(A) that individual performs a safety sensitive function on a vessel, as determined by the Secretary; and

(B) there is probable cause to believe that the individual—

(i) has, while acting under the authority of that license, certificate, or document, performed the safety sensitive function in violation of law or Federal regulation regarding use of alcohol or a dangerous drug;

(ii) has been convicted of an offense that would prevent the issuance or renewal of the license, certificate, or document;

(iii) within the 3-year period preceding the initiation of a suspension proceeding, has been convicted of an offense described in section 30304(a)(3)(A) or (B) of title 49; or

(iv) is a security risk that poses a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.

(2) If a license, certificate, or document is temporarily suspended under this section, an expedited hearing under subsection (a) of this section shall be held within 30 days after the temporary suspension.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 546; Pub. L. 99–36, § 1(a)(3), May 15, 1985, 99 Stat. 67; Pub. L. 101–380, title IV, § 4103(a)(1), Aug. 18, 1990, 104 Stat. 510; Pub. L. 105–383, title III, § 304(a), Nov. 13, 1998, 112 Stat. 3419; Pub. L. 108–293, title IV, § 407, title VI, § 609(2), Aug. 9, 2004, 118 Stat. 1044, 1058.)

HISTORICAL AND REVISION NOTES

Revised section	*Source section (U.S. Code)*
7702	

Section 7702(a) provides that Sections 551–559 of title 5 of the United States Code shall apply to each involving the suspension or revocation of a license, certificate, or document.

Subsection (b) allows an individual whose license, certificate, or document has been suspended or revoked to appeal it to the Secretary within 30 days.

REFERENCES IN TEXT

Sections 205(a)(3)(A) or (B) and 206(b)(4) of the National Driver Register Act of 1982, referred to in subsec. (c)(1), are sections 205(a)(3)(A), (B) and 206(b)(4) of Pub. L. 97–364, which were set out in a note under section 401 of Title 23, Highways, and were repealed and restated in sections 30304 and 30305 of Title 49, Transportation, by Pub. L. 103–272, §§ 1(e), 7(b), July 5, 1994, 108 Stat. 862, 1379.

AMENDMENTS

2004—Subsec. (d)(1). Pub. L. 108–293, § 407(1), substituted ''if—'' for ''if, when acting under the authority of that license, certificate, or document—'' in introductory provisions.

Subsec.(d)(1)(B)(i). Pub. L. 108–293, § 407(2), inserted '', while acting under the authority of that license, certificate, or document,'' after ''has''.

Subsec. (d)(1)(B)(iii). Pub. L. 108–293, § 609(2), substituted ''section 30304(a)(3)(A) or (B) of title 49'' for ''section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982''.

Subsec. (d)(1)(B)(iv). Pub. L. 108–293, § 407(3)–(5), added cl. (iv).

1998—Subsec. (c)(2). Pub. L. 105–383 inserted second sentence and struck out former second sentence which read as follows: ''The testing may include preemployment (with respect to dangerous drugs only), periodic, random, reasonable cause, and post accident testing.''

1990—Subsecs. (c), (d). Pub. L. 101–380 added subsecs. (c) and (d).

1985—Subsec. (a). Pub. L. 99–36 substituted ''mariner's'' for ''mariners' ''.

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.

§ 7703. Bases for suspension or revocation

A license, certificate of registry, or merchant mariner's document issued by the Secretary may be suspended or revoked if the holder—

(1) when acting under the authority of that license, certificate, or document—

(A) has violated or fails to comply with this subtitle, a regulation prescribed under this subtitle, or any other law or regulation intended to promote marine safety or to protect navigable waters; or

(B) has committed an act of misconduct or negligence;

(2) is convicted of an offense that would prevent the issuance or renewal of a license, certificate of registry, or merchant mariner's document;

(3) within the 3-year period preceding the initiation of the suspension or revocation proceeding is convicted of an offense described in section 30304(a)(3)(A) or (B) of title 49;

(4) has committed an act of incompetence relating to the operation of a vessel; or

(5) is a security risk that poses a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 546; Pub. L. 99–36, § 1(a)(9)(E), May 15, 1985, 99 Stat. 68; Pub. L. 101–380, title IV, § 4103(b), Aug. 18, 1990, 104 Stat. 511; Pub. L. 108–293, title IV, § 408, title VI, § 609(3), Aug. 9, 2004, 118 Stat. 1044, 1058; Pub. L. 109–241, title IX, § 901(h)(3), July 11, 2006, 120 Stat. 564.)

HISTORICAL AND REVISION NOTES

Revised section	*Source section (U.S. Code)*
7703	46:226 46:239 46:240 46:246(c)

This section provides the bases for suspension and revocation of a license, certificate or document. The individual must have been operating under the authority of the required license, certificate, or document and has violated a law or regulation intended to promote marine safety or to protect the navigable waters or has committed an act of incompetence, misconduct, or negligence.

AMENDMENTS

2006—Par. (3). Pub. L. 109–241 struck out ''(23 U.S.C. 401 note)'' after ''of title 49''.

2004—Par. (1)(B). Pub. L. 108–293, § 408(1), substituted ''misconduct or'' for ''incompetence, misconduct, or''.

Par. (3). Pub. L. 108–293, § 609(3), substituted ''section 30304(a)(3)(A) or (B) of title 49'' for ''section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982''.

Pars. (4), (5). Pub. L. 108–293, § 408(2)–(4), added pars. (4) and (5).

1990—Pub. L. 101–380 amended section generally. Prior to amendment, section read as follows: ''A license, certificate of registry, or merchant mariner's document issued by the Secretary may be suspended or revoked if, when acting under the authority of that license, certificate, or document, the holder—

''(1) has violated or failed to comply with this subtitle, a regulation prescribed under this subtitle, or any other law or regulation intended to promote marine safety or to protect navigable waters.

''(2) has committed an act of incompetence, misconduct, or negligence.''

1985—Pub. L. 99–36 substituted ''certificate of registry,'' for first reference to ''certificate,''.

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.

§ 7704. Dangerous drugs as grounds for revocation

[(a) Repealed. Pub. L. 101–380, title IV, § 4103(a)(2)(B), Aug. 18, 1990, 104 Stat. 511.]

(b) If it is shown at a hearing under this chapter that a holder of a license, certificate of registry, or merchant mariner's document issued under this part, within 10 years before the beginning of the proceedings, has been convicted of violating a dangerous drug law of the United States or of a State, the license, certificate, or document shall be suspended or revoked.

(c) If it is shown that a holder has been a user of, or addicted to, a dangerous drug, the license, certificate of registry, or merchant mariner's document shall be revoked unless the holder provides satisfactory proof that the holder is cured.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 546; Pub. L. 99–36, § 1(a)(9)(F), (G), May 15, 1985, 99 Stat. 68; Pub. L. 101–380, title IV, § 4103(a)(2)(B), Aug. 18, 1990, 104 Stat. 511; Pub. L. 108–293, title IV, § 402, Aug. 9, 2004, 118 Stat. 1043.)

HISTORICAL AND REVISION NOTES

Revised section	*Source section (U.S. Code)*
7704(a)	46:239a(a)
7704(b)	46:239b(b)(1)
7704(c)	46:239b(b)(2)

Section 7704 requires the Secretary to revoke the license, certificate, or document of any individual who has been convicted of a dangerous drug law within 10 years before the beginning of the suspension or revocation procedures. This section has expanded current law to incorporate violations involving ''controlled substances'' which are not narcotic. This includes PCP and LSD. Unless it can be done under existing law, the suspension or revocation of an individual's license based on the use of a ''controlled substance'' only applies to the use or conviction after the date of enactment of this Act.

This section also provides that anyone who has been a user of or addicted to a dangerous drug since July 14, 1954, may be subjected to revocation procedures unless the individual provides satisfactory proof of being cured.

In sections 7503(b)(2) and 7704(c), the term ''use'', when applying to ''narcotic drugs'' or ''controlled substances'', is not intended to include the use of ''off the shelf'' drugs or drugs acquired with a prescription lawfully issued by a medical doctor, as long as the drugs are used by the individual in the recommended amounts and the drugs will not impair the individual's ability to perform duties.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–293 inserted ''suspended or'' after ''shall be''.

1990—Subsec. (a). Pub. L. 101–380 struck out subsec. (a) which defined ''dangerous drug'' for purpose of this section as narcotic drug, controlled substance, and marihuana.

1985—Subsec. (b). Pub. L. 99–36, § 1(a)(9)(F), substituted ''merchant mariner's document'' for first reference to ''document''.

Subsec. (c). Pub. L. 99–36, § 1(a)(9)(G), substituted ''certificate of registry, or merchant mariner's document'' for ''certificate, or document''.

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.

§ 7705. Subpenas and oaths

(a) An official designated to investigate or preside at a hearing on matters that are grounds for suspension or revocation of licenses, certificates of registry, and merchant mariners' documents may administer oaths and issue subpenas to compel the attendance and testimony of witnesses and the production of records or other evidence during investigations and at hearings.

(b) The jurisdictional limits of a subpena issued under this section are the same as, and are enforceable in the same manner as, subpenas issued under chapter 63 of this title.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 547; Pub. L. 99–36, § 1(a)(9)(H), May 15, 1985, 99 Stat. 68.)

HISTORICAL AND REVISION NOTES

Revised section	*Source section (U.S. Code)*
7705	46:239(e)

Section 7705 allows officials designated to investigate or preside at hearings on matters that are grounds for suspension and revocation proceedings to administer oaths and issue subpenas.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–36 substituted ''certificates of registry, and merchant mariners' documents'' for ''certificates, and documents''.

§ 7706. Drug testing reporting

(a) RELEASE OF DRUG TEST RESULTS TO COAST GUARD.—Not later than 2 weeks after receiving from a Medical Review Officer a report of a verified positive drug test or verified test violation by a civilian employee of a Federal agency, an officer in the Public Health Services, or an officer in the National Oceanic and Atmospheric Administration Commissioned Officer Corps, who is employed in any capacity on board a vessel operated by the agency, the head of the agency shall release to the Commandant of the Coast Guard the report.

(b) STANDARDS, PROCEDURES, AND REGULATIONS.—The head of a Federal agency shall carry out a release under subsection (a) in accordance with the standards, procedures, and regulations applicable to the disclosure and reporting to the Coast Guard of drug tests results and drug test records of individuals employed on vessels documented under the laws of the United States.

(c) WAIVER.—Notwithstanding section 503(e) of the Supplemental Appropriations Act, 1987 (5