

EFFECTIVE DATE

Pub. L. 115-282, title V, §503(c), Dec. 4, 2018, 132 Stat. 4271, provided that: “Section 4312 of title 46, United States Code, as amended [probably should be “enacted”] by this section, shall take effect one year after the date of the enactment of this Act [Dec. 4, 2018].”

CHAPTER 45—UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

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Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282, title V, §508(d), title VI, §601(c)(1), Dec. 4, 2018, 132 Stat. 4273, 4289, added item for 4503a and struck out item 4508 “Commercial Fishing Safety Advisory Committee”.

2010—Pub. L. 111-281, title VI, §604(c)(4), (e)(2), Oct. 15, 2010, 124 Stat. 2965, 2966, substituted “Fishing, fish tender, and fish processing vessel certification” for “Fish processing vessel certification” in item 4503 and “Commercial Fishing Safety Advisory Committee” for “Commercial Fishing Industry Vessel Safety Advisory Committee” in item 4508.

2002—Pub. L. 107-295, title III, §331(b), Nov. 25, 2002, 116 Stat. 2105, inserted “Safety” before “Advisory Committee” in item 4508.

1988—Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1585, in chapter heading substituted “UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS” for “FISH PROCESSING VESSELS”, substituted “Safety standards” for “Regulations” in item 4502, “Fish processing vessel certification” for “Equivalency” in item 4503, “Prohibited acts” for “Penalties” in item 4504, and added items 4505 to 4508.

§ 4501. Application

(a) This chapter applies to an uninspected vessel which is a fishing vessel, fish processing vessel, or fish tender vessel.

(b) This chapter does not apply to the carriage of bulk dangerous cargoes regulated under chapter 37 of this title.

(Added Pub. L. 98-364, title IV, §402(7)(C), July 17, 1984, 98 Stat. 446; amended Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1585.)

Editorial Notes

AMENDMENTS

1988—Pub. L. 100-424 amended section generally, in subsec. (a) substituting provisions which related to uninspected fish processing vessel entered into service after Dec. 31, 1987, having more than 16 individuals on board primarily employed in preparation of fish on navigable waters of United States or owned in United States and operating on high seas, for provisions which related to uninspected fishing vessel, fish processing vessel, or fish tender vessel, and in subsec. (b) substituting “carriage of bulk” for “carriage of liquid bulk”.

Statutory Notes and Related Subsidiaries

FOREIGN BUILT VESSELS, EQUIVALENT COMPLIANCE UNTIL JULY 28, 1990

Pub. L. 100-424, §7, Sept. 9, 1988, 102 Stat. 1592, provided that: “Until July 28, 1990, a foreign built fish processing vessel subject to chapter 45 of title 46, United States Code, is deemed to comply with the requirements of that chapter if—

“(1) it has an unexpired certificate of inspection issued by a foreign country that is a party to an International Convention for Safety of Life at Sea to which the United States Government is a party; and
“(2) it is in compliance with the safety requirements of that foreign country that apply to that vessel.”

§ 4502. Safety standards

(a) The Secretary shall prescribe regulations which require that each vessel to which this chapter applies shall be equipped with—

(1) readily accessible fire extinguishers capable of promptly and effectively extinguishing a flammable or combustible liquid fuel fire;

(2) at least one readily accessible life preserver or other lifesaving device for each individual on board;

(3) an efficient flame arrestor, backfire trap, or other similar device on the carburetors of each inboard engine which uses gasoline as fuel;

(4) the means to properly and efficiently ventilate enclosed spaces, including engine and fuel tank compartments, so as to remove explosive or flammable gases;

(5) visual distress signals;

(6) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment; and

(7) a placard as required by regulations prescribed under section 10603(b) of this title.

(b)(1) In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations requiring the installation, maintenance, and use of the equipment in paragraph (2) of this subsection for vessels to which this chapter applies that—

(A) operate beyond 3 nautical miles from the baseline from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lakes;

(B) operate with more than 16 individuals on board; or

(C) in the case of a fish tender vessel, engage in the Aleutian trade.

(2) The equipment to be required is as follows:

(A) alerting and locating equipment, including emergency position indicating radio beacons;

(B) subject to paragraph (3), a survival craft that ensures that no part of an individual is immersed in water sufficient to accommodate all individuals on board;

(C) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;

(D) marine radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;

(E) navigation equipment, including compasses, nautical charts, and publications;

(F) first aid equipment and medical supplies sufficient for the size and area of operation of the vessel; and

(G) ground tackle sufficient for the vessel.

(3) Except for a nonapplicable vessel, an auxiliary craft shall satisfy the equipment requirement under paragraph (2)(B) if such craft is—

(A) necessary for normal fishing operations;

(B) readily accessible during an emergency; and

(C) capable, in accordance with the Coast Guard capacity rating, when applicable, of safely holding all individuals on board the vessel to which the craft functions as an auxiliary.

(c)(1) In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing the standards in paragraph (2) of this subsection for vessels to which this chapter applies that—

(A)(i) were built after December 31, 1988, or undergo a major conversion completed after that date; and

(ii) operate with more than 16 individuals on board; or

(B) in the case of a fish tender vessel, engage in the Aleutian trade.

(2) The standards shall be minimum safety standards, including standards relating to—

(A) navigation equipment, including radars and fathometers;

(B) lifesaving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;

(C) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;

(D) use and installation of insulation material;

(E) storage methods for flammable or combustible material; and

(F) fuel, ventilation, and electrical systems.

(d)(1) The Secretary shall prescribe regulations for the operating stability of a vessel to which this chapter applies—

(A) that was built after December 31, 1989; or

(B) the physical characteristics of which are substantially altered after December 31, 1989, in a manner that affects the vessel's operating stability.

(2) The Secretary may accept, as evidence of compliance with this subsection, a certification of compliance issued by the person providing insurance for the vessel or by another qualified person approved by the Secretary.

(e) In prescribing regulations under this chapter, the Secretary—

(1) shall consider the specialized nature and economics of the operations and the character, design, and construction of the vessel; and

(2) may not require the alteration of a vessel or associated equipment that was constructed or manufactured before the effective date of the regulation.

(f) To ensure compliance with the requirements of this chapter, the Secretary—

(1) shall require the individual in charge of a vessel described in subsection (b) to keep a record of equipment maintenance, and required instruction and drills;

(2) shall examine at dockside a vessel described in subsection (b) at least once every 5 years, but may require an exam at dockside every 2 years for certain vessels described in subsection (b) if requested by the owner or operator; and

(3) shall issue a certificate of compliance to a vessel meeting the requirements of this chapter and satisfying the requirements in paragraph (2).

(g)(1) The individual in charge of a vessel described in subsection (b) must pass a training program approved by the Secretary that meets the requirements in paragraph (2) of this subsection and hold a valid certificate issued under that program.

(2) The training program shall—

(A) be based on professional knowledge and skill obtained through sea service and hands-on training, including training in seamanship, stability, collision prevention, navigation, fire fighting and prevention, damage control, personal survival, emergency medical care, emergency drills, and weather;

(B) require an individual to demonstrate ability to communicate in an emergency situation and understand information found in navigation publications;

(C) recognize and give credit for recent past experience in fishing vessel operation; and

(D) provide for issuance of a certificate to an individual that has successfully completed the program.

(3) The Secretary shall prescribe regulations implementing this subsection. The regulations shall require that individuals who are issued a certificate under paragraph (2)(D) must complete refresher training at least once every 5 years as a condition of maintaining the validity of the certificate.

(4) The Secretary shall establish an electronic database listing the names of individuals who have participated in and received a certificate confirming successful completion of a training program approved by the Secretary under this section.

(h) A vessel to which this chapter applies shall be constructed in a manner that provides a level of safety equivalent to the minimum safety standards the Secretary may establish for recreational vessels under section 4302, if—

(1) subsection (b) of this section applies to the vessel;

(2) the vessel is less than 50 feet overall in length; and

(3) the vessel is built after January 1, 2010.

(i)(1) The Secretary of Health and Human Services shall establish a Fishing Safety Training Grants Program to provide funding to municipalities, port authorities, other appropriate public entities, not-for-profit organizations, and other qualified persons that provide commercial fishing safety training—

(A) to conduct fishing vessel safety training for vessel operators and crewmembers that—

(i) in the case of vessel operators, meets the requirements of subsection (g); and

(ii) in the case of crewmembers, meets the requirements of subsection (g)(2)(A), such requirements of subsection (g)(2)(B) as are appropriate for crewmembers, and the requirements of subsections (g)(2)(D), (g)(3), and (g)(4); and

(B) for purchase of safety equipment and training aids for use in those fishing vessel safety training programs.

(2) The Secretary of Health and Human Services, in consultation with and based on criteria established by the Commandant of the Coast Guard¹ shall award grants under this subsection on a competitive basis.

(3) The Federal share of the cost of any activity carried out with a grant under this subsection shall not exceed 75 percent.

(4) There is authorized to be appropriated \$3,000,000 for each of fiscal years 2018 through 2021 for grants under this subsection.

(j)(1) The Secretary of Health and Human Services shall establish a Fishing Safety Research Grant Program to provide funding to individuals in academia, members of non-profit organizations and businesses involved in fishing and maritime matters, and other persons with expertise in fishing safety, to conduct research on methods of improving the safety of the commercial fishing industry, including vessel design, emergency and survival equipment, enhancement of vessel monitoring systems, communications devices, de-icing technology, and severe weather detection.

(2) The Secretary of Health and Human Services, in consultation with and based on criteria established by the Commandant of the Coast Guard, shall award grants under this subsection on a competitive basis.

(3) The Federal share of the cost of any activity carried out with a grant under this subsection shall not exceed 75 percent.

(4) There is authorized to be appropriated \$3,000,000 for each of fiscal years 2018 through 2021 for activities under this subsection.

(k) For the purposes of this section, the term “auxiliary craft” means a vessel that is carried onboard a fishing vessel and is normally used to support fishing operations.

(Added Pub. L. 98-364, title IV, §402(7)(C), July 17, 1984, 98 Stat. 447; amended Pub. L. 98-557, §33(a), Oct. 30, 1984, 98 Stat. 2876; Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1585; Pub. L. 101-595, title VI, §602(c), Nov. 16, 1990, 104 Stat. 2990; Pub. L. 104-324, title III, §307, Oct. 19, 1996, 110 Stat. 3918; Pub. L. 105-383, title III, §301(b)(5), Nov. 13, 1998, 112 Stat. 3417; Pub. L. 111-281, title VI, §604(a), Oct. 15, 2010, 124 Stat. 2962; Pub. L. 112-213, title III, §305(a), (b), Dec. 20, 2012, 126 Stat. 1564; Pub. L. 113-281, title III, §309, Dec. 18, 2014, 128 Stat. 3045; Pub. L. 115-282, title V, §§504-506, Dec. 4, 2018, 132 Stat. 4271; Pub. L. 116-283, div. G, title LVXXXIII [LXXXIII], §8321(a), (b), Jan. 1, 2021, 134 Stat. 4701.)

Editorial Notes

AMENDMENTS

2021—Subsec. (i)(3). Pub. L. 116-283, §8321(a)(1), substituted “75 percent” for “50 percent”.

Subsec. (i)(4). Pub. L. 116-283, §8321(a)(2), substituted “2021” for “2019”.

Subsec. (j)(3). Pub. L. 116-283, §8321(b)(1), substituted “75 percent” for “50 percent”.

Subsec. (j)(4). Pub. L. 116-283, §8321(b)(2), substituted “2021” for “2019”.

2018—Subsec. (b)(2)(B). Pub. L. 115-282, §504(1), substituted “subject to paragraph (3), a survival craft” for “a survival craft”.

Subsec. (b)(3). Pub. L. 115-282, §504(2), added par. (3).

Subsec. (f)(2), (3). Pub. L. 115-282, §505, added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

“(2) shall examine at dockside a vessel described in subsection (b) at least once every 5 years, and shall issue a certificate of compliance to a vessel meeting the requirements of this chapter; and

“(3) shall complete the first dockside examination of a vessel under this subsection not later than October 15, 2015.”

Subsec. (i)(1). Pub. L. 115-282, §506(1), substituted “Secretary of Health and Human Services” for “Secretary” in introductory provisions.

Subsec. (i)(2). Pub. L. 115-282, §506(1), (2), substituted “Secretary of Health and Human Services” for “Secretary” and inserted “, in consultation with and based on criteria established by the Commandant of the Coast Guard” before “shall award”.

Subsec. (i)(3). Pub. L. 115-282, §506(3), substituted “50” for “75”.

Subsec. (i)(4). Pub. L. 115-282, §506(4), substituted “\$3,000,000 for each of fiscal years 2018 through 2019” for “\$3,000,000 for each of fiscal years 2015 through 2017”.

Subsec. (j)(1). Pub. L. 115-282, §506(1), substituted “Secretary of Health and Human Services” for “Secretary”.

Subsec. (j)(2). Pub. L. 115-282, §506(1), (5), substituted “Secretary of Health and Human Services” for “Secretary” and inserted “, in consultation with and based on criteria established by the Commandant of the Coast Guard,” before “shall award”.

Subsec. (j)(3). Pub. L. 115-282, §506(6), substituted “50” for “75”.

Subsec. (j)(4). Pub. L. 115-282, §506(7), substituted “\$3,000,000 for each of fiscal years 2018 through 2019” for “\$3,000,000 for each of fiscal years 2015 through 2017”.

Subsec. (k). Pub. L. 115-282, §504(3), added subsec. (k). 2014—Subsec. (i)(4). Pub. L. 113-281, §309(a), substituted “2015 through 2017” for “2010 through 2014”.

Subsec. (j)(4). Pub. L. 113-281, §309(b), substituted “2015 through 2017” for “2010 through 2014”.

2012—Subsec. (f)(2). Pub. L. 112-213, §305(a)(2)(A), substituted “at least once every 5 years” for “at least once every 2 years”.

Subsec. (f)(3). Pub. L. 112-213, §305(a)(1), (2)(B), (3), added par. (3).

Subsec. (g)(4). Pub. L. 112-213, §305(b), substituted “an electronic” for “a publicly accessible electronic”.

2010—Subsec. (a)(6). Pub. L. 111-281, §604(a)(1)(A), added par. (6) and struck out former par. (6) which read as follows: “a buoyant apparatus, if the vessel is of a type required by regulations prescribed by the Secretary to be equipped with that apparatus;”.

Subsec. (a)(7), (8). Pub. L. 111-281, §604(a)(1), redesignated par. (8) as (7) and struck out former par. (7) which read as follows: “alerting and locating equipment, including emergency position indicating radio beacons, on vessels that operate beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured, and which are owned in the United States or beyond 3 nautical miles from the coastline of the Great Lakes; and”.

Subsec. (b)(1). Pub. L. 111-281, §604(a)(2)(A), struck out “documented” before “vessels”.

Subsec. (b)(1)(A). Pub. L. 111-281, §604(a)(2)(B), substituted “3 nautical miles from the baseline from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lakes” for “the Boundary Line”.

Subsec. (b)(2)(B). Pub. L. 111-281, §604(a)(2)(C), substituted “a survival craft that ensures that no part of

¹ So in original. Probably should be followed by a comma.

an individual is immersed in water” for “lifeboats or liferafts”.

Subsec. (b)(2)(D). Pub. L. 111-281, § 604(a)(2)(D), inserted “marine” before “radio communications”.

Subsec. (b)(2)(E). Pub. L. 111-281, § 604(a)(2)(E), substituted “nautical charts, and publications” for “radar reflectors, nautical charts, and anchors”.

Subsec. (b)(2)(F). Pub. L. 111-281, § 604(a)(2)(F), substituted “and medical supplies sufficient for the size and area of operation of the vessel” for “, including medicine chests”.

Subsec. (b)(2)(G). Pub. L. 111-281, § 604(a)(2)(G), amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: “other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.”

Subsec. (f). Pub. L. 111-281, § 604(a)(3), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “To ensure compliance with the requirements of this chapter, at least once every 2 years the Secretary shall examine—

“(1) a fish processing vessel; and

“(2) a fish tender vessel engaged in the Aleutian trade.”

Subsecs. (g) to (j). Pub. L. 111-281, § 604(a)(4), added subsecs. (g) to (j).

1998—Subsec. (a)(7). Pub. L. 105-383 substituted “beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured, and which are owned in the United States” for “on the high seas”.

1996—Subsec. (a)(7). Pub. L. 104-324 inserted “or beyond 3 nautical miles from the coastline of the Great Lakes” after “high seas”.

1990—Subsec. (b). Pub. L. 101-595, § 602(c)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations for documented vessels to which this chapter applies that operate beyond the Boundary Line or that operate with more than 16 individuals on board, for the installation, maintenance, and use of—

“(1) alerting and locating equipment, including emergency position indicating radio beacons;

“(2) lifeboats or liferafts sufficient to accommodate all individuals on board;

“(3) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;

“(4) radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;

“(5) navigation equipment, including compasses, radar reflectors, nautical charts, and anchors;

“(6) first aid equipment, including medicine chests; and

“(7) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.”

Subsec. (c). Pub. L. 101-595, § 602(c)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing minimum safety standards for vessels to which this chapter applies that were built after December 31, 1988, or that undergo a major conversion completed after that date, and that operate with more than 16 individuals on board, including standards relating to—

“(1) navigation equipment, including radars and fathometers;

“(2) life saving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;

“(3) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;

“(4) use and installation of insulation material;

“(5) storage methods for flammable or combustible material; and

“(6) fuel, ventilation, and electrical systems.”

Subsec. (f). Pub. L. 101-595, § 602(c)(2), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “The Secretary shall examine a fish processing vessel at least once every two years to ensure that the vessel complies with the requirements of this chapter.”

1988—Pub. L. 100-424 amended section generally, substituting “Safety standards” for “Regulations” in section catchline, adding subsecs. (a) and (b), redesignating former subsec. (a) as (c) and establishing list of standards as minimum safety standards, in addition to requirements of subsecs. (a) and (b), for vessels built after Dec. 31, 1988, or that undergo major conversion completed after that date, that operate with more than 16 individuals on board, adding subsec. (d), redesignating former subsec. (b) as (e) and striking out provisions which required Secretary to consult with representatives of private sector, experienced in operation of these vessels, to ensure practicability of regulations, and adding subsec. (f).

1984—Subsec. (b)(3). Pub. L. 98-557 substituted “this chapter” for “the exemption”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-595, title VI, § 602(f), Nov. 16, 1990, 104 Stat. 2992, provided that: “This section [amending this section and sections 2102, 3302, 5102, 8104, and 8702 of this title, and enacting provisions set out as a note under section 7306 of this title] is effective on the date of enactment of this section [Nov. 16, 1990] except as follows:

“(1) The requirements imposed by section 3302(c)(4)(B) and (C) of title 46, United States Code, (as enacted by subsection (b) of this section) is effective 6 months after the date of enactment of this Act.

“(2) Before January 1, 1993, section 4502(c) (as amended by subsection (c) of this section) does not apply to a fish tender vessel engaged in the Aleutian trade, if the vessel—

“(A)(i) before September 8, 1990, operated in that trade; or

“(ii) before September 8, 1990, was purchased to be used in that trade and, before June 1, 1992, entered into service in that trade; and

“(B) does not undergo a major conversion.

“(3) Before January 1, 2003, a fish tender vessel is exempt from chapter 51 of title 46, United States Code, (as amended by subsection (d) of this section) when engaged in the Aleutian trade, if the vessel—

“(A)(i) before September 8, 1990, operated in that trade; or

“(ii) before September 8, 1990, was purchased to be used in this trade and, before June 1, 1992, entered into service in that trade;

“(B) does not undergo a major conversion; and

“(C) did not have a load line assigned at any time before the date of enactment of this Act.

“(4) The requirements imposed by section 8702(b)(2) of title 46, United States Code, (as amended by subsection (e)(2)(B) of this section) are effective 1 year after the date of enactment of this Act.”

FISHING SAFETY GRANTS

Pub. L. 116-283, div. G, title LVXXXIII [LXXXIII], § 8321(c), Jan. 1, 2021, 134 Stat. 4702, provided that: “The cap on the Federal share of the cost of any activity carried out with a grant under subsections (i) and (j) of section 4502 of title 46, United States Code, as in effect prior to the date of enactment of the Frank LoBiondo Coast Guard Authorization Act of 2018 [Dec. 4, 2018], shall apply to any funds appropriated under the Consolidated Appropriations Act, 2017 (Public Law 115-31) [see Tables for classification] for the purpose of making such grants.”

COMMERCIAL FISHING VESSEL SAFETY NATIONAL
COMMUNICATIONS PLAN

Pub. L. 115-282, title VIII, §830, Dec. 4, 2018, 132 Stat. 4315, provided that:

“(a) REQUIREMENT FOR PLAN.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2018], the Secretary of the department in which the Coast Guard is operating shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a national communications plan for the purposes of—

“(1) disseminating information to the commercial fishing vessel industry;

“(2) conducting outreach with the commercial fishing vessel industry;

“(3) facilitating interaction with the commercial fishing vessel industry; and

“(4) releasing information collected under section 15102 of title 46, United States Code, as added by this Act, to the commercial fishing vessel industry.

“(b) CONTENT.—The plan required by subsection (a), and each annual update, shall—

“(1) identify staff, resources, and systems available to the Secretary to ensure the widest dissemination of information to the commercial fishing vessel industry;

“(2) include a means to document all communication and outreach conducted with the commercial fishing vessel industry; and

“(3) include a mechanism to measure effectiveness of such plan.

“(c) IMPLEMENTATION.—Not later than one year after submission of the initial plan, the Secretary of the department in which the Coast Guard is operating shall implement the plan and shall at a minimum—

“(1) leverage Coast Guard staff, resources, and systems available;

“(2) monitor implementation nationwide to ensure adherence to plan contents;

“(3) allow each Captain of the Port to adopt the most effective strategy and means to communicate with [the] commercial fishing vessel industry in that Captain of the Port Zone;

“(4) document communication and outreach; and

“(5) solicit feedback from the commercial fishing vessel industry.

“(d) REPORT AND UPDATES.—The Secretary of the department in which the Coast Guard is operating shall—

“(1) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the effectiveness of the plan to date and any updates to ensure maximum impact of the plan one year after the date of enactment of this Act [Dec. 4, 2018], and every 4 years thereafter; and

“(2) include in such report input from individual Captains of the Port and any feedback received from the commercial fishing vessel industry.”

STUDIES REGARDING SAFETY OF FISHING VESSELS

Pub. L. 100-424, §5(a), Sept. 9, 1988, 102 Stat. 1591, directed Secretary of Transportation, utilizing National Academy of Engineering and in consultation with National Transportation Safety Board, Commercial Fishing Industry Vessel Advisory Committee, and fishing industry, to conduct a study of safety problems on fishing industry vessels, and to make recommendations regarding whether a vessel inspection program could be implemented for fishing vessels, fish tender vessels, and fish processing vessels, including recommendations on nature and scope of that inspection, and further provided for submission of the study and recommendations to Congress before Jan. 1, 1990.

Pub. L. 100-424, §5(b), Sept. 9, 1988, 102 Stat. 1591, directed Secretary of department in which Coast Guard is operating, in consultation with Commercial Fishing Industry Vessel Advisory Committee established under

former section 4508 of this title, and with representatives of persons operating fish processing vessels to conduct a study of fish processing vessels that are not surveyed and classed by an organization approved by Secretary, and to make recommendations regarding what hull and machinery requirements could apply to such vessels to ensure that those vessels are operated and maintained in a condition in which they are safe to operate at sea, and further provided for submission of such study and recommendations to Congress before July 28, 1991.

Executive Documents

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.

§ 4503. Fishing, fish tender, and fish processing vessel certification

(a) A vessel to which this subsection applies may not be operated unless the vessel—

(1) meets all survey and classification requirements prescribed by the American Bureau of Shipping or another similarly qualified organization approved by the Secretary; and

(2) has on board a certificate issued by the American Bureau of Shipping or that other organization evidencing compliance with this subsection.

(b) Except as provided in section 4503a, subsection (a) applies to a fish processing vessel to which this chapter applies that—

(1) is built after July 27, 1990; or

(2) undergoes a major conversion completed after that date.

(c)(1) Except as provided in paragraph (2), subsection (a) applies to a vessel to which section 4502(b) of this title applies that is at least 50 feet overall in length and is built after July 1, 2013.

(2) Subsection (a) does not apply to a fishing vessel or fish tender vessel to which section 4502(b) of this title applies, if the vessel—

(A) is at least 50 feet overall in length, and not more than 180 feet overall in length as listed on the vessel's certificate of documentation or certificate of number; and

(B)(i) is built after the date of the enactment of the Coast Guard Authorization Act of 2016; and

(ii) complies with—

(I) the requirements described in subsection (d); or

(II) the alternative requirements established by the Secretary under subsection (e).

(d) The requirements referred to in subsection (c)(2)(B)(ii)(I) are the following:

(1) The vessel is designed by an individual licensed by a State as a naval architect or marine engineer, and the design incorporates standards equivalent to those prescribed by a classification society to which the Secretary has delegated authority under section 3316 or another qualified organization approved by the Secretary for purposes of this paragraph.

(2) Construction of the vessel is overseen and certified as being in accordance with its design by a marine surveyor of an organization accepted by the Secretary.

(3) The vessel—

(A) completes a stability test performed by a qualified individual;

(B) has written stability and loading instructions from a qualified individual that are provided to the owner or operator; and

(C) has an assigned loading mark.

(4) The vessel is not substantially altered without the review and approval of an individual licensed by a State as a naval architect or marine engineer before the beginning of such substantial alteration.

(5) The vessel undergoes a condition survey at least twice in 5 years, not to exceed 3 years between surveys, to the satisfaction of a marine surveyor of an organization accepted by the Secretary.

(6) The vessel undergoes an out-of-water survey at least once every 5 years to the satisfaction of a certified marine surveyor of an organization accepted by the Secretary.

(7) Once every 5 years and at the time of a substantial alteration to such vessel, compliance of the vessel with the requirements of paragraph (3) is reviewed and updated as necessary.

(8) For the life of the vessel, the owner of the vessel maintains records to demonstrate compliance with this subsection and makes such records readily available for inspection by an official authorized to enforce this chapter.

(e)(1) Not later than 10 years after the date of the enactment of the Coast Guard Authorization Act of 2016, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that provides an analysis of the adequacy of the requirements under subsection (d) in maintaining the safety of the fishing vessels and fish tender vessels which are described in subsection (c)(2) and which comply with the requirements of subsection (d).

(2) If the report required under this subsection includes a determination that the safety requirements under subsection (d) are not adequate or that additional safety measures are necessary, then the Secretary may establish an alternative safety compliance program for fishing vessels or fish tender vessels (or both) which are described in subsection (c)(2) and which comply with the requirements of subsection (d).

(3) The alternative safety compliance program established under this subsection shall include requirements for—

(A) vessel construction;

(B) a vessel stability test;

(C) vessel stability and loading instructions;

(D) an assigned vessel loading mark;

(E) a vessel condition survey at least twice in 5 years, not to exceed 3 years between surveys;

(F) an out-of-water vessel survey at least once every 5 years;

(G) maintenance of records to demonstrate compliance with the program, and the availability of such records for inspection; and

(H) such other aspects of vessel safety as the Secretary considers appropriate.

(f)(1) For purposes of this section and section 4503a, the term “built” means, with respect to a

vessel, that the vessel’s construction has reached any of the following stages:

(A) The vessel’s keel is laid.

(B) Construction identifiable with the vessel has begun and assembly of that vessel has commenced comprising of at least 50 metric tons or one percent of the estimated mass of all structural material, whichever is less.

(2) In the case of a vessel greater than 79 feet overall in length, for purposes of paragraph (1)(A) a keel is deemed to be laid when a marine surveyor affirms that a structure adequate for serving as a keel for such vessel is in place and identified for use in the construction of such vessel.

(Added Pub. L. 98–364, title IV, §402(7)(C), July 17, 1984, 98 Stat. 447; amended Pub. L. 98–557, §33(b), Oct. 30, 1984, 98 Stat. 2876; Pub. L. 100–424, §2(a), Sept. 9, 1988, 102 Stat. 1587; Pub. L. 111–281, title VI, §604(e)(1), Oct. 15, 2010, 124 Stat. 2966; Pub. L. 112–213, title III, §305(c), Dec. 20, 2012, 126 Stat. 1564; Pub. L. 114–120, title III, §318(a), Feb. 8, 2016, 130 Stat. 63; Pub. L. 114–328, div. C, title XXXV, §3503(a), (b)(2), Dec. 23, 2016, 130 Stat. 2775; Pub. L. 115–282, title V, §§507, 508(a), (b), Dec. 4, 2018, 132 Stat. 4272.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Coast Guard Authorization Act of 2016, referred to in subsecs. (c)(2)(B)(i) and (e)(1), is the date of enactment of Pub. L. 114–120, which was approved Feb. 8, 2016.

AMENDMENTS

2018—Subsec. (b). Pub. L. 115–282, §508(b)(2), substituted “section 4503a” for “subsection (d)” in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 115–282, §507(a), substituted “180” for “79”.

Subsec. (c)(2)(B)(ii)(I). Pub. L. 115–282, §508(b)(3), substituted “subsection (d)” for “subsection (e)”.

Subsec. (c)(2)(B)(ii)(II). Pub. L. 115–282, §508(b)(4), substituted “subsection (e)” for “subsection (f)”.

Subsec. (d). Pub. L. 115–282, §508(b)(1), redesignated subsec. (e) as (d).

Pub. L. 115–282, §508(a), redesignated subsec. (d) as section 4503a of this title.

Subsec. (e). Pub. L. 115–282, §508(b)(1), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (e)(1), (2). Pub. L. 115–282, §508(b)(5), (6), substituted “subsection (d)” for “subsection (e)” wherever appearing.

Subsec. (f). Pub. L. 115–282, §508(b)(1), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Pub. L. 115–282, §507(b), generally amended subsec. (f), as redesignated by Pub. L. 115–282, §508(b)(1). Prior to amendment, subsec. (f) read as follows: “For the purposes of this section, the term ‘built’ means, with respect to a vessel, that the vessel’s construction has reached any of the following stages:

“(1) The vessel’s keel is laid.

“(2) Construction identifiable with the vessel has begun and assembly of that vessel has commenced comprising of at least 50 metric tons or one percent of the estimated mass of all structural material, whichever is less.”

Subsec. (g). Pub. L. 115–282, §508(b)(1), redesignated subsec. (g) as (f).

2016—Subsec. (a). Pub. L. 114–120, §318(a)(1), substituted “this subsection” for “this section” in introductory provisions.

Subsec. (b). Pub. L. 114–120, §318(a)(2), substituted “Except as provided in subsection (d), subsection (a)” for “This section” in introductory provisions.

Subsec. (c). Pub. L. 114-120, §318(a)(3), designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), subsection (a)” for “This section”, and added par. (2).

Subsec. (c)(2)(B)(i). Pub. L. 114-328, §3503(a), substituted “Coast Guard Authorization Act of 2016” for “Coast Guard Authorization Act of 2015”.

Subsec. (e). Pub. L. 114-120, §318(a)(4), added subsec. (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 114-120, §318(a)(4), added subsec. (f).

Subsec. (f)(1). Pub. L. 114-328, §3503(a), substituted “Coast Guard Authorization Act of 2016” for “Coast Guard Authorization Act of 2015”.

Subsec. (f)(2). Pub. L. 114-328, §3503(b)(2), substituted “, then” for “, that”.

Subsec. (g). Pub. L. 114-120, §318(a)(4), redesignated subsec. (e) as (g).

2012—Subsec. (c). Pub. L. 112-213, §305(c)(1), substituted “July 1, 2013,” for “July 1, 2012.”

Subsec. (d)(1)(B). Pub. L. 112-213, §305(c)(2)(A), substituted “July 1, 2013;” for “July 1, 2012;”.

Subsec. (d)(2). Pub. L. 112-213, §305(c)(2)(B), substituted “July 1, 2013,” for “July 1, 2012,” in two places and substituted “major conversion” for “substantial change to the dimension of or type of vessel”.

Subsec. (e). Pub. L. 112-213, §305(c)(3), added subsec. (e).

2010—Pub. L. 111-281, §604(e)(1)(A), substituted “Fishing, fish tender, and fish processing vessel certification” for “Fish processing vessel certification” in section catchline.

Subsec. (a). Pub. L. 111-281, §604(e)(1)(B), struck out “fish processing” before “vessel to which this section applies” in introductory provisions.

Subsecs. (c), (d). Pub. L. 111-281, §604(e)(1)(C), added subsecs. (c) and (d).

1988—Pub. L. 100-424 amended section generally, substituting “Fish processing vessel certification” for “Equivalency” in section catchline, and provisions which require certification issued by American Bureau of Shipping or similar organization for fish processing vessel built after July 27, 1990, or undergoes major conversion completed after that date, for provisions which deemed compliance with this chapter if vessel has unexpired certificate of inspection issued by foreign country that is party to International Convention for Safety of Life at Sea to which United States is party.

1984—Pub. L. 98-557 substituted “is deemed” for “shall be deemed”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective as if included in the enactment of Pub. L. 114-120, see section 3503(e) of Pub. L. 114-328, set out as a note under section 315 of Title 14, Coast Guard.

FINAL RULE

Pub. L. 115-282, title V, §508(f), Dec. 4, 2018, 132 Stat. 4273, provided that: “Not later than 1 year after the date of enactment of this Act [Dec. 4, 2018], the Secretary of the department in which the Coast Guard is operating shall issue a final rule implementing the requirements enumerated in section 4503(d) of title 46, as amended by subsection (b)(1) of this section.”

§ 4503a. Alternate safety compliance program

(a) Subject to subsection (c), beginning on the date that is 3 years after the date that the Secretary prescribes an alternate safety compliance program, a fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies shall comply with such an alternate safety compliance program, if the vessel—

- (1) is at least 50 feet overall in length;
- (2) is built before July 1, 2013; and
- (3) is 25 years of age or older.

(b) A fishing vessel, fish processing vessel, or fish tender vessel built before July 1, 2013, that undergoes a major conversion completed after the later of July 1, 2013, or the date the Secretary prescribes an alternate safety compliance program under subsection (a), shall comply with such an alternate safety compliance program.

(c) For purposes of subsection (a), a separate alternate safety compliance program may be developed for a specific region or specific fishery.

(d) Notwithstanding subsection (a), vessels owned by a person that owns more than 30 vessels subject to that subsection are not required to meet the alternate safety compliance requirements of that subsection until January 1, 2030, if that owner enters into a compliance agreement with the Secretary that provides for a fixed schedule for all of the vessels owned by that person to meet requirements of that subsection by that date and the vessel owner is meeting that schedule.

(e) A fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies that was classed before July 1, 2012 is not eligible to participate in an alternative safety compliance program prescribed under subsection (a) and,¹ shall—

- (1) remain subject to the requirements of a classification society approved by the Secretary; and
- (2) have on board a certificate from that society.

(f) For the purposes of this section, the term “built” has the meaning given that term in section 4503(f).

(Added and amended Pub. L. 115-282, title V, §508(a), (c), Dec. 4, 2018, 132 Stat. 4272.)

Editorial Notes

CODIFICATION

Section, as added and amended by Pub. L. 115-282, is based on Pub. L. 111-281, title VI, §604(e)(1)(C), Oct. 15, 2010, 124 Stat. 2966, as amended by Pub. L. 112-213, title III, §305(c)(2), Dec. 20, 2012, 126 Stat. 1564, which was formerly classified to section 4503(d) of this title before being transferred and renumbered as this section.

AMENDMENTS

2018—Pub. L. 115-282, §508(c)(2), inserted section designation and catchline before subsec. (a).

Pub. L. 115-282, §508(a), (c)(1), renumbered section 4503(d) of this title as this section and redesignated pars. (1) to (5) thereof as subsecs. (a) to (e), respectively.

Subsec. (a). Pub. L. 115-282, §508(c)(4), redesignated subpars. (A) to (C) as pars. (1) to (3), respectively.

Pub. L. 115-282, §508(c)(3), in introductory provisions, substituted “Subject to subsection (c), beginning on the date that is 3 years after the date that the Secretary prescribes an alternate safety compliance program, a fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies shall comply with such an alternate safety compliance program, if” for “After January 1, 2020, a fishing vessel, fish processing vessel, or fish tender vessel

¹ So in original. Comma probably should appear after “2012” instead. See 2018 Amendment note below.

to which section 4502(b) of this title applies shall comply with an alternate safety compliance program that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary, if”.

Subsec. (b). Pub. L. 115-282, §508(c)(5), substituted “prescribes an alternate safety compliance program under subsection (a), shall comply with such an alternate safety compliance program” for “establishes standards for an alternate safety compliance program, shall comply with such an alternative safety compliance program that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary”.

Subsec. (c). Pub. L. 115-282, §508(c)(6), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Alternative safety compliance programs may be developed for purposes of paragraph (1) for specific regions and fisheries.”

Subsec. (d). Pub. L. 115-282, §508(c)(7), substituted “subsection (a)” for “paragraph (1)” and, wherever appearing, “that subsection” for “that paragraph”.

Subsec. (e). Pub. L. 115-282, §508(c)(8)(B), redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Pub. L. 115-282, §508(c)(8)(A), inserted “is not eligible to participate in an alternative safety compliance program prescribed under subsection (a) and” after “July 1, 2012” in introductory provisions.

Subsec. (f). Pub. L. 115-282, §508(c)(9), added subsec. (f).

Statutory Notes and Related Subsidiaries

ALTERNATIVE SAFETY COMPLIANCE PROGRAM

Pub. L. 111-281, title VI, §604(f), Oct. 15, 2010, 124 Stat. 2967, provided that: “No later than January 1, 2017, the Secretary of the department in which the Coast Guard is operating shall prescribe an alternative safety compliance program referred to in section 4503(d)(1) [now 46 U.S.C. 4503a(a)] of the [sic] title 46, United States Code, as amended by this section.”

§ 4504. Prohibited acts

A person may not operate a vessel in violation of this chapter or a regulation prescribed under this chapter.

(Added Pub. L. 98-364, title IV, §402(7)(C), July 17, 1984, 98 Stat. 447; amended Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1587.)

Editorial Notes

AMENDMENTS

1988—Pub. L. 100-424 amended section generally, substituting “Prohibited acts” for “Penalties” in section catchline, and provisions prohibiting operation of vessel in violation of this chapter, for provisions which imposed civil penalty not more than \$1,000 for operation of vessel in violation of chapter, and liability in rem for penalty.

§ 4505. Termination of unsafe operations

An official authorized to enforce this chapter—

(1) may direct the individual in charge of a vessel to which this chapter applies to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the official observes the vessel being operated in an unsafe condition that the official believes creates an especially hazardous condition, including ordering the individual in charge to return the vessel to a mooring and to remain there until the situation creating the hazard is corrected or ended; and

(2) may order the individual in charge of an uninspected fish processing vessel that does

not have on board the certificate required under section 4503(a)(2) of this title to return the vessel to a mooring and to remain there until the vessel is in compliance with that section, except that this paragraph shall not apply with respect to a vessel to which section 4503a applies.

(Added Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1587; amended Pub. L. 115-282, title V, §509, Dec. 4, 2018, 132 Stat. 4274.)

Editorial Notes

AMENDMENTS

2018—Par. (2). Pub. L. 115-282 substituted “4503(a)(2)” for “4503(1)” and inserted “, except that this paragraph shall not apply with respect to a vessel to which section 4503a applies” before period at end.

§ 4506. Exemptions

The Secretary may exempt a vessel from any part of this chapter if, under regulations prescribed by the Secretary (including regulations on special operating conditions), the Secretary finds that—

(1) good cause exists for granting an exemption; and

(2) the safety of the vessel and those on board will not be adversely affected.

(Added Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1587; amended Pub. L. 102-587, title V, §5222, Nov. 4, 1992, 106 Stat. 5081; Pub. L. 105-383, title III, §301(b)(6), Nov. 13, 1998, 112 Stat. 3417; Pub. L. 111-281, title VI, §604(b), Oct. 15, 2010, 124 Stat. 2964; Pub. L. 114-120, title III, §306(a)(5), Feb. 8, 2016, 130 Stat. 54.)

Editorial Notes

AMENDMENTS

2016—Pub. L. 114-120 struck out subsec. (a) designation before “The Secretary may”.

2010—Subsec. (b). Pub. L. 111-281 struck out subsec. (b) which read as follows: “A vessel to which this chapter applies is exempt from section 4502(b)(2)(B) of this title if it—

“(1) is less than 36 feet in length; and

“(2) is operating—

“(A) in internal waters of the United States; or

“(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.”

1998—Subsec. (b)(2). Pub. L. 105-383 added par. (2) and struck out former par. (2) which read as follows: “is not operating on the high seas.”

1992—Subsec. (b). Pub. L. 102-587 substituted “4502(b)(2)(B)” for “4502(b)(2)”.

Executive Documents

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.

§ 4507. Penalties

(a) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel to which this chapter applies which is operated in violation of this chapter or a regulation prescribed under this chapter may each be assessed a civil penalty by the Secretary of not

more than \$5,000. Any vessel with respect to which a penalty is assessed under this subsection is liable in rem for the penalty.

(b) A person willfully violating this chapter or a regulation prescribed under this chapter shall be fined not more than \$5,000, imprisoned for not more than one year, or both.

(Added Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1588.)

[§ 4508. Repealed. Pub. L. 115-282, title VI, § 601(c)(1), Dec. 4, 2018, 132 Stat. 4289]

Section, added Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1588; amended Pub. L. 101-225, title I, §106, Dec. 12, 1989, 103 Stat. 1910; Pub. L. 102-241, §25, Dec. 19, 1991, 105 Stat. 2217; Pub. L. 104-324, title III, §304(b), Oct. 19, 1996, 110 Stat. 3917; Pub. L. 107-295, title III, §331(a), Nov. 25, 2002, 116 Stat. 2105; Pub. L. 108-293, title IV, §418(a), Aug. 9, 2004, 118 Stat. 1049; Pub. L. 109-241, title IX, §901(g), July 11, 2006, 120 Stat. 564; Pub. L. 111-281, title VI, §604(c)(1)-(3), Oct. 15, 2010, 124 Stat. 2964, 2965, established the Commercial Fishing Safety Advisory Committee. See section 15102 of this title.

CHAPTER 47—ABANDONMENT OF BARGES

Sec.	
4701.	Definitions.
4702.	Abandonment of barge prohibited.
4703.	Penalty for unlawful abandonment of barge.
4704.	Removal of abandoned barges.
4705.	Liability of barge removal contractors.

§ 4701. Definitions

In this chapter—

(1) “abandon” means to moor, strand, wreck, sink, or leave a barge of more than 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title unattended for longer than forty-five days.

(2) “barge removal contractor” means a person that enters into a contract with the United States to remove an abandoned barge under this chapter.

(3) “navigable waters of the United States” means waters of the United States, including the territorial sea.

(4) “removal” or “remove” means relocation, sale, scrapping, or other method of disposal.

(Added Pub. L. 102-587, title V, §5302, Nov. 4, 1992, 106 Stat. 5081; amended Pub. L. 104-324, title VII, §718, Oct. 19, 1996, 110 Stat. 3937.)

Editorial Notes

AMENDMENTS

1996—Par. (1). Pub. L. 104-324 inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “100 gross tons”.

Statutory Notes and Related Subsidiaries

APPLICATION TO CERTAIN BARGES

Pub. L. 102-587, title V, §5303, Nov. 4, 1992, 106 Stat. 5083, provided that: “Chapter 47 of title 46, United States Code, as added by subsection (a) [section 5302], does not apply to a barge abandoned before June 11, 1992, if the barge was removed before the date that is

1 year after the date of enactment of this title [Nov. 4, 1992].”

Executive Documents

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.

§ 4702. Abandonment of barge prohibited

An owner or operator of a barge may not abandon it on the navigable waters of the United States. A barge is deemed not to be abandoned if—

(1) it is located at a Federally- or State-approved mooring area;

(2) it is on private property with the permission of the owner of the property; or

(3) the owner or operator notifies the Secretary that the barge is not abandoned and the location of the barge.

(Added Pub. L. 102-587, title V, §5302, Nov. 4, 1992, 106 Stat. 5082; amended Pub. L. 109-304, §15(18), Oct. 6, 2006, 120 Stat. 1703.)

Editorial Notes

AMENDMENTS

2006—Pub. L. 109-304 struck out subsec. (a) designation before “An owner”.

§ 4703. Penalty for unlawful abandonment of barge

Thirty days after the notification procedures under section 4704(a)(1) are completed, the Secretary may assess a civil penalty of not more than \$1,000 for each day of the violation against an owner or operator that violates section 4702. A vessel with respect to which a penalty is assessed under this chapter is liable in rem for the penalty.

(Added Pub. L. 102-587, title V, §5302, Nov. 4, 1992, 106 Stat. 5082.)

§ 4704. Removal of abandoned barges

(a)(1) The Secretary may remove a barge that is abandoned after complying with the following procedures:

(A) If the identity of the owner or operator can be determined, the Secretary shall notify the owner or operator by certified mail—

(i) that if the barge is not removed it will be removed at the owner’s or operator’s expense; and

(ii) of the penalty under section 4703.

(B) If the identity of the owner or operator cannot be determined, the Secretary shall publish an announcement in—

(i) a notice to mariners; and

(ii) an official journal of the county in which the barge is located

that if the barge is not removed it will be removed at the owner’s or operator’s expense.

(2) The United States, and any officer or employee of the United States is not liable to an owner or operator for damages resulting from removal of an abandoned barge under this chapter.