

**§ 11507. Surrender of offending officers**

When an officer of a vessel of the United States (except the master) has violated section 2191 of title 18, and the master has actual knowledge of the offense or if complaint is made within 3 days after reaching port, the master shall surrender the offending officer to the proper authorities. If the master fails to use diligence to comply with this section and the offender escapes, the owner, the master, and the vessel are liable for damages to the individual unlawfully punished.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 584.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
11507 .....	46:712

Section 11507 requires a master of a vessel of the United States to surrender to the proper authorities any officer who has violated section 2191 of title 18 (which provides a penalty for cruelty to seamen by officers), and penalizes the master for noncompliance.

## PART H—IDENTIFICATION OF VESSELS

## PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 2101 of this title.

**CHAPTER 121—DOCUMENTATION OF VESSELS**

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12122.	Penalties.
12123.	Denial and revocation of endorsements.
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## AMENDMENTS

2002—Pub. L. 107-295, title IV, § 422(b)(2), Nov. 25, 2002, 116 Stat. 2125, added item 12103a.

1998—Pub. L. 105-383, title IV, § 401(b), Nov. 13, 1998, 112 Stat. 3425, added item 12124.

1996—Pub. L. 104-324, title VII, § 746(a)(2), title XI, § 1115(b)(1), Oct. 19, 1996, 110 Stat. 3943, 3972, struck out item 12107 “Great Lakes endorsements” and struck out item 12123 “Denial and revocation of endorsements” appearing first.

1992—Pub. L. 102-587, title V, § 5213(b), Nov. 4, 1992, 106 Stat. 5077, added item 12123.

Pub. L. 102-388, title III, § 348(c)(2), Oct. 6, 1992, 106 Stat. 1554, added item 12123.

1990—Pub. L. 101-595, title VI, § 603(8), Nov. 16, 1990, 104 Stat. 2993, which directed the amendment of the chapter analysis of title 46 was executed to the chapter

analysis of this chapter to reflect the probable intent of Congress by striking out items 12113 “Ports of documentation”, 12114 “Home ports”, 12115 “Names of vessels”, 12116 “Numbers, signal letters, and identification markings”, 12118 “Registration of funnel marks and house flags”, and 12121 “Regulations”.

1989—Pub. L. 101-225, title III, § 301(a)(12), Dec. 12, 1989, 103 Stat. 1922, inserted “endorsements” in item 12105, substituted “endorsements” for “licenses and registry” in items 12106, 12107, and 12108, and substituted “endorsements” for “vessel licenses” in item 12109.

1988—Pub. L. 100-710, title I, § 103(b), Nov. 23, 1988, 102 Stat. 4749, substituted “Surrender and invalidation” for “Invalidation” in item 12111.

Pub. L. 100-239, § 3(1), Jan. 11, 1988, 101 Stat. 1778, substituted “Definitions and related” for “Related” in item 12101.

1985—Pub. L. 99-36, § 1(a)(7)(A), May 15, 1985, 99 Stat. 67, substituted “Recreational” for “Pleasure” in item 12109.

## CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2101, 3316, 3703a, 14301, 14304, 14501, 14504, 30101, 31322, 31325, 31329, 31343, 70108 of this title; sections 146, 292, 808, 808a, 1187, 1187a, 1187c, 1903 of Appendix to this title; title 7 section 1638a; title 15 section 1175; title 16 sections 1802, 2432, 4714, 5502; title 19 sections 128, 131, 3203; title 40 section 558.

**§ 12101. Definitions and related terms in other laws**

(a) In this chapter—

(1) “fisheries” includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone.

(2) “rebuilt” has the same meaning as in the second proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883).

(b) When used in a law, regulation, document, ruling, or other official act referring to the documentation of a vessel—

(1) “certificate of registry”, “register”, and “registry” mean a registry endorsement as provided in section 12105 of this title.

(2) “license”, “enrollment and license”, “license for the coastwise (or coasting) trade”, and “enrollment and license for the coastwise (or coasting) trade” mean a coastwise endorsement as provided in section 12106 of this title.

[(3) Repealed. Pub. L. 104-324, title XI, § 1115(b)(2), Oct. 19, 1996, 110 Stat. 3972.]

(4) “yacht” means a recreational vessel even if not documented.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 585; Pub. L. 98-364, title IV, § 402(16), July 17, 1984, 98 Stat. 450; Pub. L. 99-36, § 1(a)(7)(B), May 15, 1985, 99 Stat. 67; Pub. L. 100-239, § 3(2), (3), Jan. 11, 1988, 101 Stat. 1778; Pub. L. 101-225, title III, § 301(a)(1), Dec. 12, 1989, 103 Stat. 1920; Pub. L. 104-324, title XI, § 1115(b)(2), Oct. 19, 1996, 110 Stat. 3972.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
12101 .....	46:65w

Section 12101 defines the types of certificates of documentation that are used in this chapter, and in other laws, regulations, document rulings or other official acts referring to the documentation of a vessel.

## AMENDMENTS

1996—Subsec. (b)(3). Pub. L. 104-324 struck out par. (3) which read as follows: “enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea” means a Great Lakes endorsement as provided in section 12107 of this title.”

1989—Subsec. (b)(1). Pub. L. 101-225, §301(a)(1)(A), substituted “registry endorsement as” for “registry as”.

Subsec. (b)(2). Pub. L. 101-225, §301(a)(1)(B), substituted “coastwise endorsement” for “coastwise license”.

Subsec. (b)(3). Pub. L. 101-225, §301(a)(1)(C), substituted “Great Lakes endorsement” for “Great Lakes license”.

Subsec. (b)(4), (5). Pub. L. 101-225, §301(a)(1)(D), (E), redesignated par. (5) as (4) and struck out former par. (4) which defined “license for the fisheries” and “enrollment and license for the fisheries” as meaning a fishery license as provided in section 12108 of this title.

1988—Pub. L. 100-239 substituted “Definitions and related” for “Related” in section catchline, added subsec. (a), designated existing provisions as subsec. (b), and struck out par. (6) which read as follows: “‘fisheries’ includes planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the fishery conservation zone established by section 101 of the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).”

1985—Par. (5). Pub. L. 99-36 substituted “recreational” for “pleasure”.

1984—Par. (6). Pub. L. 98-364 added par. (6).

## EFFECTIVE DATE OF 1989 AMENDMENT

Section 309 of Pub. L. 101-225 provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act [see Tables for classification] take effect on the date of the enactment of this Act [Dec. 12, 1989].

“(b) EXCEPTIONS.—

“(1) The amendments made by section 1(a)(2) [probably means section 301(a)(2) of Pub. L. 101-225, which amended section 12102 of this title] take effect January 1, 1989, except that the amendment made by subparagraph (A) of such section does not apply to a vessel titled in a State until one year after the Secretary of Transportation prescribes guidelines for a titling system under section 13106(b)(8) of title 46, United States Code.

“(2) The amendments made by section 1(a)(3) [probably means section 301(a)(3) of Pub. L. 101-225, which amended section 12103 of this title] take effect on the 180th day after the date of the enactment of this Act.”

## USE OF FOREIGN REGISTRY OIL SPILL RESPONSE VESSELS

Section 1117 of Pub. L. 104-324 provided that: “Notwithstanding any other provision of law, an oil spill response vessel documented under the laws of a foreign country may operate in waters of the United States on an emergency and temporary basis, for the purpose of recovering, transporting, and unloading in a United States port oil discharged as a result of an oil spill in or near those waters, if—

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

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

## § 12102. Vessels eligible for documentation

(a) A vessel of at least 5 net tons that is not registered under the laws of a foreign country is

eligible for documentation if the vessel is owned by—

(1) an individual who is a citizen of the United States;

(2) an association, trust, joint venture, or other entity—

(A) all of whose members are citizens of the United States; and

(B) that is capable of holding title to a vessel under the laws of the United States or of a State;

(3) a partnership whose general partners are citizens of the United States, and the controlling interest in the partnership is owned by citizens of the United States;

(4) a corporation established under the laws of the United States or of a State, whose chief executive officer, by whatever title, and chairman of its board of directors are citizens of the United States and no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum;

(5) the United States Government; or

(6) the government of a State.

(b) A vessel is eligible for documentation only if it has been measured under part J of this subtitle. However, the Secretary of Transportation may issue a temporary certificate of documentation for a vessel before it is measured.

(c)(1) A vessel owned by a corporation, partnership, association, trust, joint venture, limited liability company, limited liability partnership, or any other entity is not eligible for a fishery endorsement under section 12108 of this title unless at least 75 per centum of the interest in such entity, at each tier of ownership of such entity and in the aggregate, is owned and controlled by citizens of the United States.

(2) The Secretary shall apply section 2(c) of the Shipping Act, 1916 (46 App. U.S.C. 802(c)) in determining under this subsection whether at least 75 per centum of the interest in a corporation, partnership, association, trust, joint venture, limited liability company, limited liability partnership, or any other entity is owned and controlled by citizens of the United States. For the purposes of this subsection and of applying the restrictions on controlling interest in section 2(c) of such Act, the terms “control” or “controlled”—

(A) shall include—

(i) the right to direct the business of the entity which owns the vessel;

(ii) the right to limit the actions of or replace the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity which owns the vessel; or

(iii) the right to direct the transfer, operation or manning of a vessel with a fishery endorsement; and

(B) shall not include the right to simply participate in the activities under subparagraph (A), or the exercise of rights under loan or mortgage covenants by a mortgagee eligible to be a preferred mortgagee under section 31322(a) of this title, provided that a mortgagee not eligible to own a vessel with a fishery endorsement may only operate such a ves-

sel to the extent necessary for the immediate safety of the vessel or for repairs, drydocking or berthing changes.

(3) A fishery endorsement for a vessel that is chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement and used as a fishing vessel shall be invalid immediately upon such use.

(4) The requirements of this subsection shall not apply to a vessel when it is engaged in fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council established under section 302(a)(1)(H) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(H)) or to a purse seine vessel when it is engaged in tuna fishing in the Pacific Ocean outside the exclusive economic zone of the United States or pursuant to the South Pacific Regional Fisheries Treaty, provided that the owner of the vessel continues to comply with the eligibility requirements for a fishery endorsement under the federal<sup>1</sup> law that was in effect on October 1, 1998. A fishery endorsement issued by the Secretary pursuant to this paragraph shall be valid for engaging only in fisheries in the exclusive economic zone under the authority of such Council, in such tuna fishing in the Pacific Ocean, or pursuant to such Treaty.

(5) A vessel greater than 165 feet in registered length, of more than 750 gross registered tons (as measured under chapter 145 of title 46) or 1,900 gross registered tons as<sup>2</sup> measured under chapter 143 of that title), or that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower is not eligible for a fishery endorsement under section 12108 of this title unless—

(A)(i) a certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997;

(ii) the vessel is not placed under foreign registry after the date of the enactment of the American Fisheries Act; and

(iii) in the event of the invalidation of the fishery endorsement after the date of the enactment of the American Fisheries Act, application is made for a new fishery endorsement within fifteen (15) business days of such invalidation; or

(B) the owner of such vessel demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)) has recommended after the date of the enactment of the American Fisheries Act, and the Secretary of Commerce has approved, conservation and management measures in accordance with such Act to allow such vessel to be used in fisheries under such council's authority.

(d)(1) For the issuance of a certificate of documentation with only a registry endorsement,

subsection (a)(2)(A) of this section does not apply to a beneficiary of a trust that is qualified under paragraph (2) of this subsection if the vessel is subject to a charter to a citizen of the United States.

(2)(A) Subject to subparagraph (B) of this paragraph, a trust is qualified under this paragraph with respect to a vessel only if—

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

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

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

(3) Paragraph (2) of this subsection shall not be considered to prohibit a person who is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

(4) If a person chartering a vessel from a trust that is qualified under paragraph (2) of this subsection is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), then the vessel is deemed to be owned by a citizen of the United States for purposes of that section and related laws, except for subtitle B of title VI of the Merchant Marine Act, 1936.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 585; Pub. L. 99-509, title V, §5102(b)(6), Oct. 21, 1986, 100 Stat. 1927; Pub. L. 100-239, §7(a), Jan. 11, 1988, 101 Stat. 1782; Pub. L. 100-710, title I, §104(a)(4), (5), Nov. 23, 1988, 102 Stat. 4750; Pub. L. 101-225, title III, §301(a)(2), Dec. 12, 1989, 103 Stat. 1920; Pub. L. 104-324, title XI, §1136(a), Oct. 19, 1996, 110 Stat. 3986; Pub. L. 105-277, div. C, title II, §202(a), Oct. 21, 1998, 112 Stat. 2681-617; Pub. L. 105-383, title IV, §§401(a)(1), 421, Nov. 13, 1998, 112 Stat. 3424, 3439; Pub. L. 107-20, title II, §2202(a), July 24, 2001, 115 Stat. 168; Pub. L. 107-206, title I, §1103, Aug. 2, 2002, 116 Stat. 884.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
12102 .....	46:65b

Section 12102 provides that vessels of at least five net tons, not registered under the laws of a foreign nation,

<sup>1</sup> So in original. Probably should be capitalized.

<sup>2</sup> So in original. Probably should be "(as)".

are eligible for documentation if certain ownership requirements are met, and lists the ownership requirements.

#### REFERENCES IN TEXT

The date of the enactment of the American Fisheries Act, referred to in subsec. (c)(5), is the date of enactment of title II of div. C of Pub. L. 105-277, which was approved Oct. 21, 1998.

Such Act, referred to in subsec. (c)(5)(B), probably means the Magnuson-Stevens Fishery Conservation and Management Act, Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 16 and Tables.

The Merchant Marine Act, 1936, referred to in subsec. (d)(4), is act June 29, 1936, ch. 858, 49 Stat. 1985, as amended. Subtitle B of title VI of the Act is classified generally to part B (§ 1187 et seq.) of subchapter VI of chapter 27 of Title 46, Appendix, Shipping. For complete classification of this Act to the Code, see section 1245 of Title 46, Appendix, and Tables.

#### AMENDMENTS

2002—Subsec. (c)(5). Pub. L. 107-206, which directed amendment of title II of division C of Public Law 105-277 by substituting “of more than 750 gross registered tons (as measured under chapter 145 of title 46) or 1,900 gross registered tons as measured under chapter 143 of that title” for “of more than 750 gross registered tons” each place appearing, was executed by amending subsec. (c)(5) of this section, to reflect the probable intent of Congress. See 1998 Amendment note below.

2001—Subsec. (c)(2)(B). Pub. L. 107-20, § 2202(a)(1), substituted “or the exercise of rights under loan or mortgage covenants by a mortgagee eligible to be a preferred mortgagee under section 31322(a) of this title, provided that a mortgagee not eligible to own a vessel with a fishery endorsement may only operate such a vessel to the extent necessary for the immediate safety of the vessel or for repairs, drydocking or berthing changes” for “or the use by a mortgagee under paragraph (4) of loan covenants approved by the Secretary”.

Subsec. (c)(4) to (6). Pub. L. 107-20, § 2202(a)(2), which directed amendment of subsec. (c) “by striking paragraph (4) and renumbering the remaining paragraph accordingly”, was executed by striking par. (4) and redesignating pars. (5) and (6) as (4) and (5), respectively, to reflect the probable intent of Congress. Prior to amendment, par. (4) read as follows:

“(4)(A) An individual or entity that is otherwise eligible to own a vessel with a fishery endorsement shall be ineligible by reason of an instrument or evidence of indebtedness, secured by a mortgage of the vessel to a trustee eligible to own a vessel with a fishery endorsement that is issued, assigned, transferred or held in trust for a person not eligible to own a vessel with a fishery endorsement, unless the Secretary determines that the issuance, assignment, transfer, or trust arrangement does not result in an impermissible transfer of control of the vessel and that the trustee—

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

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

“(iii) is subject to supervision or examination by an official of the United States Government or a State;

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

“(v) meets any other requirements prescribed by the Secretary.

“(B) A vessel with a fishery endorsement may be operated by a trustee only with the approval of the Secretary.

“(C) A right under a mortgage of a vessel with a fishery endorsement may be issued, assigned, or transferred to a person not eligible to be a mortgagee of that vessel under section 31322(a)(4) of this title only with the approval of the Secretary.

“(D) The issuance, assignment, or transfer of an instrument or evidence of indebtedness contrary to this paragraph is voidable by the Secretary.”

1998—Subsec. (a). Pub. L. 105-383, § 401(a)(1), struck out “or is not titled in a State” after “a foreign country” in introductory provisions.

Subsec. (a)(4). Pub. L. 105-383, § 421, struck out “president or other” after “a State, whose” and inserted “, by whatever title,” after “chief executive officer”.

Subsec. (c). Pub. L. 105-277, § 202(a), as amended by Pub. L. 107-206, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

“(c)(1) A vessel owned by a corporation is not eligible for a fishery endorsement under section 12108 of this title unless the controlling interest (as measured by a majority of voting shares in that corporation) is owned by individuals who are citizens of the United States. However, if the corporation is owned in whole or in part by other United States corporations, the controlling interest in those corporations, in the aggregate, must be owned by individuals who are citizens of the United States.

“(2) The Secretary shall apply the restrictions on controlling interest in section 2(b) of the Shipping Act, 1916 (46 App. U.S.C. 802(b)) when applying this subsection.”

1996—Subsec. (d). Pub. L. 104-324 added subsec. (d).

1989—Subsec. (a). Pub. L. 101-225, § 301(a)(2)(A), inserted “that is” before “not” and “or is not titled in a State” after “foreign country”.

Subsecs. (b), (c). Pub. L. 101-225, § 301(a)(2)(B)-(D), redesignated former subsec. (b), relating to eligibility of a vessel owned by a corporation for a fishery license, as (c), substituted “fishery endorsement” for “fishery license” in par. (1), and struck out former subsec. (c) which provided that a vessel titled in a State was eligible for documentation only if the State certificate of title was surrendered.

1988—Pub. L. 100-710 directed insertion of “of Transportation” after “Secretary” in subsec. (b), which was executed by making insertion in subsec. (b) relating to eligibility of a vessel for documentation after having been measured under part J, as probable intent of Congress, and added subsec. (c).

Pub. L. 100-239, § 7(a), directed that “(a)” be inserted before “A vessel”, which was not executed because of a similar amendment by Pub. L. 99-509, and added at end subsec. (b) relating to eligibility of a vessel owned by a corporation for a fishery license under section 12108 of this title.

1986—Pub. L. 99-509 designated existing provisions as subsec. (a) and added subsec. (b) relating to eligibility of a vessel for documentation after having been measured under part J.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-20, title II, § 2202(d), July 24, 2001, 115 Stat. 170, provided that: “Section 31322 of title 46, United States Code as amended in this section, and as amended by section 202(b) of the American Fisheries Act (Public Law 105-277, division C, title II) shall not take effect until April 1, 2003, nor shall the Secretary of Transportation, in determining whether a vessel owner complies with the requirements of section 12102(c) of title 46, United States Code, consider the citizenship status of a lender, in its capacity as a lender with respect to that vessel owner, until after April 1, 2003.”

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. C, title II, § 203(a), Oct. 21, 1998, 112 Stat. 2681-619, provided that: “The amendments made by section 202 [amending this section and section 31322 of this title] shall take effect on October 1, 2001.”

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendments by section 301(a)(2) of Pub. L. 101-225 effective Jan. 1, 1989, except that amendment by section

301(a)(2)(A) inapplicable to a vessel titled in a State until one year after the Secretary of Transportation prescribes guidelines for a titling system under section 13106(b)(8) of this title, see section 309(b)(1) of Pub. L. 101-225, set out as a note under section 12101 of this title.

#### 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.

#### REGULATIONS; ENFORCEMENT OF STANDARD

Pub. L. 105-277, div. C, title II, §203(b)-(e), Oct. 21, 1998, 112 Stat. 2681-619, provided that:

“(b) REGULATIONS.—Final regulations to implement this subtitle [subtitle I (§§201-204) of title II of div. C of Pub. L. 105-277, amending this section and sections 12122 and 31322 of this title, enacting provisions set out as notes under this section and section 2101 of this title, and repealing provisions set out as a note under this section] shall be published in the Federal Register by April 1, 2000. Letter rulings and other interim interpretations about the effect of this subtitle and amendments made by this subtitle on specific vessels may not be issued prior to the publication of such final regulations. The regulations to implement this subtitle shall prohibit impermissible transfers of ownership or control, specify any transactions which require prior approval of an implementing agency, identify transactions which do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of such industry, and to the opportunity to form fishery cooperatives.

“(c) VESSELS MEASURING 100 FEET AND GREATER.—(1) The Administrator of the Maritime Administration shall administer section 12102(c) of title 46, United States Code, as amended by this subtitle, with respect to vessels 100 feet or greater in registered length. The owner of each such vessel shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with the Administrator of the Maritime Administration on an annual basis to demonstrate compliance with such section. Regulations to implement this subsection shall conform to the extent practicable with the regulations establishing the form of citizenship affidavit set forth in part 355 of title 46, Code of Federal Regulations, as in effect on September 25, 1997, except that the form of the statement under this paragraph shall be written in a manner to allow the owner of each such vessel to satisfy any annual renewal requirements for a certificate of documentation for such vessel and to comply with this subsection and section 12102(c) of title 46, United States Code, as amended by this Act, and shall not be required to be notarized.

“(2) After October 1, 2001, transfers of ownership and control of vessels subject to section 12102(c) of title 46, United States Code, as amended by this Act, which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of such section, with particular attention given to leases, charters, mortgages, financing, and similar arrangements, to the control of persons not eligible to own a vessel with a fishery endorsement under section 12102(c) of title 46, United States Code, as amended by this Act, over the management, sales, financing, or other operations of an entity, and to contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

“(d) VESSELS MEASURING LESS THAN 100 FEET.—The Secretary of Transportation shall establish such requirements as are reasonable and necessary to demonstrate compliance with section 12102(c) of title 46, United States Code, as amended by this Act, with respect to vessels measuring less than 100 feet in registered length, and shall seek to minimize the adminis-

trative burden on individuals who own and operate such vessels.

“(e) ENDORSEMENTS REVOKED.—The Secretary of Transportation shall revoke the fishery endorsement of any vessel subject to section 12102(c) of title 46, United States Code, as amended by this Act, whose owner does not comply with such section.”

#### INAPPLICABILITY OF SUBSECTION (c)(5) TO CERTAIN MENHADEN FISHERIES

Pub. L. 106-31, title III, §3027(c), May 21, 1999, 113 Stat. 102, provided that: “The limitation on registered length contained in section 12102(c)(6) [now section 12102(c)(5)] of title 46, United States Code, shall not apply to a vessel used solely in any menhaden fishery which is located in the Gulf of Mexico or along the Atlantic coast south of the area under the authority of the New England Fishery Management Council for so long as such vessel is used in such fishery.”

#### APPLICATION OF SECTION TO FISHING VESSELS IN CALIFORNIA

Citizen of the United States to include an alien lawfully admitted for permanent residence, for purposes of applying this section to vessels operating in waters off the coast of California, subject to United States jurisdiction, see section 317 of Pub. L. 101-595, set out as a note under section 8103 of this title.

#### APPLICABILITY OF SUBSECTION (b)

Section 7(b) of Pub. L. 100-239 provided that subsection (b) of this section applied to vessels issued a fishery license after July 28, 1987, with exceptions for certain vessels documented under this chapter or contracted for purchase for use as fishing or fish processing vessels, prior to repeal by Pub. L. 105-277, div. C, title II, §204, Oct. 21, 1998, 112 Stat. 2681-620, effective Oct. 1, 2001.

#### TEMPORARY RESTRICTION ON DOCUMENTATION OF FOREIGN-BUILT FISH PROCESSING VESSELS

Pub. L. 100-111, Aug. 20, 1987, 101 Stat. 733, as amended by Pub. L. 100-151, §2, Nov. 3, 1987, 101 Stat. 884, provided: “That notwithstanding chapter 121 of title 46 of the United States Code, the Secretary of the department in which the Coast Guard is operating may not document a foreign-built vessel for which an application for documentation was submitted after July 20, 1987, for use as a fish processing vessel as defined in section 2101(11b) of title 46, United States Code. This prohibition is effective until November 15, 1987. The Secretary may issue regulations to obtain information about the intended use of a vessel for which an application for documentation has been submitted to prevent the documentation of a foreign-built fish processing vessel.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12103a, 12106, 12112, 12122, 31322, 31329 of this title; section 1704 of Appendix to this title.

### § 12103. Certificates of documentation

(a) Except as provided in section 12123 of this title, on application by the owner of a vessel eligible for documentation, the Secretary of Transportation shall issue a certificate of documentation, or a temporary certificate of documentation, endorsed with one or more of the endorsements specified in sections 12105-12109 of this title.

(b)(1) The Secretary may prescribe the form of, the manner of filing, and the information to be contained in, applications for certificates of documentation.

(2) The Secretary shall require each person applying to document a vessel to provide—

- (A) the person's social security number; or
- (B) for a person other than an individual—
  - (i) the person's taxpayer identification number; or
  - (ii) if the person does not have a taxpayer identification number, the social security number of an individual who is a corporate officer, general partner, or individual trustee of the person and who signs the application for documentation for the vessels.

- (c) Each certificate of documentation shall—
  - (1) identify and describe the vessel;
  - (2) identify the owner of the vessel; and
  - (3) contain additional information prescribed by the Secretary.

(d) The Secretary shall prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation.

(e) The owner and master of a documented vessel shall make the vessel's certificate of documentation available for examination as the law or Secretary may require.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 585; Pub. L. 100-710, title I, §104(a)(4), (6), Nov. 23, 1988, 102 Stat. 4750; Pub. L. 101-225, title III, §301(a)(3), Dec. 12, 1989, 103 Stat. 1920; Pub. L. 102-388, title III, §348(c)(1), Oct. 6, 1992, 106 Stat. 1554; Pub. L. 102-587, title V, §5213(a)(1), Nov. 4, 1992, 106 Stat. 5077; Pub. L. 107-295, title IV, §422(a), Nov. 25, 2002, 116 Stat. 2125.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
12103 .....	46:65e

Section 12103 provides that a certificate of documentation shall be issued upon application by the owner of any vessel eligible for documentation on the form and in the manner prescribed by the Secretary and that it shall be available for examination. This section also provides that each certificate of documentation shall contain the name, the home port, the description of the vessel, identity of its owner, and be in the form and contain the additional information that the Secretary prescribes. The Secretary shall, by regulation, prescribe procedures to ensure the integrity of, and the accuracy of, information contained in, certificates of documentation.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-295 inserted “, or a temporary certificate of documentation,” after “certificate of documentation”.

1992—Subsec. (a). Pub. L. 102-388 and Pub. L. 102-587 amended subsec. (a) identically, substituting “Except as provided in section 12123 of this title, on” for “On”.

1989—Subsec. (a). Pub. L. 101-225, §301(a)(3)(A), substituted “endorsed with one or more of the endorsements” for “of one of the types”.

Subsec. (b). Pub. L. 101-225, §301(a)(3)(B), designated existing provisions as par. (1) and added par. (2).

1988—Subsec. (a). Pub. L. 100-710, §104(a)(4), inserted “of Transportation” after “Secretary”.

Subsec. (c)(1). Pub. L. 100-710, §104(a)(6), in amending par. (1) generally, substituted “identify and describe the vessel” for “contain the name, the home port, and a description of the vessel”.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-225 effective on the 180th day after Dec. 12, 1989, see section 309(b)(2) of Pub. L. 101-225, set out as a note under section 12101 of this title.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12103a of this title.

§ 12103a. Issuance of temporary certificate of documentation by third parties

(a) The Secretary of the department in which the Coast Guard is operating may delegate, subject to the supervision and control of the Secretary and under terms set out by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel if the applicant for the certificate of documentation meets the requirements set out in sections 12102 and 12103 of this chapter.

(b) A temporary certificate of documentation issued under section 12103(a) and subsection (a) of this section is valid for up to 30 days from issuance.

(Added Pub. L. 107-295, title IV, §422(b)(1), Nov. 25, 2002, 116 Stat. 2125.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 12104. Effect of documentation

A certificate of documentation is—

- (1) conclusive evidence of nationality for international purposes, but not in a proceeding conducted under the laws of the United States;
- (2) except for a recreational endorsement, conclusive evidence of qualification to be employed in a specified trade; and
- (3) not conclusive evidence of ownership in a proceeding in which ownership is in issue.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 586; Pub. L. 99-36, §1(a)(7)(B), May 15, 1985, 99 Stat. 67; Pub. L. 101-225, title III, §301(a)(4), Dec. 12, 1989, 103 Stat. 1920.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
12104 .....	46:65g

Section 12104 provides that a certificate of documentation is conclusive evidence of nationality but not conclusive evidence of ownership in any proceeding in which ownership is an issue.

AMENDMENTS

1989—Par. (2). Pub. L. 101-225 substituted “endorsement” for “vessel license”.

1985—Par. (2). Pub. L. 99-36 substituted “recreational” for “pleasure”.

§ 12105. Registry endorsements

(a) A certificate of documentation may be endorsed with a registry endorsement.

(b) A vessel for which a registry endorsement is issued may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 586; Pub. L. 100-710, title I, § 104(a)(4), Nov. 23, 1988, 102 Stat. 4750; Pub. L. 101-225, title III, § 301(a)(5), Dec. 12, 1989, 103 Stat. 1920.)

HISTORICAL AND REVISION NOTES

Revised section	Source section (U.S. Code)
12105 .....	46:65h

Section 12105 authorizes the Secretary to issue a vessel a registry entitling it to be employed in the foreign trade, and to issue special endorsements for the coastwise trade, the Great Lakes trade or the fisheries. It also prohibits foreign built vessels from engaging in United States domestic trades.

AMENDMENTS

1989—Pub. L. 101-225, § 301(a)(5)(D), inserted “endorsements” after “Registry” in section catchline.

Subsec. (a). Pub. L. 101-225, § 301(a)(5)(A), amended subsec. (a) generally, substituting “certificate of documentation may be endorsed with a registry endorsement” for “registry may be issued for a vessel eligible for documentation”.

Subsec. (b). Pub. L. 101-225, § 301(a)(5)(B), inserted “endorsement” after “registry”.

Subsecs. (c), (d). Pub. L. 101-225, § 301(a)(5)(C), struck out subsecs. (c) and (d) which read as follows:

“(c) On application of the owner of a vessel that qualifies for a coastwise license under section 12106 of this title, a Great Lakes license under section 12107 of this title, or a fishery license under section 12108 of this title, the Secretary of Transportation may issue a registry appropriately endorsed authorizing the vessel to be employed in the coastwise trade, the Great Lakes trade, or the fisheries, as the case may be.

“(d) Except as provided in sections 12106-12108 of this title, a foreign built vessel registered under this section may not engage in the coastwise trade, the Great Lakes trade, or the fisheries.”

1988—Subsec. (c). Pub. L. 100-710 inserted “of Transportation” after “Secretary”.

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.

SAVINGS PROVISION

Pub. L. 100-239, § 6(b), Jan. 11, 1988, 101 Stat. 1782, provided that: “Notwithstanding the requirements of chapter 121 of title 46, United States Code, a vessel for which a coastwise, Great Lakes, or fishery license, or an appropriately endorsed registry, was issued before July 28, 1987, may continue to be employed in the specified trades for which it was qualified at the time the license or registry was issued for one year from date of enactment [Jan. 11, 1988] or until the certificate of documentation is renewed, whichever comes later. On renewal, the owner or master of a documented vessel shall make the vessel’s certificate of documentation available as the law or Secretary may require for replacement with an appropriately endorsed certificate.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12101, 12103 of this title; section 1187a of Appendix to this title.

§ 12106. Coastwise endorsements

(a) A certificate of documentation may be endorsed with a coastwise endorsement for a vessel that—

- (1) is eligible for documentation;
- (2)(A) was built in the United States; or

(B) if not built in the United States, was captured in war by citizens of the United States and lawfully condemned as prize, was adjudged to be forfeited for a breach of the laws of the United States, or qualified for documentation under section 4136 of the Revised Statutes (46 App. U.S.C. 14); and

(3) otherwise qualifies under laws of the United States to be employed in the coastwise trade.

(b) Subject to the laws of the United States regulating the coastwise trade, only a vessel for which a certificate of documentation with a coastwise endorsement is issued may be employed in the coastwise trade.

(c) A coastwise endorsement to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands may be issued for a vessel that—

(1) is less than 200 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;

(2) was not built in the United States;

(3) is eligible for documentation; and

(4) otherwise qualifies under the laws of the United States to be employed in the coastwise trade.

(d)(1) A vessel may be issued a certificate of documentation with a coastwise endorsement if—

(A) the vessel is owned by a not-for-profit oil spill response cooperative or by members of such a cooperative who dedicate the vessel to use by the cooperative;

(B) the vessel is at least 50 percent owned by persons or entities described in section 12102(a) of this title;

(C) the vessel otherwise qualifies under section 12106 to be employed in the coastwise trade; and

(D) use of the vessel is restricted to—

(i) the deployment of equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters of the United States, or within the Exclusive Economic Zone, or

(ii) for training exercises to prepare to respond to such a discharge.

(2) For purposes of the first proviso of section 27 of the Merchant Marine Act, 1920, section 2 of the Shipping Act of 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection shall be considered to be owned exclusively by citizens of the United States.

(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

(A) the vessel is eligible for documentation;

(B) the person that owns the vessel, a parent entity of that person, or a subsidiary of a par-

ent entity of that person, is primarily engaged in leasing or other financing transactions;

(C) the vessel is under a demise charter to a person that certifies to the Secretary that the person is a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916;

(D) the demise charter is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary; and

(E) the vessel is otherwise eligible for documentation under this section.

(2) The demise charter and any amendments to that charter shall be filed with the certificate required by this subsection, or within 10 days following the filing of an amendment to the charter, and such charter and amendments shall be made available to the public.

(3) Upon termination by a demise charterer required under paragraph (1)(C), the coastwise endorsement of the vessel may, in the sole discretion of the Secretary, be continued after the termination for default of the demise charter for a period not to exceed 6 months on such terms and conditions as the Secretary may prescribe.

(4) For purposes of section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection is deemed to be owned exclusively by citizens of the United States.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 586; Pub. L. 98-454, title III, §301(b), Oct. 5, 1984, 98 Stat. 1734; Pub. L. 100-239, §6(a)(2), (3), Jan. 11, 1988, 101 Stat. 1781; Pub. L. 101-225, title III, §301(a)(6), Dec. 12, 1989, 103 Stat. 1921; Pub. L. 101-380, title IV, §4205, Aug. 18, 1990, 104 Stat. 533; Pub. L. 104-324, title VII, §743, title XI, §1113(d), Oct. 19, 1996, 110 Stat. 3942, 3971.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
12106 .....	46:651

Section 12106 provides for the issuance of a certificate of documentation in the form of a coastwise license or an appropriately endorsed registry for any vessel that is eligible for documentation, is built in the United States, and qualifies under the laws of the United States to be employed in the coastwise trade. It also provides for the documentation of certain vessels captured during war that have not been built in the United States.

REFERENCES IN TEXT

Section 27 of the Merchant Marine Act, 1920, referred to in subsec. (d)(2), is classified to section 883 of the Appendix to this title.

Section 2 of the Shipping Act of 1916, referred to in subsecs. (d)(2) and (e)(1)(C), (4), is classified to sections 802 and 803 of the Appendix to this title.

AMENDMENTS

1996—Subsec. (c)(1). Pub. L. 104-324, §743, substituted “200 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” for “two hundred gross tons”.

Subsec. (e). Pub. L. 104-324, §1113(d), added subsec. (e).

1990—Subsec. (d). Pub. L. 101-380 added subsec. (d).

1989—Pub. L. 101-225, §301(a)(6)(E), substituted “endorsements” for “licenses and registry” in section catchline.

Subsec. (a). Pub. L. 101-225, §301(a)(6)(A), substituted “certificate of documentation may be endorsed with a coastwise endorsement” for “coastwise license or, as provided in section 12105(c) of this title, an appropriately endorsed registry, may be issued”.

Subsec. (b). Pub. L. 101-225, §301(a)(6)(B), substituted “certificate of documentation with a coastwise endorsement” for “coastwise license or an appropriately endorsed registry”.

Subsec. (c). Pub. L. 101-225, §301(a)(6)(C), substituted “endorsement” for “license”.

Subsec. (d). Pub. L. 101-225, §301(a)(6)(D), struck out subsec. (d) which read as follows: “On application of the owner of a vessel that qualifies for a Great Lakes license under section 12107 or a fishery license under section 12108 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the Great Lakes trade or fisheries, as the case may be.”

1988—Subsec. (b). Pub. L. 100-239, §6(a)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Subject to the laws of the United States regulating the coastwise trade and the fisheries, only a vessel for which a coastwise license or an appropriately endorsed registry is issued may be employed in—

- “(1) the coastwise trade; and
- “(2) the fisheries.”

Subsec. (d). Pub. L. 100-239, §6(a)(3), added subsec. (d). 1984—Subsec. (c). Pub. L. 98-454 added subsec. (c).

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.

ADMINISTRATIVE PROCESS FOR JONES ACT WAIVERS

Pub. L. 105-383, title V, Nov. 13, 1998, 112 Stat. 3445, as amended by Pub. L. 107-295, title II, §207(c), Nov. 25, 2002, 116 Stat. 2097, provided that:

“SEC. 501. FINDINGS.

“The Congress finds that—

“(1) current coastwise trade laws provide no administrative authority to waive the United-States-built requirement of those laws for the limited carriage of passengers for hire on vessels built or rebuilt outside the United States;

“(2) requests for such waivers require the enactment of legislation by the Congress;

“(3) each Congress routinely approves numerous such requests for waiver and rarely rejects any such request; and

“(4) the review and approval of such waiver requests is a ministerial function which properly should be executed by an administrative agency with appropriate expertise.

“SEC. 502. ADMINISTRATIVE WAIVER OF COASTWISE TRADE LAWS.

“Notwithstanding sections 12106 and 12108 of title 46, United States Code, section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade as a small passenger vessel or an uninspected passenger vessel for an eligible vessel authorized to carry no more than 12 passengers for hire if the Secretary, after notice and an opportunity for public comment, determines that the employment of the vessel in the coastwise trade will not adversely affect—

“(1) United States vessel builders; or

“(2) the coastwise trade business of any person who employs vessels built in the United States in that business.

“SEC. 503. REVOCATION.

“(a) REVOCATION FOR FRAUD.—The Secretary shall revoke a certificate or an endorsement issued under sec-



tion 502, after notice and an opportunity for a hearing, if the Secretary determines that the certificate or endorsement was obtained by fraud.

“(b) APPLICATION WITH CRIMINAL PENALTIES.—Nothing in this section affects—

“(1) the criminal prohibition on fraud and false statements provided by section 1001 of title 18, United States Code; or

“(2) any other authority of the Secretary to revoke a certificate or endorsement issued under section 502 of this Act.

“SEC. 504. DEFINITIONS.

“In this title:

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

“(2) ELIGIBLE VESSEL.—The term ‘eligible vessel’ means a vessel that—

“(A) was not built in the United States and is at least 3 years of age; or

“(B) if rebuilt, was rebuilt outside the United States at least 3 years before the certification requested under section 502, if granted, would take effect.

“(3) SMALL PASSENGER VESSEL; UNINSPECTED PASSENGER VESSEL; PASSENGER FOR HIRE.—The terms ‘small passenger vessel’, ‘uninspected passenger vessel’, and ‘passenger for hire’ have the meaning given such terms by section 2101 of title 46, United States Code.

“SEC. 505. SUNSET.

[Repealed. Pub. L. 107-295, title II, §207(c)(1), Nov. 25, 2002, 116 Stat. 2097.]”

[Pub. L. 107-295, title II, §207(c)(1), Nov. 25, 2002, 116 Stat. 2097, provided that: “Section 505 of the Coast Guard Authorization Act of 1998 [Pub. L. 105-383] (formerly) 46 U.S.C. 12106 note) is repealed. The repeal of section 505 shall have no effect on the validity of any certificate or endorsement issued under section 502 of that Act [set out above].]

STUDY AND REPORT ON FINANCING METHODS

Section 1113(f) of Pub. L. 104-324 provided that:

“(1) STUDY.—The Secretary of Transportation shall conduct a study of the methods for leasing, demise chartering, and financing of vessels operating in the coastal trades of other countries and whether the laws of other countries provide reciprocity for United States banks, leasing companies, or other financial institutions with respect to the rights granted under the amendment made by subsection (d) [amending this section]. The study shall develop recommendations whether additional laws requiring reciprocity should be considered for non-United States banks, leasing companies, or other financial institutions.

“(2) REPORT.—The Secretary shall submit to the Congress a report 1 year after the date of enactment of this Act [Oct. 19, 1996] of the results of the study required under paragraph (1), including recommendations developed in the study.”

APPLICATION OF WEIGHT LIMITATIONS TO NORTHERN MARIANA ISLANDS

Section 303 of Pub. L. 98-454 provided that: “The weight limitations contained in subsections (b) and (c) of section 301 above [amending sections 12106 and 12108 of this title] shall not apply to the Northern Mariana Islands until the termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands (61 Stat. 3301).” [For termination of Trusteeship Agreement for Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12101, 12103, 14305 of this title; sections 316, 808 of Appendix to this title.

[§ 12107. Repealed. Pub. L. 104-324, title XI, § 1115(a), Oct. 19, 1996, 110 Stat. 3972]

Section, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 587; Pub. L. 100-239, §6(a)(4), (5), Jan. 11, 1988, 101 Stat. 1782; Pub. L. 101-225, title III, §301(a)(7), Dec. 12, 1989, 103 Stat. 1921, related to requirements for Great Lakes endorsement and significance of certificate of documentation with Great Lakes endorsement.

§ 12108. Fishery endorsements

(a) A certificate of documentation may be endorsed with a fishery endorsement for a vessel that—

- (1) is eligible for documentation;
(2) was built in the United States;
(3) if rebuilt, was rebuilt in the United States;

(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and

(5) otherwise qualifies under the laws of the United States to be employed in the fisheries.

(b) Subject to the laws of the United States regulating the fisheries, only a vessel for which a certificate of documentation with a fishery endorsement is issued may be employed in the fisheries.

(c) A fishery endorsement to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands may be issued to a vessel that—

(1) is less than 200 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;

(2) was not built or rebuilt in the United States;

(3) is eligible for documentation; and

(4) otherwise qualifies under the laws of the United States to be employed in the fisheries.

(d) A vessel purchased by the Secretary of Commerce through a fishing capacity reduction program under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) or section 308 of the Interjurisdictional Fisheries Act<sup>1</sup> (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 587; Pub. L. 98-454, title III, §301(c), Oct. 5, 1984, 98 Stat. 1734; Pub. L. 100-239, §§3(4), (5), 6(a)(6), Jan. 11, 1988, 101 Stat. 1779, 1782; Pub. L. 101-225, title III, §301(a)(8), Dec. 12, 1989, 103 Stat. 1921; Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41; Pub. L. 104-324, title III, §301(e), title VII, §744, Oct. 19, 1996, 110 Stat. 3917, 3942; Pub. L. 107-295, title IV, §409, Nov. 25, 2002, 116 Stat. 2117.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 12108, 46:65k

Section 12108 provides that a certificate of documentation in the form of a fishery license or an appro-

<sup>1</sup> So in original. Probably should be “Act of 1986”.

privately endorsed registry may be issued for any vessel that is eligible for documentation, was built in the United States, and qualifies under the laws of the United States to be employed in the fisheries. It also provides for the documentation of certain vessels captured in war that have not been built in the United States.

## REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (d), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§1801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 16 and Tables.

## AMENDMENTS

2002—Subsec. (a)(2). Pub. L. 107-295, §409(1), added par. (2) and struck out former par. (2) which read as follows:

“(2)(A) was built in the United States; or

“(B) if not built in the United States, was captured in war by citizens of the United States and lawfully condemned as prize, was adjudged to be forfeited for a breach of the laws of the United States, or qualified for documentation under section 4136 of the Revised Statutes (46 App. U.S.C. 14);”.

Subsec. (a)(4), (5). Pub. L. 107-295, §409(2)–(4), added par. (4) and redesignated former par. (4) as (5).

1996—Subsec. (c)(1). Pub. L. 104-324, §744, substituted “200 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” for “two hundred gross tons”.

Subsec. (d). Pub. L. 104-208, which directed the substitution of “Magnuson-Stevens Fishery Conservation and Management Act” for “Magnuson Fishery Conservation and Management Act”, was executed by making the substitution for “Magnuson Fishery Conservation Management Act” to reflect the probable intent of Congress.

Pub. L. 104-324, §301(e), added subsec. (d).

1989—Pub. L. 101-225, §301(a)(8)(F), substituted “endorsements” for “licenses and registry” in section catchline.

Subsec. (a). Pub. L. 101-225, §301(a)(8)(A), (B), in introductory provisions substituted “certificate of documentation may be endorsed with a fishery endorsement” for “fishery license or, as provided in section 12105(c) of this title, an appropriately endorsed registry, may be issued” and in par. (1) struck out “and” after semicolon.

Subsec. (b). Pub. L. 101-225, §301(a)(8)(C), substituted “certificate of documentation with a fishery endorsement” for “fishery license or an appropriately endorsed registry”.

Subsec. (c). Pub. L. 101-225, §301(a)(8)(D), which directed substitution of “endorsement” for “license” in subsec. (C), was executed by making substitution in subsec. (c) as the probable intent of Congress.

Subsec. (d). Pub. L. 101-225, §301(a)(8)(E), struck out subsec. (d) which read as follows: “On application of the owner of a vessel that qualifies for a coastwise license under section 12106 or a Great Lakes license under section 12107 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the coastwise trade or the Great Lakes trade, as the case may be.”

1988—Subsec. (a)(3), (4). Pub. L. 100-239, §3(4), added par. (3) and redesignated former par. (3) as (4).

Subsec. (c)(2). Pub. L. 100-239, §3(5), substituted “built or rebuilt” for “built”.

Subsec. (d). Pub. L. 100-239, §6(a)(6), added subsec. (d).

1984—Subsec. (c). Pub. L. 98-454 added subsec. (c).

## EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, §211(b)] of div. A of Pub. L. 104-208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

## SAVINGS PROVISION

Section 4 of Pub. L. 100-239, as amended by Pub. L. 101-225, title III, §310, Dec. 12, 1989, 103 Stat. 1926, provided that:

“(a) Notwithstanding the requirements of section 12108(a)(2) and (3) of title 46, United States Code, a fishery license may be issued to a vessel that before July 28, 1987—

“(1)(A) was documented under chapter 121 of that title; and

“(B) was operated as a fish processing or fish tender vessel in the navigable waters of the United States or the exclusive economic zone;

“(2) was a fish tender or fish processing vessel contracted to be purchased by a citizen of the United States, if the purchase is shown by contract or similarly reliable evidence acceptable to the Secretary to have been made for the purpose of using the vessel as a fish tender or fish processing vessel in the fisheries;

“(3) was documented under chapter 121 of that title and—

“(A) was rebuilt in a foreign country; or

“(B) is subsequently rebuilt in the United States for use as a fish processing vessel; or

“(4) was built in the United States and—

“(A) is rebuilt in a foreign country under a contract entered into before 6 months after the date of enactment of this Act [Jan. 11, 1988], and was purchased or contracted to be purchased before July 28, 1987 with the intent that the vessel be used in the fisheries, if that intent is evidenced by—

“(i) the contract itself; or

“(ii) a ruling letter by the Coast Guard before July 29, 1987 under 46 C.F.R. §67.21-1 or §67.27-3 pursuant to a ruling request evidencing that intent; or

“(B) is purchased for use as a fish processing vessel under a contract entered into after July 27, 1987, if—

“(i) a contract to rebuild the vessel for use as a fish processing vessel was entered into before September 1, 1987; and

“(ii) that vessel is part of a specific business plan involving the conversion in foreign shipyards of a series of three vessels and rebuilding work on at least one of the vessels had begun before July 28, 1987.

“(b) A vessel rebuilt under subsection (a)(3)(B) or (4) of this section must be redelivered to the owner before July 28, 1990. However, the Secretary may, on proof of circumstances beyond the control of the owner of a vessel affected by this section, extend the period for rebuilding in a foreign country permitted by this section.

“(c)(1) Any fishery license or registry issued to a vessel built in a foreign country under this section shall be endorsed to restrict the vessel from catching, taking, or harvesting.

“(2) Before being issued a fishery license, any vessel described in subsection (a)(2) of this section must be documented under an application for documentation acceptable to the Secretary filed before July 28, 1987, except that an alternative vessel of no greater tonnage than the vessel in the application may be substituted, if that substitution is made by the original applicant.”

## EXTENSION OF PERIOD FOR REBUILDING VESSELS IN FOREIGN COUNTRIES

Section 6(c)(3) of Pub. L. 100-239 provided that: “The Secretary, on proof of circumstances beyond the control of the owner of a vessel affected by this section [amending sections 2101, 12106, 12107, and 12108 of this title and section 883 of the Appendix to this title, and enacting notes set out under sections 12105 and 12108 of this title and section 883 of the Appendix to this title], may extend the period for rebuilding in a foreign country permitted by this section.”

## DEFINITIONS

Section 6(d) of Pub. L. 100-239 provided that: “The terms in this Act [see Short Title of 1988 Amendment

note set out under section 2101 of this title] have the same meaning as in subtitle II of title 46, United States Code (as amended by this Act).’

APPLICATION OF WEIGHT LIMITATIONS TO NORTHERN MARIANA ISLANDS

For provisions directing that weight limitations contained in subsec. (c) of this section shall not apply to the Northern Mariana Islands until the termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, see section 303 of Pub. L. 98-454, set out as a note under section 12106 of this title.

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12102, 12103, 14305 of this title; title 16 sections 973g, 4107.

§ 12109. Recreational endorsements

(a) A certificate of documentation with a recreational endorsement may be issued for a vessel that is eligible for documentation.

(b) A documented vessel with a recreational endorsement may proceed between a port of the United States and a port of a foreign country without entering or clearing with the Customs Service. A recreational vessel must, however, comply with all customs requirements for reporting arrival under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) and all persons on board that recreational vessel shall be subject to all applicable customs regulations.

(c) A documented vessel operating under a recreational endorsement may be operated only for pleasure.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 587; Pub. L. 99-36, §1(a)(7)(C), May 15, 1985, 99 Stat. 67; Pub. L. 99-570, title III, §3151, Oct. 27, 1986, 100 Stat. 3207-94; Pub. L. 100-710, title I, §106(b)(5), Nov. 23, 1988, 102 Stat. 4752; Pub. L. 101-225, title III, §301(a)(9), Dec. 12, 1989, 103 Stat. 1921; Pub. L. 101-595, title VI, §603(9), Nov. 16, 1990, 104 Stat. 2993.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 12109, 46:65l

Section 12109 provides that a certificate of documentation in the form of a pleasure vessel license may be issued for any vessel that is eligible for documentation and is to be used exclusively for pleasure. This section also authorizes the Secretary to charge a reasonable fee for issuing, reviewing, or replacing a pleasure vessel license or for providing any other related service.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-595 substituted ‘‘on board that recreational vessel’’ for ‘‘aboard such a pleasure vessel’’.

1989—Pub. L. 101-225, §301(a)(9)(D), substituted ‘‘endorsements’’ for ‘‘vessel licenses’’ in section catchline.

Subsec. (a). Pub. L. 101-225, §301(a)(9)(A), added subsec. (a) and struck out former subsec. (a) which read as follows: ‘‘A recreational vessel license may be issued for a vessel that is—

- ‘‘(1) eligible for documentation; and
‘‘(2) to be operated only for pleasure.’’

Subsec. (b). Pub. L. 101-225, §301(a)(9)(B), substituted ‘‘documented vessel with a recreational endorsement’’

for ‘‘licensed recreational vessel’’ and ‘‘A recreational’’ for ‘‘Such’’.

Subsec. (c). Pub. L. 101-225, §301(a)(9)(C), added subsec. (c).

1988—Subsec. (c). Pub. L. 100-710 struck out subsec. (c) which read as follows: ‘‘The Secretary may prescribe by regulation reasonable fees for issuing, renewing, or replacing a recreational vessel license, or for providing any other service related to a recreational vessel license. The fees shall be based on the costs of the service provided.’’

1986—Subsec. (b). Pub. L. 99-570 inserted ‘‘Such vessel must, however, comply with all customs requirements for reporting arrival under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) and all persons aboard such a pleasure vessel shall be subject to all applicable customs regulations.’’

1985—Pub. L. 99-36 substituted ‘‘Recreational’’ and ‘‘recreational vessel’’ for ‘‘Pleasure’’ and ‘‘pleasure vessel’’, respectively, in section catchline and wherever appearing in text.

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.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12103 of this title.

§ 12110. Limitations on operations authorized by certificates

(a) A vessel may not be employed in a trade except a trade covered by the endorsement issued for that vessel.

(b) A barge qualified to be employed in the coastwise trade may be employed, without being documented, in that trade on rivers, harbors, lakes (except the Great Lakes), canals, and inland waters.

(c) A vessel with only a recreational endorsement may not be operated other than for pleasure.

(d) A documented vessel, other than a vessel with only a recreational endorsement, may be placed under the command only of a citizen of the United States.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 588; Pub. L. 99-36, §1(a)(7)(D), May 15, 1985, 99 Stat. 67; Pub. L. 100-710, title I, §104(a)(4), Nov. 23, 1988, 102 Stat. 4750; Pub. L. 101-225, title III, §301(a)(10), Dec. 12, 1989, 103 Stat. 1922; Pub. L. 102-388, title III, §348(b), Oct. 6, 1992, 106 Stat. 1554; Pub. L. 102-587, title V, §5213(a)(2), Nov. 4, 1992, 106 Stat. 5077; Pub. L. 104-324, title III, §301(c), (d)(1), Oct. 19, 1996, 110 Stat. 3916.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 12110, 46:65m

Section 12110 provides that a vessel is limited to the trade covered by its certificate of documentation; exempts certain barges from documentation; requires that the person in charge be a citizen of the United States; and provides for a penalty for violation.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-324, §301(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "A vessel and its equipment are liable to seizure by and forfeiture to the United States Government—

"(1) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

"(2) when a vessel is employed in a trade without an appropriate trade endorsement; or

"(3) when a documented vessel with a recreational endorsement is operated other than for pleasure."

Subsec. (d). Pub. L. 104-324, §301(d)(1), inserted ", other than a vessel with only a recreational endorsement," after "A documented vessel".

1992—Subsec. (c). Pub. L. 102-587 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "When a vessel is operated after the Secretary has denied issuance or renewal of an endorsement or revoked the endorsement under section 12123 of this title and before the endorsement is reinstated, or is employed in a trade for which an endorsement is required, without a certificate of documentation with an appropriate endorsement for that trade, or a documented vessel with a recreational endorsement is operated other than for pleasure, the vessel and its equipment are liable to seizure by and forfeiture to the United States Government."

Pub. L. 102-388 substituted "When a vessel is operated after the Secretary has denied issuance or renewal of an endorsement or revoked the endorsement under section 12123 of this title and before the endorsement is reinstated, or is employed in a trade for which an endorsement is required, without a certificate of documentation with an appropriate endorsement for that trade," for "When a vessel is employed in a trade not covered by the endorsement issued for that vessel."

1989—Subsec. (a). Pub. L. 101-225, §301(a)(10)(A), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "A vessel may not be employed in a trade except a trade covered by the certificate of documentation issued for that vessel. A documented recreational vessel may be operated only for pleasure. However, a certificate of documentation may be exchanged, under regulations prescribed by the Secretary of Transportation, for another type of certificate of documentation or endorsed appropriately for a trade for which the vessel qualifies."

Subsec. (c). Pub. L. 101-225, §301(a)(10)(B), substituted "endorsement" for "certificate of documentation", "vessel with a recreational endorsement" for "recreational vessel", and "other than" for "except".

1988—Subsec. (a). Pub. L. 100-710 inserted "of Transportation" after "Secretary".

1985—Subsecs. (a), (c). Pub. L. 99-36 substituted "documented recreational" for "documented pleasure".

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.

APPLICATION OF SECTION TO FISHING VESSELS IN CALIFORNIA

Citizen of the United States to include an alien lawfully admitted for permanent residence, for purposes of applying this section to vessels operating in waters off the coast of California, subject to United States jurisdiction, see section 317 of Pub. L. 101-595, set out as a note under section 8103 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12111 of this title.

§ 12111. Surrender and invalidation of certificates of documentation

(a) A certificate of documentation is invalid if the vessel for which it is issued—

(1) no longer meets the requirements of this chapter and regulations prescribed under this chapter applicable to that certificate of documentation; or

(2) is placed under the command of a person not a citizen of the United States in violation of section 12110(d) of this title.

(b) An invalid certificate of documentation must be surrendered as provided by regulations prescribed by the Secretary of Transportation.

(c)(1) Notwithstanding subsection (a) of this section, until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

(B) sections 9 and 37(b) of the Shipping Act, 1916 (46 App. U.S.C. 808, 835(b));

(C) section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); and

(D) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

(2) This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

(3) The Secretary may approve the surrender of the certificate of documentation of a documented vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.

(d)(1) The Secretary shall not refuse to approve the surrender of the certificate of documentation for a vessel solely on the basis that a notice of a claim of a lien on the vessel has been recorded under section 31343(a) of this title.

(2) The Secretary may condition approval of the surrender of the certificate of documentation for a vessel over 1,000 gross tons.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 588; Pub. L. 100-710, title I, §103(a), Nov. 23, 1988, 102 Stat. 4749; Pub. L. 104-324, title III, §301(d)(2)(A), Oct. 19, 1996, 110 Stat. 3916; Pub. L. 107-295, title II, §205(c), Nov. 25, 2002, 116 Stat. 2096.)

HISTORICAL AND REVISION NOTES

1983 ACT

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
12111 .....	46:65o

Under section 12111, a certificate of documentation becomes invalid if the vessel for which it is issued no longer meets the requirements for issuance of the certificate or is placed under the command of a person who is not a citizen of the United States. It also requires the surrender of invalid certificates but gives protection to preferred mortgages.

1988 ACT

This amends section 12111 of title 46, United States Code, concerning surrendering and invalidation of certificates of documentation. This section clarifies the requirement that an invalid certificate of documenta-

tion must be surrendered to the Secretary. However, until the surrender is approved by the Secretary, the vessel is still a documented vessel for certain purposes such as for commercial instruments that have been recorded, foreign transfer restrictions, and requisitioning in time of war or national emergency. It also requires the Secretary to obtain the mortgagee's approval of the surrender if there is a mortgage on the vessel that has been filed or recorded with the Secretary.

HOUSE FLOOR STATEMENT

Section 12111(c)(3) is changed to prohibit the approval of the surrendering of a certificate of documentation for any vessel with a mortgage filed or recorded with the Secretary, not just a vessel with a preferred mortgage.

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-295 added subsec. (d).
1996—Subsec. (a)(2). Pub. L. 104-324 inserted "in violation of section 12110(d) of this title" before period at end.
1988—Pub. L. 100-710 substituted "Surrender and invalidation" for "Invalidation" in section catchline, added subsecs. (b) and (c), and struck out former subsec. (b) which read as follows: "Except as provided by section 30(O) of the Merchant Marine Act, 1920 (46 App. U.S.C. 961(a)), an invalid certificate of documentation shall be surrendered as provided by regulations prescribed by the Secretary."

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-295, title II, §205(e), Nov. 25, 2002, 116 Stat. 2096, provided that: "This section [amending this section, sections 31325 and 31343 of this title, and section 808 of the Appendix to this title] shall take effect January 1, 2003."

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.

APPLICATION OF SECTION TO FISHING VESSELS IN CALIFORNIA

Citizen of the United States to include an alien lawfully admitted for permanent residence, for purposes of applying this section to vessels operating in waters off the coast of California, subject to United States jurisdiction, see section 317 of Pub. L. 101-595, set out as a note under section 8103 of this title.

DOCUMENTATION SURRENDER AND INVALIDATION

Pub. L. 101-225, title III, §301(b), Dec. 12, 1989, 103 Stat. 1922, provided that: "Section 12111(c)(3) of title 46, United States Code, does not apply to a mortgage that—

- "(1) was filed or recorded before January 1, 1989; and
"(2) was not a preferred mortgage (as that term is defined in section 31301(6) of that title) on that date."

§ 12112. Vessels procured outside the United States

(a) The Secretary of Transportation and the Secretary of State, acting jointly, may provide for the issuance of a certificate of documentation with an appropriate endorsement for a vessel procured outside the United States meeting the ownership requirements of section 12102 of this title.

(b) Subject to limitations the Secretary of Transportation may prescribe, a vessel for which a document is issued under this section may proceed to the United States and engage en

route in the foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef. On the vessel's arrival in the United States, the document shall be surrendered as provided by regulations prescribed by the Secretary.

(c) A vessel for which a document is issued under this section is subject to the jurisdiction<sup>1</sup> and laws of the United States. However, the Secretary of Transportation may suspend for a period of not more than 6 months, the application of a vessel inspection law carried out by the Secretary or regulations prescribed under that law if the Secretary considers the suspension to be in the public interest.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 588; Pub. L. 100-710, title I, §104(a)(4), Nov. 23, 1988, 102 Stat. 4750; Pub. L. 101-225, title III, §301(a)(11), Dec. 12, 1989, 103 Stat. 1922.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 12112 ..... 46:65p

Section 12112 authorizes the Secretary and the Secretary of State to provide for the issuance of an appropriate document for a vessel procured outside of the United States by a United States citizen. This enables the vessel to proceed directly to the United States and to trade en route, with the requirement that the document be surrendered upon the vessel's arrival in the United States. It also authorizes the Secretary to temporarily suspend application of those vessel inspection and measurement laws if the suspension is deemed to be in the public interest.

AMENDMENTS

1989—Subsec. (a). Pub. L. 101-225, §301(a)(11)(A), substituted "a certificate of documentation with an appropriate endorsement" for "an appropriate document".
Subsec. (b). Pub. L. 101-225, §301(a)(11)(B), substituted "a document" for "an appropriate document".
1988—Pub. L. 100-710 inserted "of Transportation" after first reference to "Secretary" in subsecs. (a) to (c).

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.

[§§ 12113 to 12116. Repealed. Pub. L. 100-710, title I, § 106(b)(5), Nov. 23, 1988, 102 Stat. 4752]

Section 12113, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 588, related to ports of documentation.
Section 12114, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 589; Pub. L. 99-36, §1(a)(8), May 15, 1985, 99 Stat. 67, related to home ports.
Section 12115, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 589, related to names of vessels.
Section 12116, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 589, related to numbers, signal letters, and identification markings.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1989, with certain exceptions and qualifications, see section 106 of Pub. L. 100-710, set out as a Repeals and Savings Provisions note preceding section 2101 of this title and section 107 of Pub. L. 100-710, set out as an Effective Date note under section 30101 of this title.

<sup>1</sup> So in original. Probably should be "jurisdiction".

§ 12117. Recording of United States built vessels

The Secretary of Transportation may provide for the recording and certifying of information about vessels built in the United States that the Secretary considers to be in the public interest. (Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 589; Pub. L. 100-710, title I, §104(a)(4), Nov. 23, 1988, 102 Stat. 4750.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 12117 points to 46:65q.

Section 12117 authorizes the Secretary to provide for the recording and certifying of that information pertaining to vessels built in the United States that is considered to be in the public interest.

AMENDMENTS

1988—Pub. L. 100-710 inserted “of Transportation” after first reference to “Secretary”.

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.

[§ 12118. Repealed. Pub. L. 100-710, title I, § 106(b)(5), Nov. 23, 1988, 102 Stat. 4752]

Section, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 589, related to registration of funnel marks and house flags.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1989, with certain exceptions and qualifications, see section 106 of Pub. L. 100-710, set out as a Repeals and Savings Provisions note preceding section 2101 of this title and section 107 of Pub. L. 100-710, set out as an Effective Date note under section 30101 of this title.

§ 12119. List of documented vessels

The Secretary of Transportation shall publish periodically a list of all documented vessels and information about those vessels that the Secretary considers pertinent or useful. The list shall contain a notation clearly indicating all vessels classed by the American Bureau of Shipping.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 589; Pub. L. 100-710, title I, §104(a)(4), Nov. 23, 1988, 102 Stat. 4750.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 12119 points to 46:65s and 46:881.

Section 12119 requires the Secretary to publish a list of all documented vessels and pertinent and useful information about the vessels, including a notation of which vessels are classed by the American Bureau of Shipping.

AMENDMENTS

1988—Pub. L. 100-710 inserted “of Transportation” after first reference to “Secretary”.

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.

INVENTORY OF VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR

Pub. L. 107-295, title IV, §403, Nov. 25, 2002, 116 Stat. 2114, provided that:

“(a) INVENTORY.—The Secretary of Transportation shall develop, maintain, and periodically update an inventory of vessels that are documented under chapter 121 of title 46, United States Code, are 200 feet or more in length, and have the capability to lay, maintain, or repair a submarine cable, without regard to whether a particular vessel is classified as a cable ship or cable vessel.

“(b) VESSEL INFORMATION.—For each vessel listed in the inventory, the Secretary shall include in the inventory—

“(1) the name, length, beam, depth, and other distinguishing characteristics of the vessel;

“(2) the abilities and limitations of the vessel with respect to the laying, maintaining, and repairing of a submarine cable; and

“(3) the name and address of the person to whom inquiries regarding the vessel may be made.

“(c) PUBLICATION.—The Secretary shall—

“(1) not later than 60 days after the date of enactment of this Act [Nov. 25, 2002], publish in the Federal Register a current inventory developed under subsection (a); and

“(2) every 6 months thereafter, publish in the Federal Register an updated inventory.”

§ 12120. Reports

To ensure compliance with this chapter and laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary of Transportation may require owners and masters of documented vessels to submit reports in any reasonable form and manner the Secretary may prescribe.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 589; Pub. L. 100-710, title I, §104(a)(4), Nov. 23, 1988, 102 Stat. 4750.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 12120 points to 46:65t.

Section 12120 authorizes the Secretary to require masters and owners of documented vessels to submit reports to ensure compliance with this chapter and with the laws governing the qualifications required of vessels engaging in the coastwise trade and fisheries. These reports are for keeping the vessel data current and certificates of documentation up to date.

AMENDMENTS

1988—Pub. L. 100-710 inserted “of Transportation” after first reference to “Secretary”.

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.

[§ 12121. Repealed. Pub. L. 100-710, title I, § 106(b)(5), Nov. 23, 1988, 102 Stat. 4752]

Section, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 589, authorized the Secretary to prescribe regulations to carry out this chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1989, with certain exceptions and qualifications, see section 106 of Pub. L. 100-710, set

out as a Repeals and Savings Provisions note preceding section 2101 of this title and section 107 of Pub. L. 100-710, set out as an Effective Date note under section 30101 of this title.

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
12121 .....	46:65v(2)

Section 12121 gives the Secretary authority to prescribe regulations to carry out this chapter.

§ 12122. Penalties

(a) A person that violates this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than \$10,000. Each day of continuing violation is a separate violation.

(b) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government—

- (1) when the owner of a vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation about the documentation or when applying for documentation of the vessel;
- (2) when a certificate of documentation is knowingly and fraudulently used for a vessel;
- (3) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;
- (4) when a vessel is employed in a trade without an appropriate trade endorsement;
- (5) when a documented vessel with only a recreational endorsement is operated other than for pleasure; or
- (6) when a documented vessel, other than a vessel with only a recreational endorsement, is placed under the command of a person not a citizen of the United States.

(c) In addition to penalties under subsections (a) and (b), the owner of a documented vessel for which a fishery endorsement has been issued is liable to the United States Government for a civil penalty of up to \$100,000 for each day in which such vessel has engaged in fishing (as such term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) within the exclusive economic zone of the United States, if the owner or the representative or agent of the owner knowingly falsified or concealed a material fact, or knowingly made a false statement or representation, with respect to the eligibility of the vessel under section 12102(c) of this title in applying for or applying to renew such fishery endorsement.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 590; Pub. L. 99-307, §1(16), May 19, 1986, 100 Stat. 446; Pub. L. 104-324, title III, §301(a), (b), Oct. 19, 1996, 110 Stat. 3916; Pub. L. 105-277, div. C, title II, §203(f), Oct. 21, 1998, 112 Stat. 2681-620; Pub. L. 106-31, title III, §3027(b), May 21, 1999, 113 Stat. 101.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
12122(a) .....	46:65u(a)
12122(b) .....	46:65n(a)
12122(c) .....	46:65n(b)

Section 12122 provides a civil penalty of not more than \$500 for each violation of this chapter. It also provides for seizure and forfeiture of a vessel for false statements or representations in connection with the documentation of vessels and for fraudulent use of a certificate of documentation.

AMENDMENTS

1999—Subsec. (c). Pub. L. 106-31, which directed the insertion of a comma after “representations”, was executed by inserting the comma after “representation”, to reflect the probable intent of Congress.

1998—Subsec. (c). Pub. L. 105-277 added subsec. (c).  
1996—Subsec. (a). Pub. L. 104-324, §301(a), substituted “\$10,000” for “\$500”.

Subsec. (b). Pub. L. 104-324, §301(b)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “When the owner of a vessel knowingly falsifies or conceals a material fact, or makes a false statement or representation about the documentation of the vessel, that vessel and its equipment are liable to seizure by and forfeiture to the United States Government.”

Subsec. (c). Pub. L. 104-324, §301(b)(2), struck out subsec. (c) which read as follows: “When a certificate of documentation is knowingly and fraudulently used for a vessel, that vessel and its equipment are liable to seizure by and forfeiture to the Government.”

1986—Subsec. (a). Pub. L. 99-307 inserted provision that each day of continuing violation is a separate violation.

APPLICATION OF SECTION TO FISHING VESSELS IN CALIFORNIA

Citizen of the United States to include an alien lawfully admitted for permanent residence, for purposes of applying subsec. (b) of this section to vessels operating in waters off the coast of California, subject to United States jurisdiction, see section 317 of Pub. L. 101-595, as amended, set out as a note under section 8103 of this title.

§ 12123. Denial and revocation of endorsements

When the owner of a vessel fails to pay a civil penalty assessed by the Secretary, the Secretary may deny the issuance or renewal of an endorsement or revoke the endorsement on a certificate of documentation issued under this chapter.

(Added Pub. L. 102-587, title V, §5213(a)(3), Nov. 4, 1992, 106 Stat. 5077.)

PRIOR PROVISIONS

A prior section 12123, added Pub. L. 102-388, title III, §348(a), Oct. 6, 1992, 106 Stat. 1554, related to the denial and revocation of trade or recreational endorsement upon failure of vessel’s owner to pay assessment of civil penalty for violation of law, prior to repeal by Pub. L. 104-324, title VII, §746(a)(1), Oct. 19, 1996, 110 Stat. 3943.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12103, 12122 of this title.

§ 12124. Surrender of title and number

(a) A documented vessel shall not be titled by a State or required to display numbers under chapter 123, and any certificate of title issued by a State for a documented vessel shall be surrendered in accordance with regulations prescribed by the Secretary of Transportation.

(b) The Secretary may approve the surrender under subsection (a) of a certificate of title for a vessel covered by a preferred mortgage under section 31322(d) of this title only if the mortgage consents.

(Added Pub. L. 105-383, title IV, §401(a)(2), Nov. 13, 1998, 112 Stat. 3424.)

**CHAPTER 123—NUMBERING UNDOCUMENTED VESSELS**

Sec.	
12301.	Numbering vessels.
12302.	Standard numbering system.
12303.	Exemption from numbering requirements.
12304.	Certificates of numbers.
12305.	Displaying numbers.
12306.	Safety certificates.
12307.	Regulations on numbering and fees.
12308.	Providing vessel numbering and registration information.
12309.	Penalties.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2101, 2102, 12124, 12501, 13102, 13103, 30101 of this title; section 1903 of Appendix to this title; title 16 sections 1802, 2432, 5502; title 19 section 1704; title 33 section 2602.

**§ 12301. Numbering vessels**

(a) An undocumented vessel equipped with propulsion machinery of any kind shall have a number issued by the proper issuing authority in the State in which the vessel principally is operated.

(b) The Secretary shall require an undocumented barge more than 100 gross tons operating on the navigable waters of the United States to be numbered.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 590; Pub. L. 102-587, title V, § 5305, Nov. 4, 1992, 106 Stat. 5083.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
12301 .....	46:1466

Section 12301 requires that undocumented vessels that are propelled by machinery be issued an identification number by the proper issuing authority in the State in which the vessel is primarily operated.

AMENDMENTS

1992—Pub. L. 102-587 designated existing provisions as subsec. (a) and added subsec. (b).

**§ 12302. Standard numbering system**

(a) The Secretary shall prescribe by regulation a standard numbering system for vessels to which this chapter applies. On application by a State, the Secretary shall approve a State numbering system that is consistent with the standard numbering system. In carrying out its numbering system, a State shall adopt any definitions of relevant terms prescribed by regulations of the Secretary.

(b) A State with an approved numbering system is the issuing authority within the meaning of this chapter. The Secretary is the issuing authority in a State in which a State numbering system has not been approved.

(c) When a vessel is numbered in a State, it is deemed in compliance with the numbering system of a State in which it temporarily is operated.

(d) When a vessel is removed to a new State of principal operation, the issuing authority of that State shall recognize the validity of the number issued by the original State for 60 days.

(e) If a State has a numbering system approved after the Secretary issues a number, the State shall recognize the validity of the number issued by the Secretary for one year.

(f) When the Secretary decides that a State numbering system is not being carried out consistent with the standard numbering system or the State has changed the system without the Secretary's approval, the Secretary may withdraw approval after giving notice to the State, in writing, stating the reasons for the withdrawal.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 590.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
12302 .....	46:1467

Section 12302 provides for a standard numbering system for undocumented vessels and for approval of State numbering systems by the Secretary. It also requires that a State, when implementing its numbering system, adopt any relevant terms required by the Secretary. In States without approved numbering systems, the Federal Government issues the numbers. This section also provides for the operation of a vessel in a State other than the one in which it was numbered.

**§ 12303. Exemption from numbering requirements**

(a) When the Secretary is the authority issuing a number under this chapter, the Secretary may exempt a vessel or class of vessels from the numbering requirements of this chapter under conditions the Secretary may prescribe.

(b) When a State is the issuing authority, it may exempt from the numbering requirements of this chapter a vessel or class of vessels exempted under subsection (a) of this section or otherwise as permitted by the Secretary.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 591.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
12303 .....	46:1468

Section 12303 permits the Secretary and any State, when it is the issuing authority, to exempt vessels from the numbering requirements.

**§ 12304. Certificates of numbers**

(a) A certificate of number is granted for a number issued under this chapter. The certificate shall be pocket-sized, shall be at all times available for inspection on the vessel for which issued when the vessel is in operation, and may be valid for not more than 3 years. The certificate of number for a vessel less than 26 feet in length and leased or rented to another for the latter's noncommercial operation of less than 7 days may be retained on shore by the vessel's owner or representative at the place from which the vessel departs or returns to the possession of the owner or the owner's representative. A vessel that does not have the certificate of number on board shall be identified when in operation, and comply with requirements, as the issuing authority prescribes.

(b) The owner of a vessel numbered under this chapter shall provide—