flexible exemption authority for regulation of oceanographic research vessels.

#### REFERENCES IN TEXT

The date of enactment of the Passenger Vessel Safety Act of 1993, referred to in pars. (4) and (5), is the date of the enactment of Pub. L. 103-206, which was approved Dec. 20, 1993.

#### AMENDMENTS

1996—Par. (4). Pub. L. 104-324, §710(1), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “less than 300 gross tons”.

Par. (5). Pub. L. 104-324, §710(2), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “less than 500 gross tons”.

1993—Pub. L. 103-206 amended section catchline and text generally. Prior to amendment, text read as follows: “If the Secretary decides that the application of a provision of part B or F of this subtitle is not necessary in performing the mission of a vessel engaged in excursions or an oceanographic research vessel, the Secretary by regulation may—

“(1) for an excursion vessel, issue a special permit specifying the conditions of operation and equipment; and

“(2) exempt the oceanographic research vessel from that provision under conditions the Secretary may specify.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3306 of this title.

### § 2114. Protection of seamen against discrimination

(a) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel may not discharge or in any manner discriminate against a seaman because the seaman in good faith has reported or is about to report to the Coast Guard that the seaman believes that a violation of this subtitle, or a regulation issued under this subtitle, has occurred.

(b) A seaman discharged or otherwise discriminated against in violation of this section may

bring an action in an appropriate district court of the United States. In that action, the court may order any appropriate relief, including—

- (1) restraining violations of this section; and
- (2) reinstatement to the seaman's former position with back pay.

(Added Pub. L. 98-557, §13(a), Oct. 30, 1984, 98 Stat. 2863.)

### § 2115. Civil penalty to enforce alcohol and dangerous drug testing

Any person who fails to implement or conduct, or who otherwise fails to comply with the requirements prescribed by the Secretary for, chemical testing for dangerous drugs or for evidence of alcohol use, as prescribed under this subtitle or a regulation prescribed by the Secretary to carry out the provisions of this subtitle, is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation. Each day of a continuing violation shall constitute a separate violation.

(Added Pub. L. 104-324, title III, §303(a), Oct. 19, 1996, 110 Stat. 3917; amended Pub. L. 105-383, title III, §304(b), Nov. 13, 1998, 112 Stat. 3419.)

#### AMENDMENTS

1998—Pub. L. 105-383 substituted “\$5,000” for “\$1,000”.

## CHAPTER 23—OPERATION OF VESSELS GENERALLY

Sec.	
2301.	Application.
2302.	Penalties for negligent operations and interfering with safe operation.
2303.	Duties related to marine casualty assistance and information.
2303a.	Post serious marine casualty alcohol testing.
2304.	Duty to provide assistance at sea.
2305.	Injunctions.
2306.	Vessel reporting requirements.

#### HISTORICAL AND REVISION NOTES

Chapter 23 lists requirements that relate to the general operation of all vessels. These include penalties and injunctive relief for negligent operation of a vessel. It also provides penalties for failure to render assistance.

#### AMENDMENTS

1998—Pub. L. 105-383, title III, §§302(b), 304(d)(2), Nov. 13, 1998, 112 Stat. 3418, 3420, added item 2302, struck out former item 2302 “Penalties for negligent operations”, and added item 2303a.

1984—Pub. L. 98-498, title II, §212(a)(1), Oct. 19, 1984, 98 Stat. 2305, added item 2306.

### § 2301. Application

Except as provided in section 2306 of this title, this chapter applies to a vessel operated on waters subject to the jurisdiction of the United States (including the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988) and, for a vessel owned in the United States, on the high seas.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 508; Pub. L. 98-498, title II, §212(a)(2), Oct. 19, 1984, 98 Stat. 2305; Pub. L. 105-383, title III, §301(b)(2), Nov. 13, 1998, 112 Stat. 3417.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2301 .....	46:480

Section 2301 provides that this chapter is applicable to all vessels, including foreign flag vessels, when operating on waters subject to the jurisdiction of the United States. Any vessel owned in the United States while operating on the high seas would be included. By ownership the Committee means those vessels that are documented or numbered under United States laws and those other vessels that are neither documented or numbered but are of national origin and are not documented under the laws of a foreign nation. This chapter is applicable to a foreign flag vessel that is in innocent passage through territorial waters of the United States, presently 3 miles seaward, whether or not it is bound to or from a port subject to the jurisdiction of the United States.

## REFERENCES IN TEXT

Presidential Proclamation No. 5928, referred to in text, is set out under section 1331 of Title 43, Public Lands.

## AMENDMENTS

1998—Pub. L. 105-383 inserted “(including the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988)” after “of the United States”.

1984—Pub. L. 98-498 substituted “Except as provided in section 2306 of this title, this chapter” for “This chapter”.

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-498 effective 180 days after Oct. 19, 1984, see section 214 of Pub. L. 98-498, set out as an Effective Date note under section 2306 of this title.

### § 2302. Penalties for negligent operations and interfering with safe operation

(a) A person operating a vessel in a negligent manner or interfering with the safe operation of a vessel, so as to endanger the life, limb, or property of a person is liable to the United States Government for a civil penalty of not more than \$1,000.

(b) A person operating a vessel in a grossly negligent manner that endangers the life, limb, or property of a person commits a class A misdemeanor.

(c) An individual who is under the influence of alcohol, or a dangerous drug in violation of a law of the United States when operating a vessel, as determined under standards prescribed by the Secretary by regulation—

- (1) is liable to the United States Government for a civil penalty of not more than \$5,000; or
- (2) commits a class A misdemeanor.

(d) For a penalty imposed under this section, the vessel also is liable in rem unless the vessel is—

- (1) owned by a State or a political subdivision of a State;
  - (2) operated principally for governmental purposes; and
  - (3) identified clearly as a vessel of that State or subdivision.
- (e)(1) A vessel may not transport Government-impelled cargoes if—
- (A) the vessel has been detained and determined to be substandard by the Secretary for

violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel; or

(B) the operator of the vessel has on more than one occasion had a vessel detained and determined to be substandard by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel.

(2) The prohibition in paragraph (1) expires for a vessel on the earlier of—

(A) 1 year after the date of the publication in electronic form on which the prohibition is based; or

(B) any date on which the owner or operator of the vessel prevails in an appeal of the violation of the relevant international convention on which the detention is based.

(3) As used in this subsection, the term “Government-impelled cargo” means cargo for which a Federal agency contracts directly for shipping by water or for which (or the freight of which) a Federal agency provides financing, including financing by grant, loan, or loan guarantee, resulting in shipment of the cargo by water.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 508; Pub. L. 98-557, §7(a), Oct. 30, 1984, 98 Stat. 2862; Pub. L. 101-380, title IV, §§4105(b)(2), 4302(a), Aug. 18, 1990, 104 Stat. 513, 537; Pub. L. 102-587, title V, §5102, Nov. 4, 1992, 106 Stat. 5071; Pub. L. 105-383, title III, §§302(a), 304(c), title IV, §408(a), Nov. 13, 1998, 112 Stat. 3417, 3419, 3430.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2302(a) .....	46:1461(d) 46:1484(b)
2302(b) .....	46:1461(d) 46:1483
2302(c) .....	46:1484(b)

Section 2302 states that the negligent operation of a vessel is prohibited. These acts are subject to civil and criminal penalties and the involved vessel is subject to an in rem action. The negligent operation provisions have their genesis in the Act of April 25, 1940, 54 Stat. 167, when Congress prescribed that no person shall operate any motorboat or *any vessel* in a reckless or negligent manner. This provision was directed at all vessels and not those solely engaged in recreational boating. When the Federal Boat Safety Act of 1971, P.L. 92-75, 85 Stat. 217 (46 U.S.C. 1461) was enacted it adopted the reckless or negligent operation provisions of the 1940 Act. It adopted for the first time a provision for assessing civil penalties in addition to criminal penalties. It dropped the word “reckless” because of redundancy. It also combined the two classes of vessels; “any motorboat or any vessel” into one class by using the word “vessel” and defined vessel as including every description of watercraft.

## AMENDMENTS

1998—Pub. L. 105-383, §302(a)(1), substituted “Penalties for negligent operations and interfering with safe operation” for “Penalties for negligent operations” in section catchline.

Subsec. (a). Pub. L. 105-383, §302(a)(2), substituted “or interfering with the safe operation of a vessel, so as to endanger” for “that endangers”.

Subsec. (c)(1). Pub. L. 105-383, § 304(c), substituted “\$5,000; or” for “\$1,000 for a first violation and not more than \$5,000 for a subsequent violation; or”.

Subsec. (e). Pub. L. 105-383, § 408(a), added subsec. (e). 1992—Subsec. (c)(1). Pub. L. 102-587 substituted “\$1,000 for a first violation and not more than \$5,000 for a subsequent violation” for “\$1,000”.

1990—Subsec. (b). Pub. L. 101-380, § 4302(a)(1), substituted “commits a class A misdemeanor” for “shall be fined not more than \$5,000, imprisoned for not more than one year, or both”.

Subsec. (c). Pub. L. 101-380, §§ 4105(b)(2), 4302(a)(2)(A), substituted “under the influence of alcohol, or a dangerous drug in violation of a law of the United States” for “intoxicated” and struck out “, shall be” after “by the Secretary by regulation”.

Subsec. (c)(1). Pub. L. 101-380, § 4302(a)(2)(B), substituted “is liable” for “liable”.

Subsec. (c)(2). Pub. L. 101-380, § 4302(a)(2)(C), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “fined not more than \$5,000, imprisoned for not more than one year, or both.”

1984—Subsecs. (c), (d). Pub. L. 98-557 added subsec. (c) and redesignated former subsec. (c) as (d).

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-383, title IV, § 408(b), Nov. 13, 1998, 112 Stat. 3431, provided that: “The amendment made by subsection (a) [amending this section] takes effect January 1, 1999.”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

### § 2303. Duties related to marine casualty assistance and information

(a) The master or individual in charge of a vessel involved in a marine casualty shall—

(1) render necessary assistance to each individual affected to save that affected individual from danger caused by the marine casualty, so far as the master or individual in charge can do so without serious danger to the master’s or individual’s vessel or to individuals on board; and

(2) give the master’s or individual’s name and address and identification of the vessel to the master or individual in charge of any other vessel involved in the casualty, to any individual injured, and to the owner of any property damaged.

(b) An individual violating this section or a regulation prescribed under this section shall be fined not more than \$1,000 or imprisoned for not more than 2 years. The vessel also is liable in rem to the United States Government for the fine.

(c) An individual complying with subsection (a) of this section or gratuitously and in good faith rendering assistance at the scene of a marine casualty without objection by an individual assisted, is not liable for damages as a result of rendering assistance or for an act or omission in providing or arranging salvage, towage, medical treatment, or other assistance when the individual acts as an ordinary, reasonable, and prudent individual would have acted under the circumstances.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 509.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2303(a) .....	33:367 46:1465(a)
2303(b) .....	33:368
2303(c) .....	46:1465(b)

Section 2303 requires a master or anyone in charge of a vessel to provide assistance and render aid to those involved in a marine casualty and to exchange information in a manner similar to automobile accident cases. It also includes a “Good Samaritan” clause that exonerates anyone from liability when rendering assistance in an ordinary, reasonable, or prudent manner.

### § 2303a. Post serious marine casualty alcohol testing

(a) The Secretary shall establish procedures to ensure that after a serious marine casualty occurs, alcohol testing of crew members or other persons responsible for the operation or other safety-sensitive functions of the vessel or vessels involved in such casualty is conducted no later than 2 hours after the casualty occurs, unless such testing cannot be completed within that time due to safety concerns directly related to the casualty.

(b) The procedures in subsection (a) shall require that if alcohol testing cannot be completed within 2 hours of the occurrence of the casualty, such testing shall be conducted as soon thereafter as the safety concerns in subsection (a) have been adequately addressed to permit such testing, except that such testing may not be required more than 8 hours after the casualty occurs.

(Added Pub. L. 105-383, title III, § 304(d)(1), Nov. 13, 1998, 112 Stat. 3419.)

### § 2304. Duty to provide assistance at sea

(a) A master or individual in charge of a vessel shall render assistance to any individual found at sea in danger of being lost, so far as the master or individual in charge can do so without serious danger to the master’s or individual’s vessel or individuals on board.

(b) A master or individual violating this section shall be fined not more than \$1,000, imprisoned for not more than 2 years, or both.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 509.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2304 .....	46:728

Section 2304 requires a master or individual in charge of a vessel to render assistance to those in danger at sea if able to do so without seriously endangering the vessel or crew.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3304 of this title; section 731 of Appendix to this title.

### § 2305. Injunctions

(a) The district courts of the United States have jurisdiction to enjoin the negligent operation of vessels prohibited by this chapter on the petition of the Attorney General for the United States Government.



(b) When practicable, the Secretary shall—

(1) give notice to any person against whom an action for injunctive relief is considered under this section an opportunity to present that person's views; and

(2) except for a knowing and willful violation, give the person a reasonable opportunity to achieve compliance.

(c) The failure to give notice and opportunity to present views under subsection (b) of this section does not preclude the court from granting appropriate relief.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 509.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2305 .....	46:1485

Section 2305 provides injunctive authority to enjoin the negligent operation of vessels. This authority can also be used to enjoin the operation of foreign or domestic vessels on our waters when they are unsuitable for the voyage intended.

#### § 2306. Vessel reporting requirements

(a)(1) An owner, charterer, managing operator, or agent of a vessel of the United States, having reason to believe (because of lack of communication with or nonappearance of a vessel or any other incident) that the vessel may have been lost or imperiled, immediately shall—

(A) notify the Coast Guard; and

(B) use all available means to determine the status of the vessel.

(2) When more than 48 hours have passed since the owner, charterer, managing operator, or agent of a vessel required to report to the United States Flag Merchant Vessel Location Filing System under authority of section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a), has received a communication from the vessel, the owner, charterer, managing operator, or agent immediately shall—

(A) notify the Coast Guard; and

(B) use all available means to determine the status of the vessel.

(3) A person notifying the Coast Guard under paragraph (1) or (2) of this subsection shall provide the name and identification number of the vessel, the names of individuals on board, and other information that may be requested by the Coast Guard. The owner, charterer, managing operator, or agent also shall submit written confirmation to the Coast Guard within 24 hours after nonwritten notification to the Coast Guard under those paragraphs.

(4) An owner, charterer, managing operator, or agent violating this subsection is liable to the United States Government for a civil penalty of not more than \$5,000 for each day during which the violation occurs.

(b)(1) The master of a vessel of the United States required to report to the System shall report to the owner, charterer, managing operator, or agent at least once every 48 hours.

(2) A master violating this subsection is liable to the Government for a civil penalty of not more than \$1,000 for each day during which the violation occurs.

(c) The Secretary may prescribe regulations to carry out this section.

(Added Pub. L. 98–498, title II, § 212(a)(3), Oct. 19, 1984, 98 Stat. 2305.)

#### EFFECTIVE DATE

Section 214 of Pub. L. 98–498 provided that: “Sections 211(a) and 212 of this subtitle [enacting this section and amending sections 2302, 3309, 6101, and 6103 of this title] are effective one hundred and eighty days after the date of enactment of this Act [Oct. 19, 1984].”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2301 of this title.

### PART B—INSPECTION AND REGULATION OF VESSELS

#### HISTORICAL AND REVISION NOTES

Part B provides authority and responsibility for the inspection and regulation of vessels by the Coast Guard. This part specifies those vessels subject to inspection, those that are specifically exempt from inspection, and related inspection requirements and procedures. Due to the need for special requirements for the inspection and regulation of passenger vessels and those vessels carrying liquid bulk dangerous cargoes separate chapters have been developed. Additional chapters provide for recreational vessels and those other vessels that are regulated but are not subject to inspection and certification by the Coast Guard. It should also be noted that the United States is signatory to a number of international treaties on maritime safety and seamen's welfare, such as the various Safety of Life at Sea (SOLAS) treaties, and that their provisions and requirements are part of United States maritime law and in many cases are quite extensive.

#### PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 2110, 2113, 7111, 7113, 8101, 8104, 8303, 8501, 8502, 14305 of this title; title 50 App. section 1744.

### CHAPTER 31—GENERAL

Sec.	
3101.	Authority to suspend inspection.
3102.	Immersion suits.
3103.	Use of reports, documents, and records.

#### AMENDMENTS

1996—Pub. L. 104–324, title VI, § 603(b), Oct. 19, 1996, 110 Stat. 3930, added item 3103.

1988—Pub. L. 100–424, § 8(a)(3), Sept. 9, 1988, 102 Stat. 1593, substituted “Immersion” for “Exposure” in item 3102.

1985—Pub. L. 99–36, § 2, May 15, 1985, 99 Stat. 68, repealed section 22 of Pub. L. 98–557 and the amendments made by that section, which added first identical item 3102, effective Nov. 8, 1984, thereby leaving Pub. L. 98–623 as the sole authority for the addition of item 3102. See 1984 Amendment note below.

1984—Pub. L. 98–557, § 22(a)(2), Oct. 30, 1984, 98 Stat. 2871, and Pub. L. 98–623, title VII, § 701(a)(2), Nov. 8, 1984, 98 Stat. 3413, added identical item 3102. See 1985 Amendment note above.

#### § 3101. Authority to suspend inspection

When the President decides that the needs of foreign commerce require, the President may suspend a provision of this part for a foreign-built vessel registered as a vessel of the United States on conditions the President may specify.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 510.)