

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 583.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
11503	46:703

Section 11503 delegates to consular officers certain responsibilities related to insubordination of seamen on United States vessels.

§ 11504. Enforcement of forfeitures

When an offense by a seaman also is a criminal violation, it is not necessary that a criminal proceeding be brought to enforce a forfeiture.

(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>
11504	46:705

Section 11504 provides that when a seaman has committed a criminal offense, a forfeiture may be enforced through civil proceedings.

§ 11505. Disposal of forfeitures

(a) Money, property, and wages forfeited under this chapter for desertion may be applied to compensate the owner or master of the vessel for expenses caused by the desertion. The balance shall be transferred to the appropriate district court of the United States when the voyage is completed.

(b) If it appears to the district court that the forfeiture was imposed properly, the property transferred may be sold in the same manner prescribed for the disposition of the property of deceased seamen. The court shall deposit in the Treasury as miscellaneous receipts the proceeds of the sale and any money and wages transferred to the court.

(c) When an owner or master fails to transfer the balance as required under subsection (a) of this section, the owner or master is liable to the United States Government for a civil penalty of 2 times the amount of the balance, recoverable by the Secretary in the same manner that seaman's wages are recovered.

(d) In all other cases of forfeiture of wages, the forfeiture shall be for the benefit of the owner of the vessel.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 584; Pub. L. 103-206, title IV, § 421, Dec. 20, 1993, 107 Stat. 2438.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
11505	46:706

Section 11505 provides for the disposal of wages forfeited by deserting seamen.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-206, § 421(1), substituted "The balance shall be transferred to the appropriate district court of the United States when the voyage is completed." for "The balance shall be transferred to the Secretary when the voyage is completed, as prescribed by the Secretary."

Subsec. (b). Pub. L. 103-206, § 421(2), struck out at beginning "Within one month of receiving the balance

under subsection (a) of this section, the Secretary shall transfer the balance to the appropriate district court of the United States."

§ 11506. Carrying sheath knives

A seaman in the merchant marine may not wear a sheath knife on board a vessel without the consent of the master. The master of a vessel of the United States shall inform each seaman of this prohibition before engagement. A master failing to advise a seaman is liable to the United States Government for a civil penalty of \$50.

(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>
11506	46:710

Section 11506 prohibits a merchant seaman from carrying a sheath knife without permission of the master, and penalizes a master who does not advise a seaman of this provision.

§ 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.

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CHAPTER 121—DOCUMENTATION OF VESSELS

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CODIFICATION

This chapter was originally enacted by Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 584, and amended by Pub. L. 98-364, July 17, 1984, 98 Stat. 440; Pub. L. 98-454, Oct. 5, 1984, 98 Stat. 1732; Pub. L. 99-36, May 15, 1985, 99 Stat. 67; Pub. L. 99-307, May 19, 1986, 100 Stat. 444; Pub. L. 99-509, Oct. 21, 1986, 100 Stat. 1874; Pub. L. 99-570, Oct. 27, 1986, 100 Stat. 3207; Pub. L. 100-239, Jan. 11, 1988, 101 Stat. 1778; Pub. L. 100-710, Nov. 23, 1988, 102 Stat. 4735; Pub. L. 101-225, Dec. 12, 1989, 103 Stat. 1908; Pub. L. 101-380, Aug. 18, 1990, 104 Stat. 484; Pub. L. 101-595, Nov. 16, 1990, 104 Stat. 2979; Pub. L. 102-388, Oct. 6, 1992, 106 Stat. 1520; Pub. L. 102-587, Nov. 4, 1992, 106 Stat. 5039; Pub. L. 104-208, Sept. 30, 1996, 110 Stat. 3009; Pub. L. 104-324, Oct. 19, 1996, 110 Stat. 3901; Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681; Pub. L. 105-383, Nov. 13, 1998, 112 Stat. 3411; Pub. L. 106-31, May 21, 1999, 113 Stat. 57; Pub. L. 107-20, July 24, 2001, 115 Stat. 155; Pub. L. 107-206, Aug. 2, 2002, 116 Stat. 820; Pub. L. 107-295, Nov. 25, 2002, 116 Stat. 2064; Pub. L. 108-136, Nov. 24, 2003, 117 Stat. 1392; Pub. L. 108-293, Aug. 9, 2004, 118 Stat. 1028; Pub. L. 109-241, July 11, 2006, 120 Stat. 516. This chapter is shown here, however, as having been enacted by Pub. L. 109-304, § 5, Oct. 6, 2006, 120 Stat. 1491, without reference to those intervening amendments because of the general amendment of this chapter by Pub. L. 109-304.

SUBCHAPTER I—GENERAL

§ 12101. Definitions

(a) REBUILT IN THE UNITED STATES.—In this chapter, a vessel is deemed to have been rebuilt in the United States only if the entire rebuilding, including the construction of any major component of the hull or superstructure, was done in the United States.

(b) RELATED TERMS IN OTHER LAWS.—When the following terms are used in a law, regulation, document, ruling, or other official act referring to the documentation of a vessel, the following definitions apply:

(1) REGISTRY ENDORSEMENT.—The terms “certificate of registry”, “register”, and “registry” mean a certificate of documentation with a registry endorsement issued under this chapter.

(2) COASTWISE ENDORSEMENT.—The terms “license”, “enrollment and license”, “license for the coastwise (or coasting) trade”, and “en-

rollment and license for the coastwise (or coasting) trade” mean a certificate of documentation with a coastwise endorsement issued under this chapter.

(3) YACHT.—The term “yacht” means a recreational vessel even if not documented.

(Pub. L. 109-304, § 5, Oct. 6, 2006, 120 Stat. 1491.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12101(a)	46:12101(a)(2). 46 App.:883 (2d proviso related to meaning of “rebuilt”).	June 5, 1920, ch. 250, § 27 (2d proviso related to meaning of “rebuilt”), 41 Stat. 999; July 2, 1935, ch. 355, 49 Stat. 442; July 14, 1956, ch. 600, § 1, 70 Stat. 544; Pub. L. 86-583, § 1, July 5, 1960, 74 Stat. 321; Pub. L. 100-239, § 6(c)(1), Jan. 11, 1988, 101 Stat. 1782.
12101(b)	46:12101(b).	

In subsection (a), the words “its territories” and “or its possessions” are omitted because of the definition of “United States” in chapter 1 of the revised title. The words “(not including trust territories)” are omitted because the Trust Territory of the Pacific Islands has terminated. See 48 U.S.C. 1681 note prec.

PRIOR PROVISIONS

A prior section 12101, 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, originally derived from section 65w of former Title 46, Shipping, related to definitions and related terms in other laws, prior to the general amendment of this chapter by Pub. L. 109-304. See this section and section 108 of this title.

§ 12102. Vessels requiring documentation

(a) IN GENERAL.—Except as otherwise provided, a vessel may engage in a trade only if the vessel has been issued a certificate of documentation with an endorsement for that trade under this chapter.

(b) VESSELS LESS THAN 5 NET TONS.—A vessel of less than 5 net tons may engage in a trade without being documented if the vessel otherwise satisfies the requirements to engage in the particular trade.

(c) BARGES.—A barge qualified to engage in the coastwise trade may engage in the coastwise trade, without being documented, on rivers, harbors, lakes (except the Great Lakes), canals, and inland waters.

(Pub. L. 109-304, § 5, Oct. 6, 2006, 120 Stat. 1492.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12102(a)	46:12106(b). 46:12108(b). 46:12110(a).	
12102(b)	46:12102(a) (related to tonnage).	
12102(c)	46:12110(b).	

PRIOR PROVISIONS

A prior section 12102, 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; Pub. L. 108-136, div. C, title XXXV, §3534(b)(1), Nov. 24, 2003, 117 Stat. 1818, originally derived from section 65b of former Title 46, Shipping, related to vessels eligible for documentation, prior to the general amendment of this chapter by Pub. L. 109-304. See this section and sections 12103, 12111, and 12113 of this title.

§ 12103. General eligibility requirements

(a) IN GENERAL.—Except as otherwise provided, a certificate of documentation for a vessel may be issued under this chapter only if the vessel is—

- (1) wholly owned by one or more individuals or entities described in subsection (b);
- (2) at least 5 net tons as measured under part J of this subtitle; and
- (3) not documented under the laws of a foreign country.

(b) ELIGIBLE OWNERS.—For purposes of subsection (a)(1), the following are eligible owners:

- (1) An individual who is a citizen of the United States.
- (2) An association, trust, joint venture, or other entity if—
 - (A) each of its members is a citizen of the United States; and
 - (B) it is capable of holding title to a vessel under the laws of the United States or a State.
- (3) A partnership if—
 - (A) each general partner is a citizen of the United States; and
 - (B) the controlling interest in the partnership is owned by citizens of the United States.
- (4) A corporation if—
 - (A) it is incorporated under the laws of the United States or a State;
 - (B) its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States; and
 - (C) no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum.
- (5) The United States Government.
- (6) The government of a State.

(c) TEMPORARY CERTIFICATES PRIOR TO MEASUREMENT.—Notwithstanding subsection (a)(2), the Secretary may issue a temporary certificate of documentation for a vessel before it is measured.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1492.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12103(a)	46:12102(a) (less ownership), (b) (1st sentence).	
12103(b)	46:12102(a) (related to ownership)	
12103(c)	46:12102(b) (last sentence).	

PRIOR PROVISIONS

A prior section 12103, 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, originally derived from section 65e of former Title 46, Shipping, related to certificates of documentation, prior to the general amendment of this chapter by Pub. L. 109-304. See sections 12104, 12105, and 12133 of this title.

A prior section 12103a, added Pub. L. 107-295, title IV, §422(b)(1), Nov. 25, 2002, 116 Stat. 2125, related to issuance of temporary certificate of documentation by third parties, prior to the general amendment of this chapter by Pub. L. 109-304. See section 12105 of this title.

§ 12104. Applications for documentation

(a) IN GENERAL.—An application for a certificate of documentation or endorsement under this chapter must be filed by the owner of the vessel. The application must be filed in the manner, be in the form, and contain the information prescribed by the Secretary.

(b) APPLICANT'S IDENTIFYING INFORMATION.—The Secretary shall require the applicant to provide—

- (1) if the applicant is an individual, the individual's social security number; or
- (2) if the applicant is an entity—
 - (A) the entity's taxpayer identification number; or
 - (B) if the entity 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 entity and who signs the application.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1493.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12104(a)	46:12103(a) (related to filing by owner), (b)(1).	
12104(b)	46:12103(b)(2).	

PRIOR PROVISIONS

A prior section 12104, 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, originally derived from section 65g of former Title 46, Shipping, related to effect of documentation, prior to the general amendment of this chapter by Pub. L. 109-304. See section 12134 of this title.

§ 12105. Issuance of documentation

(a) IN GENERAL.—Except as provided in section 12152 of this title, the Secretary, on receipt of a proper application, shall issue a certificate of documentation or a temporary certificate of documentation for a vessel satisfying the requirements of section 12103 of this title. The certificate shall contain each endorsement under subchapter II of this chapter for which the owner applies and the vessel is eligible.

(b) TEMPORARY CERTIFICATES FOR RECREATIONAL VESSELS.—The Secretary may delegate, subject to the supervision and control of

the Secretary and under terms prescribed 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 eligible under section 12103 of this title. A temporary certificate issued under this subsection is valid for not more than 30 days.

(c) INFORMATION TO BE INCLUDED IN CERTIFICATE.—A 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) PROCEDURES TO ENSURE INTEGRITY AND ACCURACY.—The Secretary shall prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation.

(Pub. L. 109–304, §5, Oct. 6, 2006, 120 Stat. 1493.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12105(a)	46:12103(a) (less filing by owner).	
12105(b)	46:12103a.	
12105(c)	46:12103(c).	
12105(d)	46:12103(d).	

In subsection (b), the words “eligible under” are substituted for “if the applicant for the certificate of documentation meets the requirements set out in” for consistency in the chapter and to eliminate unnecessary words.

PRIOR PROVISIONS

A prior section 12105, 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; Pub. L. 109–241, title III, §310, July 11, 2006, 120 Stat. 529, originally derived from section 65h of former Title 46, Shipping, related to registry endorsements, prior to the general amendment of this chapter by Pub. L. 109–304. See section 12111 of this title.

§ 12106. Surrender of title and number

(a) IN GENERAL.—A documented vessel may not be titled by a State or required to display numbers under chapter 123 of this title, and any certificate of title issued by a State for a documented vessel shall be surrendered as provided by regulations prescribed by the Secretary.

(b) VESSELS COVERED BY PREFERRED MORTGAGE.—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 mortgagee consents.

(Pub. L. 109–304, §5, Oct. 6, 2006, 120 Stat. 1494.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12106	46:12124.	

PRIOR PROVISIONS

A prior section 12106, 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; Pub. L. 108–293, title VI, §608(a), Aug. 9, 2004, 118 Stat. 1054, originally derived from section 65i of former Title 46, Shipping, related to coastwise endorsements, prior to the general amendment of this chapter by Pub. L. 109–304. See sections 12102, 12112, 12116, 12117, and 12119 of this title.

§ 12107. Wrecked vessels

(a) REQUIREMENTS.—A vessel is a wrecked vessel under this chapter if it—

- (1) was wrecked on a coast of the United States or adjacent waters; and
- (2) has undergone repairs in a shipyard in the United States equal to at least 3 times the appraised salvage value of the vessel.

(b) APPRAISALS.—The Secretary may appoint a board of three appraisers to determine whether a vessel satisfies subsection (a)(2). The costs of the appraisal shall be paid by the owner of the vessel.

(Pub. L. 109–304, §5, Oct. 6, 2006, 120 Stat. 1494.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12107	46 App.:14 (words before last proviso).	R.S. §4136 (words before last proviso); Feb. 24, 1915, ch. 57, 38 Stat. 812; Pub. L. 103–182, title VI, §686(a)(4), Dec. 8, 1993, 107 Stat. 2220.

The words “The Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement” and “when purchased by a citizen or citizens of the United States” are omitted as unnecessary because section 12112, as revised by the bill, provides the requirements for a wrecked vessel to obtain a coastwise endorsement.

In subsection (c)(1), the words “or her possessions” are omitted as unnecessary because of the definition of “United States” in chapter 1 of the revised title.

PRIOR PROVISIONS

A prior section 12107, 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, originally derived from section 65j of former Title 46, Shipping, related to Great Lakes endorsements, prior to being repealed by Pub. L. 104–324, title XI, §1115(a), Oct. 19, 1996, 110 Stat. 3972.

A prior section 12108, 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, originally derived from section 65k of former Title 46, Shipping, related to fishery endorsements, prior to being omitted in the general amendment of this chapter by Pub. L. 109–304. See sections 12102, 12113, and 12116 of this title.

A prior section 12109, 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, originally derived from section 65l of former Title 46, Shipping, related to recreational endorsements, prior to being omitted in the general amendment of this chapter by Pub. L. 109–304. See section 12114 of this title.

A prior section 12110, 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; Pub. L. 108-293, title IV, §404(a), Aug. 9, 2004, 118 Stat. 1043, originally derived from section 65m of former Title 46, Shipping, related to limitations on operations authorized by certificates, prior to being omitted in the general amendment of this chapter by Pub. L. 109-304. See sections 12102, 12114, and 12131 of this title.

SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

§ 12111. Registry endorsement

(a) **REQUIREMENTS.**—A registry endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

(b) **AUTHORIZED ACTIVITY.**—A vessel for which a registry endorsement is issued may engage in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

(c) **CERTAIN VESSELS OWNED BY TRUSTS.**—

(1) **NONAPPLICATION OF BENEFICIARY CITIZENSHIP REQUIREMENT.**—For the issuance of a certificate of documentation with only a registry endorsement, the beneficiaries of a trust are not required to be citizens of the United States if the trust qualifies under paragraph (2) and the vessel is subject to a charter to a citizen of the United States.

(2) **REQUIREMENTS FOR TRUST TO QUALIFY.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), a trust qualifies under this paragraph with respect to a vessel only if—

(i) each trustee 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) **AUTHORITY OF NON-CITIZENS.**—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.

(C) **OWNERSHIP BY NON-CITIZENS.**—Subparagraphs (A) and (B) do not prohibit a person

that is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

(3) **CITIZENSHIP OF PERSON CHARTERING VESSEL.**—If a person chartering a vessel from a trust that qualifies under paragraph (2) is a citizen of the United States under section 50501 of this title, the vessel is deemed to be owned by a citizen of the United States for purposes of that section and related laws, except chapter 531 of this title.

(d) **ACTIVITIES INVOLVING MOBILE OFFSHORE DRILLING UNITS.**—

(1) **IN GENERAL.**—Only a vessel for which a certificate of documentation with a registry endorsement is issued may engage in—

(A) the setting, relocation, or recovery of the anchors or other mooring equipment of a mobile offshore drilling unit that is located over the outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))); or

(B) the transportation of merchandise or personnel to or from a point in the United States from or to a mobile offshore drilling unit located over the outer Continental Shelf that is not attached to the seabed.

(2) **COASTWISE TRADE NOT AUTHORIZED.**—Nothing in paragraph (1) authorizes the employment in the coastwise trade of a vessel that does not meet the requirements of section 12112 of this title.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1494; Pub. L. 109-241, title III, §310, July 11, 2006, 120 Stat. 529; Pub. L. 110-181, div. C, title XXXV, §3525(a)(1), (b), Jan. 28, 2008, 122 Stat. 600, 601.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
12111(a)	46:12105(a).	
12111(b)	46:12105(b).	
12111(c)	46:12102(d).	

PRIOR PROVISIONS

A prior section 12111, 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, originally derived from section 65o of former Title 46, Shipping, related to surrender and invalidation of certificates of documentation, prior to the general amendment of this chapter by Pub. L. 109-304. See sections 12135 and 12136 of this title.

AMENDMENTS

2008—Pub. L. 110-181, §3525(b), repealed Pub. L. 109-241, §310. See 2006 Amendment note below.

Subsec. (d). Pub. L. 110-181, §3525(a)(1), incorporated the substance of the amendment by Pub. L. 109-241, §310, into this section by adding subsec. (d). See 2006 Amendment note below and section 18(a) of Pub. L. 109-304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

2006—Pub. L. 109-241, §310, which directed the amendment of former section 12105 of this title from which this section was derived in part, was repealed by Pub. L. 110-181, §3525(b). See 2008 Amendment note for subsec. (d) and Historical and Revision notes above.

§ 12112. Coastwise endorsement

(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

- (1) satisfies the requirements of section 12103 of this title;
(2)(A) was built in the United States; or
(B) if not built in the United States—
(i) was captured in war by citizens of the United States and lawfully condemned as prize;
(ii) was adjudged to be forfeited for a breach of the laws of the United States; or
(iii) qualifies as a wrecked vessel under section 12107 of this title; and
(3) otherwise qualifies under the laws of the United States to engage in the coastwise trade.

(b) AUTHORIZED ACTIVITY.—Subject to the laws of the United States regulating the coastwise trade, a vessel for which a coastwise endorsement is issued may engage in the coastwise trade.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1495.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows for 12112(a) and 12112(b).

In subsection (b), the word “only” is omitted because section 12102(a), as revised by the bill, contains a general requirement for appropriate documentation to engage in any trade.

PRIOR PROVISIONS

A prior section 12112, 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, originally derived from section 65p of former Title 46, Shipping, related to vessels procured outside the United States, prior to the general amendment of this chapter by Pub. L. 109-304. See section 12115 of this title.

CERTAIN VESSELS ENGAGED IN ALASKA COASTWISE TRADE

Pub. L. 108-293, title VI, §608(b), Aug. 9, 2004, 118 Stat. 1056, provided that:

“(1) IN GENERAL.—Notwithstanding any other provision of law, a person shall be treated as a citizen of the United States under section 12102(a) [now section 12103(a), (b)] of title 46, United States Code, section 2 of the Shipping Act, 1916 ([former] 46 U.S.C. App. 802) [see 46 U.S.C. 50501], and section 27 of the Merchant Marine Act, 1920 ([former] 46 U.S.C. App. 883) [see Disposition Table preceding section 101 of this title], for purposes of issuance of a coastwise endorsement under section 12106(e) of title 46, United States Code (as that section was in effect on the day before the date of enactment of this Act [Aug. 9, 2004]), for a vessel owned by the person on the date of enactment of this Act, or any replacement vessel of a similar size and function, if the person—

“(A) owned a vessel before January 1, 2001, that had a coastwise endorsement under [former] section 12106(e) of title 46, United States Code; and

“(B) as of the date of the enactment of this Act [Aug. 9, 2004], derives substantially all of its revenue from leasing vessels engaged in the transportation or distribution of petroleum products and other cargo in Alaska.

“(2) LIMITATION ON COASTWISE TRADE.—A vessel owned by a person described in paragraph (1) for which a

coastwise endorsement is issued under [former] section 12106(e) of title 46, United States Code, may be employed in the coastwise trade only within Alaska and in the coastwise trade to and from Alaska.

“(3) TERMINATION.—The application of this subsection to a person described in paragraph (1) shall terminate if all of that person’s vessels described in paragraph (1) are sold to a person eligible to document vessels under section 12106(a) [now section 12112(a)] of title 46, United States Code.”

§ 12113. Fishery endorsement

(a) REQUIREMENTS.—A fishery endorsement may be issued for a vessel that—

- (1) satisfies the requirements of section 12103 of this title and, if owned by an entity, the entity satisfies the ownership requirements in subsection (c);
(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 engage in the fisheries.

(b) AUTHORIZED ACTIVITY.—

(1) IN GENERAL.—Subject to the laws of the United States regulating the fisheries, a vessel for which a fishery endorsement is issued may engage in the fisheries.

(2) USE BY PROHIBITED PERSONS.—A fishery endorsement is invalid immediately if the vessel for which it is issued is used as a fishing vessel while it 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.

(c) OWNERSHIP REQUIREMENTS FOR ENTITIES.—

(1) IN GENERAL.—A vessel owned by an entity is eligible for a fishery endorsement only if at least 75 percent of the interest in the entity, at each tier of ownership and in the aggregate, is owned and controlled by citizens of the United States.

(2) DETERMINING 75 PERCENT INTEREST.—In determining whether at least 75 percent of the interest in the entity is owned and controlled by citizens of the United States under paragraph (1), the Secretary shall apply section 50501(d) of this title, except that for this purpose the terms “control” or “controlled”—

- (A) include the right to—
(i) direct the business of the entity;
(ii) 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; or
(iii) direct the transfer, operation, or manning of a vessel with a fishery endorsement; but

(B) do 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, except 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, dry-docking, or berthing changes.

(3) EXCEPTIONS.—This subsection does not apply to a vessel when it is engaged in the 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 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 law that was in effect on October 1, 1998. A fishery endorsement issued pursuant to this paragraph is valid for engaging only in the activities described in this paragraph.

(d) REQUIREMENTS BASED ON LENGTH, TONNAGE, OR HORSEPOWER.—

(1) APPLICATION.—This subsection applies to a vessel that—

(A) is greater than 165 feet in registered length;

(B) is more than 750 gross registered tons as measured under chapter 145 of this title or 1,900 gross registered tons as measured under chapter 143 of this title; or

(C) has an engine or engines capable of producing a total of more than 3,000 shaft horsepower.

(2) REQUIREMENTS.—A vessel subject to this subsection is not eligible for a fishery endorsement 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 October 21, 1998; and

(iii) if the fishery endorsement is invalidated after October 21, 1998, application is made for a new fishery endorsement within 15 business days of the invalidation; or

(B) the owner of the 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 October 21, 1998, and the Secretary of Commerce has approved, conservation and management measures in accordance with the American Fisheries Act (Public Law 105-277, div. C, title II) (16 U.S.C. 1851 note)¹ to allow the vessel to be used in fisheries under the council's authority.

(e) VESSELS MEASURING 100 FEET OR GREATER.—

(1) IN GENERAL.—The Administrator of the Maritime Administration shall administer subsections (c) and (d) 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 on an annual basis to demonstrate compliance with those provisions.

(2) REGULATIONS.—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 shall be written in a manner to allow the owner of the vessel to satisfy any annual renewal requirements for a certificate of documentation for the vessel and to comply with this subsection and subsections (c) and (d), and shall not be required to be notarized.

(3) TRANSFER OF OWNERSHIP.—Transfers of ownership and control of vessels subject to subsection (c) or (d), which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of those provisions, with particular attention given to—

(A) leases, charters, mortgages, financing, and similar arrangements;

(B) the control of persons not eligible to own a vessel with a fishery endorsement under subsection (c) or (d), over the management, sales, financing, or other operations of an entity; and

(C) contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

(f) VESSELS MEASURING LESS THAN 100 FEET.—The Secretary shall establish reasonable and necessary requirements to demonstrate compliance with subsections (c) and (d), with respect to vessels measuring less than 100 feet in registered length, and shall seek to minimize the administrative burden on individuals who own and operate those vessels.

(g) VESSELS PURCHASED THROUGH FISHING CAPACITY REDUCTION PROGRAM.—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 of 1986 (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.

(h) REVOCATION OF ENDORSEMENTS.—The Secretary shall revoke the fishery endorsement of any vessel subject to subsection (c) or (d) whose owner does not comply with those provisions.

(i) REGULATIONS.—Regulations to implement subsections (c) and (d) and sections 12151(c) and 31322(b) of this title shall prohibit impermissible transfers of ownership or control, specify any transactions that require prior approval of an implementing agency, identify transactions that do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of that industry, and to the opportunity to form fishery cooperatives.

¹ See References in Text note below.

(Pub. L. 109-304, § 5, Oct. 6, 2006, 120 Stat. 1495; Pub. L. 110-181, div. C, title XXXV, § 3529(a)(2), Jan. 28, 2008, 122 Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12113(a)	46:12108(a).	
12113(b)(1) ..	46:12108(b).	
12113(b)(2) ..	46:12102(c)(3).	
12113(c)(1) ..	46:12102(c)(1).	
12113(c)(2) ..	46:12102(c)(2).	
12113(c)(3) ..	46:12102(c)(4).	
12113(d)	46:12102(c)(5).	
12113(e)	46:12102 note.	
12113(f)	46:12102 note.	Pub. L. 105-277, div. C, title II, § 203(c), Oct. 21, 1998, 112 Stat. 2681-619.
12113(g)	46:12108(d).	Pub. L. 105-277, div. C, title II, § 203(d), Oct. 21, 1998, 112 Stat. 2681-619.
12113(h)	46:12102 note.	Pub. L. 105-277, div. C, title II, § 203(e), Oct. 21, 1998, 112 Stat. 2681-619.
12113(i)	46:12102 note.	Pub. L. 105-277, div. C, title II, § 203(b), Oct. 21, 1998, 112 Stat. 2681-619.

In subsection (b)(1), the word “only” is omitted because section 12102(a), as revised by the bill, contains a general requirement for appropriate documentation to engage in any trade.

In subsection (c)(1), the word “entity” is substituted for “corporation, partnership, association, trust, joint venture, limited liability company, limited liability partnership, or any other entity” to eliminate unnecessary words.

In subsection (e)(3), the words “After October 1, 2001” are omitted as obsolete.

In subsection (i), the first two sentences of section 203(b) of Public Law 105-277 are omitted as obsolete.

REFERENCES IN TEXT

The American Fisheries Act (Public Law 105-277, div. C, title II) (16 U.S.C. 1851 note), referred to in subsec. (d)(2)(B), probably should be a reference to the Magnuson-Stevens Fishery Conservation and Management Act (see note below). Subsec. (d)(2)(B) of this section was derived from former section 12102(c)(5)(B) of this title in the general amendment of this chapter by Pub. L. 109-304, § 5, Oct. 6, 2006, 120 Stat. 1491. As part of that amendment, the reference to the American Fisheries Act was substituted for a reference to “such Act” which had been preceded by references to both of the above named Acts. See the Historical and Revision Notes above and section 2 of Pub. L. 109-304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (g), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, 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.

PRIOR PROVISIONS

A prior section 12113, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 588, originally derived from section 65a of former Title 46, Shipping, related to ports of documentation, prior to being repealed by Pub. L. 100-710, title I, §§106(b)(5), 107(a), Nov. 23, 1988, 102 Stat. 4752, effective Jan. 1, 1989.

AMENDMENTS

2008—Subsec. (g). Pub. L. 110-181 inserted “and” after “Conservation”.

INAPPLICABILITY OF SUBSECTION (d) 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 12113(d)] 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.”

EXCEPTION TO BUILD REQUIREMENT FOR PRIOR VESSELS

Pub. L. 100-239, §4, Jan. 11, 1988, 101 Stat. 1779, 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) [now section 12113(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.”

DEFINITIONS

Pub. L. 100-239, §6(d), Jan. 11, 1988, 101 Stat. 1782, provided that: “The terms in this Act [see Tables for classification] have the same meaning as in subtitle II [now also sections 114 and 115] of title 46, United States Code (as amended by this Act).”

§ 12114. Recreational endorsement

(a) REQUIREMENTS.—A recreational endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

(b) AUTHORIZED ACTIVITY.—A vessel operating under a recreational endorsement may be operated only for pleasure.

(c) APPLICATION OF CUSTOMS LAWS.—A vessel for which a recreational endorsement is issued may proceed between a port of the United States and a port of a foreign country without entering or clearing with the Secretary of Homeland Security. However, a recreational vessel is subject to the requirements for reporting arrivals under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433), and individuals on the vessel are subject to applicable customs regulations.

(Pub. L. 109–304, §5, Oct. 6, 2006, 120 Stat. 1498.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
12114(a)	46:12109(a).	
12114(b)	46:12109(c).	
12114(c)	46:12110(c).	
	46:12109(b).	

In subsection (c), the words “Secretary of Homeland Security” are substituted for “Customs Service” because the functions of the Customs Service and of the Secretary of the Treasury relating thereto were transferred to the Secretary of Homeland Security by section 403(1) of the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2178).

PRIOR PROVISIONS

A prior 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, originally derived from section 65c of former Title 46, Shipping, related to home ports, prior to being repealed by Pub. L. 100–710, title I, §§106(b)(5), 107(a), Nov. 23, 1988, 102 Stat. 4752, effective Jan. 1, 1989.

§ 12115. Temporary endorsement for vessels procured outside the United States

(a) GENERAL AUTHORITY.—The Secretary 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 and meeting the ownership requirements of section 12103 of this title.

(b) AUTHORIZED ACTIVITY.—Subject to limitations the Secretary may prescribe, a vessel documented under this section may proceed to the United States and engage en route in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

(c) APPLICATION OF UNITED STATES JURISDICTION AND LAWS.—A vessel documented under this section is subject to the jurisdiction and laws of the United States. However, if the Secretary considers it to be in the public interest, the Secretary 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.

(d) SURRENDER OF CERTIFICATE.—On the vessel’s arrival in the United States, the certificate of documentation shall be surrendered as provided by regulations prescribed by the Secretary.

(Pub. L. 109–304, §5, Oct. 6, 2006, 120 Stat. 1498.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
12115(a)	46:12112(a).	
12115(b)	46:12112(b) (1st sentence).	
12115(c)	46:12112(c).	
12115(d)	46:12112(b) (last sentence).	

PRIOR PROVISIONS

A prior section 12115, Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 589, originally derived from section 65d of former Title 46, Shipping, related to names of vessels, prior to being repealed by Pub. L. 100–710, title I, §§106(b)(5), 107(a), Nov. 23, 1988, 102 Stat. 4752, effective Jan. 1, 1989.

§ 12116. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands

(a) ENDORSEMENTS.—A vessel satisfying the requirements of subsection (b) may be issued—

(1) a coastwise endorsement to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands; or

(2) 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.

(b) REQUIREMENTS.—An endorsement may be issued under subsection (a) for a vessel that—

(1) satisfies the requirements of section 12103 of this title;

(2) was not built in the United States, except that for an endorsement under subsection (a)(2), the vessel must not have been built or rebuilt in the United States;

(3) is less than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

(4) otherwise qualifies under the laws of the United States to engage in the coastwise trade or the fisheries, as the case may be.

(Pub. L. 109–304, §5, Oct. 6, 2006, 120 Stat. 1499.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
12116	46:12106(c).	
	46:12108(c).	

PRIOR PROVISIONS

A prior section 12116, Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 589, originally derived from section 65f of former Title 46, Shipping, related to numbers, signal letters, and identification markings, prior to being repealed by Pub. L. 100–710, title I, §§106(b)(5), 107(a), Nov. 23, 1988, 102 Stat. 4752, effective Jan. 1, 1989.

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.

§ 12117. Oil spill response vessels

(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

(1) satisfies the requirements for a coastwise endorsement, except for the ownership re-

quirement otherwise applicable without regard to this section;

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

(3) is at least 50 percent owned by individuals or entities described in section 12103(b) of this title; and

(4) is to be used only for—

(i) deploying equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters of the United States or the exclusive economic zone; or

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

(b) **DEEMED OWNED BY CITIZENS.**—A vessel satisfying subsection (a) is deemed to be owned only by citizens of the United States under sections 12103, 12132, and 50501 of this title.

(Pub. L. 109-304, § 5, Oct. 6, 2006, 120 Stat. 1499.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
12117	46:12106(d).	

PRIOR PROVISIONS

A prior section 12117, 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, originally derived from section 65q of former Title 46, Shipping, related to recording of United States built vessels, prior to the general amendment of this chapter by Pub. L. 109-304. See section 12137 of this title.

§ 12118. Owners engaged primarily in manufacturing or mineral industry

(a) **DEFINITIONS.**—In this section:

(1) **BOWATERS CORPORATION.**—The term “Bowaters corporation” means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that—

(A) the corporation is incorporated under the laws of the United States or a State;

(B) a majority of the officers and directors of the corporation are individuals who are citizens of the United States;

(C) at least 90 percent of the employees of the corporation are residents of the United States;

(D) the corporation is engaged primarily in a manufacturing or mineral industry in the United States;

(E) the total book value of the vessels owned by the corporation is not more than 10 percent of the total book value of the assets of the corporation; and

(F) the corporation buys or produces in the United States at least 75 percent of the raw materials used or sold in its operations.

(2) **PARENT.**—The term “parent” means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

(A) is incorporated under the laws of the United States or a State; and

(B) controls, directly or indirectly, at least 50 percent of the voting stock of a Bowaters corporation.

(3) **SUBSIDIARY.**—The term “subsidiary” means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

(A) is incorporated under the laws of the United States or a State; and

(B) has at least 50 percent of its voting stock controlled, directly or indirectly, by a Bowaters corporation or its parent.

(b) **DEEMED CITIZEN.**—A Bowaters corporation is deemed to be a citizen of the United States for purposes of chapters 121, 551, and 561 and section 80104 of this title.

(c) **ISSUANCE OF DOCUMENTATION.**—A certificate of documentation and appropriate endorsement may be issued for a vessel that—

(1) is owned by a Bowaters corporation;

(2) was built in the United States; and

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

(B) is not self-propelled.

(d) **EFFECTS OF DOCUMENTATION.**—

(1) **IN GENERAL.**—Subject to paragraph (2)—

(A) a vessel documented under this section may engage in the coastwise trade; and

(B) the vessel and its owner and master are entitled to the same benefits and are subject to the same requirements and penalties as if the vessel were otherwise documented or exempt from documentation under this chapter.

(2) **TRANSPORTATION OF PASSENGERS OR MERCHANDISE.**—A vessel documented under this section may transport passengers or merchandise for hire in the coastwise trade only—

(A) as a service for a parent or subsidiary of the corporation owning the vessel; or

(B) when under a demise or bareboat charter, at prevailing rates for use not in the domestic noncontiguous trades, from the corporation owning the vessel to a carrier that—

(i) is subject to jurisdiction under subchapter II of chapter 135 of title 49;

(ii) otherwise qualifies as a citizen of the United States under section 50501 of this title; and

(iii) is not owned or controlled, directly or indirectly, by the corporation owning the vessel.

(e) **VALIDITY OF CORPORATE CERTIFICATE.**—A certificate filed by a corporation under this section remains valid only as long as the corporation continues to satisfy the conditions required of the corporation by this section. When a corporation no longer satisfies those conditions, the corporation loses its status under this section and immediately shall surrender to the Secretary any documents issued to it based on that status.

(f) **PENALTIES.**—

(1) FALSIFYING MATERIAL FACT.—If a corporation knowingly falsifies a material fact in a certificate filed under subsection (a), the vessel (or its value) documented or operated under this section shall be forfeited.

(2) TRANSPORTING MERCHANDISE.—If a vessel transports merchandise for hire in violation of this section, the merchandise shall be forfeited to the United States Government.

(3) TRANSPORTING PASSENGERS.—If a vessel transports passengers for hire in violation of this section, the vessel is liable for a penalty of \$200 for each passenger so transported.

(4) REMISSION OR MITIGATION.—A penalty or forfeiture incurred under this subsection may be remitted or mitigated under section 2107(b) of this title.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1500.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12118(a)(1) ..	46 App.:883-1 (1st par. words through cl. (e) less citizenship, 4th par. 1st sentence).	June 5, 1920, ch. 250, §27A, as added Pub. L. 85-902, Sept. 2, 1958, 72 Stat. 1736; Pub. L. 104-88, title III, §321(2), Dec. 29, 1995, 109 Stat. 950; Pub. L. 104-324, title VII, §706, Oct. 19, 1996, 110 Stat. 3934.
12118(a)(2), (3).	46 App.:883-1 (2d par., 4th par. 2d sentence).	
12118(b)	46 App.:883-1 (1st par. related to citizenship).	
12118(c)	46 App.:883-1 (3d par. words before 5th comma).	
12118(d)(1) ..	46 App.:883-1 (3d par. words after 5th comma).	
12118(d)(2) ..	46 App.:883-1 (1st par. words after cl. (e)).	
12118(e)	46 App.:883-1 (last par.).	
12118(f)	46 App.:883-1 (4th par. 3d-6th sentences).	

In this section, the word “Secretary” is substituted for “Secretary of the Treasury”, thereby incorporating the definition of “Secretary” in section 2101 of title 46. The functions of the Secretary of the Treasury relating to the Coast Guard previously were transferred to the Secretary of Transportation by section 6(b) of the Department of Transportation Act (Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 938). The Coast Guard and the functions of the Secretary of Transportation relating to the Coast Guard were again transferred to the Department of Homeland Security by section 888(b) of the Homeland Security Act of 2002 (Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2135).

In subsection (a)(1), the words “seeking hereunder to document a vessel under the laws of the United States or to operate a vessel exempt from documentation under the laws of the United States” are omitted as unnecessary because of the reorganization of the section.

Subsection (d)(1)(B) is substituted for “together with their owners or masters, shall be entitled to all the other benefits and privileges and shall be subject to the same requirements, penalties, and forfeitures as may be applicable in the case of vessels built in the United States and otherwise documented or exempt from documentation under the laws of the United States” to eliminate unnecessary words.

In subsection (d)(2), the words before subparagraph (A) are substituted for “no vessel owned by any such corporation shall engage in the fisheries or in the transportation of merchandise or passengers for hire between points in the United States, including Territories, Districts, and possessions thereof, embraced

within the coastwise laws, except” to eliminate unnecessary words. See the definition of “United States” in chapter 1 of the revised title.

PRIOR PROVISIONS

A prior section 12118, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 589, originally derived from section 65r of former Title 46, Shipping, related to registration of funnel marks and house flags, prior to being repealed by Pub. L. 100-710, title I, §§106(b)(5), 107(a), Nov. 23, 1988, 102 Stat. 4752, effective Jan. 1, 1989.

§ 12119. Owners engaged primarily in leasing or financing transactions

(a) DEFINITIONS.—In this section:

(1) AFFILIATE.—The term “affiliate” means, with respect to any person, any other person that is—

(i) directly or indirectly controlled by, under common control with, or controlling that person; or

(ii) named as being part of the same consolidated group in any report or other document submitted to the United States Securities and Exchange Commission or the Internal Revenue Service.

(2) CARGO.—The term “cargo” does not include cargo to which title is held for non-commercial reasons and primarily for the purpose of evading the requirements of subsection (c)(3).

(3) OIL.—The term “oil” has the meaning given that term in section 2101(20) of this title.

(4) PASSIVE INVESTMENT.—The term “passive investment” means an investment in which neither the investor nor any affiliate of the investor is involved in, or has the power to be involved in, the formulation, determination, or direction of any activity or function concerning the management, use, or operation of the asset that is the subject of the investment.

(5) QUALIFIED PROPRIETARY CARGO.—The term “qualified proprietary cargo” means—

(A) oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that submits to the Secretary an application or annual certification under subsection (c)(3), or by an affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on a vessel owned by that person;

(B) oil, petroleum products, petrochemicals, or liquefied natural gas cargo not beneficially owned by the person that submits to the Secretary an application or an annual certification under subsection (c)(3), or by an affiliate of that person, but which is carried in coastwise trade by a vessel owned by that person and which is part of an arrangement in which vessels owned by that person and at least one other person are operated collectively as one fleet, to the extent that an equal amount of oil, petroleum products, petrochemicals, or liquefied natural gas cargo beneficially owned by that person, or by an affiliate of that person, is carried in coastwise trade on one or more other vessels, not owned by that person, or by an affiliate of that person, if the other vessel or vessels are also part of the same arrangement;

(C) in the case of a towing vessel associated with a non-self-propelled tank vessel where both vessels function as a single self-propelled vessel, oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that owns both the towing vessel and the non-self-propelled tank vessel, or any United States affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on either of those vessels; or

(D) any oil, petroleum products, petrochemicals, or liquefied natural gas cargo carried on any vessel that is either a self-propelled tank vessel having a length of at least 210 meters or a tank vessel that is a liquefied natural gas carrier that—

(i) was delivered by the builder of the vessel to the owner of the vessel after December 31, 1999; and

(ii) was purchased by a person for the purpose, and with the reasonable expectation, of transporting on the vessel liquefied natural gas or unrefined petroleum beneficially owned by the owner of the vessel, or an affiliate of the owner, from Alaska to the continental United States.

(6) UNITED STATES AFFILIATE.—The term “United States affiliate” means, with respect to any person, an affiliate the principal place of business of which is located in the United States.

(b) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel if—

(1) the vessel satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section;

(2) the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) meets the requirements of subsection (c);

(3) 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 under section 50501 of this title for engaging in the coastwise trade; and

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

(c) OWNERSHIP CERTIFICATION.—

(1) IN GENERAL.—A person meets the requirements of this subsection if the person transmits to the Secretary each year the certification required by paragraph (2) or (3) with respect to a vessel.

(2) INVESTMENT CERTIFICATION.—To meet the certification requirement of this paragraph, a person shall certify that it—

(A) is a leasing company, bank, or financial institution;

(B) owns, or holds the beneficial interest in, the vessel solely as a passive investment;

(C) does not operate any vessel for hire and is not an affiliate of any person that operates any vessel for hire; and

(D) is independent from, and not an affiliate of, any charterer of the vessel or any

other person that has the right, directly or indirectly, to control or direct the movement or use of the vessel.

(3) CERTAIN TANK VESSELS.—

(A) IN GENERAL.—To meet the certification requirement of this paragraph, a person shall certify that—

(i) the aggregate book value of the vessels owned by the person and United States affiliates of the person does not exceed 10 percent of the aggregate book value of all assets owned by the person and its United States affiliates;

(ii) not more than 10 percent of the aggregate revenues of the person and its United States affiliates is derived from the ownership, operation, or management of vessels;

(iii) at least 70 percent of the aggregate tonnage of all cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement is qualified proprietary cargo;

(iv) any cargo other than qualified proprietary cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement consists of oil, petroleum products, petrochemicals, or liquefied natural gas;

(v) no vessel owned by the person or any of its United States affiliates and documented with a coastwise endorsement carries molten sulphur; and

(vi) the person owned one or more vessels documented under this section as of August 9, 2004.

(B) APPLICATION ONLY TO CERTAIN VESSELS.—A person may make a certification under this paragraph only with respect to—

(i) a tank vessel having a tonnage of at least 6,000 gross tons, as measured under section 14502 of this title (or an alternative tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title); or

(ii) a towing vessel associated with a non-self-propelled tank vessel that meets the requirements of clause (i), where both vessels function as a single self-propelled vessel.

(d) FILING OF DEMISE CHARTER.—The demise charter and any amendments to the charter shall be filed with the certification required by subsection (b)(3) or within 10 days after filing an amendment to the charter. The charter and amendments shall be made available to the public.

(e) CONTINUATION OF ENDORSEMENT AFTER TERMINATION OF CHARTER.—When a charter required by subsection (b)(3) is terminated for default by the charterer, the Secretary may continue the coastwise endorsement for not more than 6 months on terms and conditions the Secretary may prescribe.

(f) DEEMED OWNED BY CITIZENS.—A vessel satisfying the requirements of this section is deemed to be owned only by citizens of the United States under sections 12103 and 50501 of this title.

(Pub. L. 109–304, § 5, Oct. 6, 2006, 120 Stat. 1501.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
12119(a)	46:12106(f)(4).	
12119(b)	46:12106(e)(1).	
12119(c)	46:12106(f)(1)–(3).	
12119(d)	46:12106(e)(2).	
12119(e)	46:12106(e)(3).	
12119(f)	46:12106(e)(4).	

In subsection (b), in paragraph (1), the words “satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section” are substituted for “otherwise eligible for documentation under this section” in 46 U.S.C. 12106(e)(1)(E) for clarity. Subparagraph (A) of 46 U.S.C. 12106(e)(1) is omitted as redundant to the general requirements in revised section 12112 on coastwise endorsements.

In subsection (c)(3), the words “documented with a coastwise endorsement” are substituted for “documented under this section” because former section 12106 is being divided into multiple sections.

Subsection (e) is substituted for “(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” for clarity and to eliminate unnecessary words.

PRIOR PROVISIONS

A prior section 12119, 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, originally derived from sections 65s and 881 of former Title 46, Shipping, related to list of documented vessels, prior to the general amendment of this chapter by Pub. L. 109–304. See section 12138 of this title.

APPLICATION TO CERTAIN CERTIFICATES

Pub. L. 108–293, title VI, §608(c), Aug. 9, 2004, 118 Stat. 1057, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending provisions from which this section was derived], and any regulations published after February 4, 2004, with respect to coastwise endorsements, shall not apply to a certificate of documentation, or renewal thereof, endorsed with a coastwise endorsement for a vessel under section 12106(e) [now section 12119(b), (d)–(f)] of title 46, United States Code, or a replacement vessel of a similar size and function, that was issued prior to the date of enactment of this Act [Aug. 9, 2004] as long as the vessel is owned by the person named therein, or by a subsidiary or affiliate of that person, and the controlling interest in such owner has not been transferred to a person that was not an affiliate of such owner as of the date of enactment of this Act. Notwithstanding the preceding sentence, however, the amendments made by this section shall apply, beginning 3 years after the date of enactment of this Act, with respect to offshore supply vessels (as defined in section 2101(19) of title 46, United States Code, as that section was in effect on the date of enactment of this Act) with a certificate of documentation endorsed with a coastwise endorsement as of the date of enactment of this Act, and the Secretary of the Department in which the Coast Guard is operating shall revoke any such certificate if the vessel does not by then meet the requirements of section 12106(e) of title 46, United States Code, as amended by this section.

“(2) REPLACEMENT VESSEL.—For the purposes of this subsection, ‘replacement vessel’ means—

“(A) a temporary replacement vessel for a period of not to exceed 180 days if the vessel described in paragraph (1) is unavailable due to an act of God or a marine casualty; or

“(B) a permanent replacement vessel if—

“(i) the vessel described in paragraph (1) is unavailable for more than 180 days due to an act of God or a marine casualty; or

“(ii) a contract to purchase or construct such replacement vessel is executed not later than December 31, 2004.”

WAIVER OF QUALIFIED PROPRIETARY CARGO REQUIREMENT

Pub. L. 108–293, title VI, §608(d), Aug. 9, 2004, 118 Stat. 1057, provided that: “The Secretary of Transportation shall waive or reduce the qualified proprietary cargo requirement of section 12106(f)(3)(A)(iii) [now section 12119(c)(3)(A)(iii)] of title 46, United States Code, for a vessel if the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) notifies the Secretary that circumstances beyond the direct control of such person or its affiliates prevent, or reasonably threaten to prevent, such person from satisfying such requirement, and the Secretary does not, with good cause, determine otherwise. The waiver or reduction shall apply during the period of time that such circumstances exist.”

§ 12120. Liquefied gas tankers

Notwithstanding any agreement with the United States Government, the Secretary may issue a certificate of documentation with a coastwise endorsement for a vessel to transport liquefied natural gas or liquefied petroleum gas to Puerto Rico from other ports in the United States, if the vessel—

(1) is a foreign built vessel that was built before October 19, 1996; or

(2) was documented under this chapter before that date, even if the vessel is placed under a foreign registry and subsequently re-documented under this chapter for operation under this section.

(Pub. L. 109–304, § 5, Oct. 6, 2006, 120 Stat. 1504.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
12120	46 App.:883 note.	Pub. L. 104–324, title VII, §1120(f), Oct. 19, 1996, 110 Stat. 3978.

The words “Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156)” are omitted as unnecessary. The words “the Commonwealth of” are omitted as unnecessary and for consistency in the revised title.

PRIOR PROVISIONS

A prior section 12120, 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; Pub. L. 108–293, title IV, § 401, Aug. 9, 2004, 118 Stat. 1042; Pub. L. 109–241, title III, §308, July 11, 2006, 120 Stat. 528, originally derived from section 65t of former Title 46, Shipping, related to reports, prior to the general amendment of this chapter by Pub. L. 109–304. See section 12139 of this title.

§ 12121. Small passenger vessels and uninspected passenger vessels

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE VESSEL.—The term “eligible vessel” means a vessel that—

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

(B) if rebuilt, was rebuilt outside the United States at least 3 years before the certificate requested under subsection (b) would take effect.

(2) 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 those terms in section 2101 of this title.

(b) ISSUANCE OF CERTIFICATE AND ENDORSEMENT.—Notwithstanding sections 12112, 12113, 55102, and 55103 of this title, the Secretary may issue a certificate of documentation with an appropriate endorsement for employment in the coastwise trade as a small passenger vessel or an uninspected passenger vessel in the case of an eligible vessel authorized to carry no more than 12 passengers for hire if the Secretary of Transportation, 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 that employs vessels built in the United States in that business.

(c) REVOCATION.—

(1) FOR FRAUD.—The Secretary shall revoke a certificate or endorsement issued under subsection (b) if the Secretary of Transportation, after notice and an opportunity for a hearing, determines that the certificate or endorsement was obtained by fraud.

(2) OTHER PROVISIONS NOT AFFECTED.—Paragraph (1) does not affect—

- (A) the criminal prohibition on fraud and false statements in section 1001 of title 18; or
- (B) any other authority of the Secretary to revoke a certificate or endorsement issued under subsection (b).

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1504.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
12121	46:12106 note.	Pub. L. 105-383, title V, §§502-504, Nov. 13, 1998, 112 Stat. 3445; Pub. L. 107-295, title II, §207(c)(2), Nov. 25, 2002, 116 Stat. 2097.

The definition of “Secretary” is omitted for consistency in the chapter.

PRIOR PROVISIONS

A prior section 12121, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 589, originally derived from section 65v(2) of former Title 46, Shipping, related to the authority of the Secretary to prescribe regulations to carry out this chapter, prior to being repealed by Pub. L. 100-710, title I, §§106(b)(5), 107(a), Nov. 23, 1988, 102 Stat. 4752, effective Jan. 1, 1989.

A prior section 12122, 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; Pub. L. 108-293, title IV, §404(b), Aug. 9, 2004, 118 Stat. 1043, originally derived from sections 65n and 65u(a) of former Title 46, Shipping, related to penalties, prior to the general amendment of this chapter by Pub. L. 109-304. See section 12151 of this title.

A prior section 12123, added Pub. L. 102-587, title V, §5213(a)(3), Nov. 4, 1992, 106 Stat. 5077, related to denial and revocation of endorsements, prior to the general amendment of this chapter by Pub. L. 109-304. See section 12152 of this title.

Another 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.

A prior section 12124, added Pub. L. 105-383, title IV, §401(a)(2), Nov. 13, 1998, 112 Stat. 3424, related to surrender of title and number, prior to the general amendment of this chapter by Pub. L. 109-304. See section 12106 of this title.

EFFECT OF REPEAL

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 [now 46 U.S.C. 12121(b)].”

SUBCHAPTER III—MISCELLANEOUS

§ 12131. Command of documented vessels

(a) IN GENERAL.—Except as provided in subsection (b), a documented vessel may be placed under the command only of a citizen of the United States.

(b) EXCEPTIONS.—Subsection (a) does not apply to—

- (1) a vessel with only a recreational endorsement; or
- (2) an unmanned barge operating outside of the territorial waters of the United States.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1505; Pub. L. 110-181, div. C, title XXXV, §3529(a)(3), Jan. 28, 2008, 122 Stat. 603.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
12131	46:12110(d).	

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181 substituted “command” for “commmand”.

§ 12132. Loss of coastwise trade privileges

(a) SOLD FOREIGN OR PLACED UNDER FOREIGN REGISTRY.—A vessel of more than 200 gross tons (as measured under chapter 143 of this title), eligible to engage in the coastwise trade, and later sold foreign in whole or in part or placed under foreign registry may not thereafter engage in the coastwise trade.

(b) REBUILT OUTSIDE THE UNITED STATES.—A vessel eligible to engage in the coastwise trade and later rebuilt outside the United States may not thereafter engage in the coastwise trade.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1505.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
12132(a)	46 App.:883 (1st proviso).	June 5, 1920, ch. 250, §27 (1st proviso, 2d proviso less meaning of "rebuilt"), 41 Stat. 999; July 2, 1935, ch. 355, 49 Stat. 442; July 14, 1956, ch. 600, §1, 70 Stat. 544; Pub. L. 86-583, §1, July 5, 1960, 74 Stat. 321; Pub. L. 100-239, §6(c)(1), Jan. 11, 1988, 101 Stat. 1782; Pub. L. 104-324, title XI, §1120(e), Oct. 19, 1996, 110 Stat. 3978.
12132(b)	46 App.:883 (2d proviso less meaning of "rebuilt").	

In subsection (a), the words "eligible to engage in the coastwise trade" are substituted for "having at any time acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in, or documented under the laws of the United States", and the words "thereafter engage" are substituted for "hereafter acquire the right to engage", to eliminate unnecessary words.

In subsection (b), the words "eligible to engage in the coastwise trade" are substituted for "which has acquired the lawful right to engage in the coastwise trade, by virtue of having been built in or documented under the laws of the United States", and the words "thereafter engage" are substituted for "have the right thereafter to engage", to eliminate unnecessary words. See section 12101 for the meaning of "rebuilt in the United States".

§ 12133. Duty to carry certificate on vessel and allow examination

(a) DUTY TO CARRY.—The certificate of documentation of a vessel shall be carried on the vessel unless the vessel is exempt by regulation from carrying the certificate.

(b) AVAILABILITY.—The owner or individual in charge of a vessel required to carry its certificate of documentation shall make the certificate available for examination at the request of an officer enforcing the revenue laws or as otherwise required by law or regulation.

(c) CRIMINAL PENALTY.—A person willfully violating subsection (b) shall be fined under title 18, imprisoned for not more than one year, or both.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1505.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
12133	46:12103(e). 46 App.:277.	R.S. §4336; Aug. 5, 1935, ch. 438, title III, §312, 49 Stat. 528; Pub. L. 85-237, §2, Aug. 30, 1957, 71 Stat. 518; Pub. L. 103-182, title VI, §686(a)(5), Dec. 8, 1993, 107 Stat. 2220.

This section consolidates and clarifies the requirements contained in the source provisions. The specific civil penalties are omitted as unnecessary because of the general civil penalty in section 12151(a) of the revised title. See also 19 U.S.C. 1581.

§ 12134. Evidentiary uses 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) conclusive evidence of qualification to engage in a specified trade; and

(3) not conclusive evidence of ownership in a proceeding in which ownership is in issue.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1506.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
12134	46:12104.	

§ 12135. Invalidation of certificates of documentation

A certificate of documentation or an endorsement on the certificate 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 the certificate or endorsement; or

(2) is placed under the command of an individual not a citizen of the United States in violation of section 12131 of this title.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1506.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
12135	46:12111(a).	

In paragraph (2), the words "except for a recreational endorsement" are omitted as unnecessary because a recreational endorsement does not permit a vessel to engage in a trade.

§ 12136. Surrender of certificates of documentation

(a) SURRENDER.—An invalid certificate of documentation, or a certificate with an invalid endorsement, shall be surrendered as provided by regulations prescribed by the Secretary.

(b) CONDITIONS FOR SURRENDER.—

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

(2) VESSELS COVERED BY MORTGAGE.—The Secretary may approve the surrender of the certificate of documentation of a vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.

(3) NOTICE OF LIEN.—The Secretary may 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.

(c) CONTINUED APPLICATION OF CERTAIN LAWS.—

(1) IN GENERAL.—Notwithstanding subsection (a), 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 56101 and 56102(a)(2) and chapter 563 of this title; and

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

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

(Pub. L. 109–304, § 5, Oct. 6, 2006, 120 Stat. 1506.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12136(a)	46:12111(b).	
12136(b)(1) ..	46:12111(d)(2).	
12136(b)(2) ..	46:12111(c)(3).	
12136(b)(3) ..	46:12111(d)(1).	
12136(c)(1) ..	46:12111(c)(1).	
12136(c)(2) ..	46:12111(c)(2).	

In subsection (a), the words “or a certificate with an invalid endorsement” are added for clarity.

DOCUMENTATION SURRENDER AND INVALIDATION

Pub. L. 101–225, title III, §301(b), Dec. 12, 1989, 103 Stat. 1922, provided that: “Section 12111(c)(3) [now section 12136(b)(2)] 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.”

§ 12137. Recording of vessels built in the United States

The Secretary may provide for recording and certifying information about vessels built in the United States that the Secretary considers to be in the public interest.

(Pub. L. 109–304, § 5, Oct. 6, 2006, 120 Stat. 1507.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12137	46:12117.	

§ 12138. List of documented vessels

(a) IN GENERAL.—The Secretary 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.

(b) VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR.—

(1) IN GENERAL.—The Secretary of Transportation shall develop, maintain, and periodically update an inventory of vessels that are documented under this chapter, are at least 200 feet in length, and have the capability to lay, maintain, or repair a submarine cable, without regard to whether a particular vessel is classed as a cable ship or cable vessel.

(2) INFORMATION TO BE INCLUDED.—For each vessel listed in the inventory, the Secretary of Transportation shall include in the inventory—

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

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

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

(3) PUBLICATION.—The Secretary of Transportation shall publish in the Federal Register an updated inventory every 6 months.

(Pub. L. 109–304, § 5, Oct. 6, 2006, 120 Stat. 1507.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12138(a)	46:12119.	
12138(b)	46:12119 note.	Pub. L. 107–295, title IV, §403, Nov. 25, 2002, 116 Stat. 2114.

In subsection (b), the word “Secretary” is substituted for “Secretary of Transportation” for consistency in the chapter.

§ 12139. Reports

(a) IN GENERAL.—To ensure compliance with this chapter and laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners, masters, charterers, and mortgagees of documented vessels to submit reports in any reasonable form and manner the Secretary may prescribe.

(b) VESSELS REBUILT OUTSIDE UNITED STATES.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary, if a vessel exceeding the tonnage specified in paragraph (2) and documented or last documented under the laws of the United States is rebuilt outside the United States, the owner or master shall submit a report of the rebuilding to the Secretary.

(2) TONNAGE.—The tonnage referred to in paragraph (1) is—

(A) 500 gross tons as measured under section 14502 of this title; or

(B) an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.

(3) TIMING OF SUBMISSION.—If the rebuilding is completed in the United States, the report shall be submitted when the rebuilding is completed. If the rebuilding is completed outside the United States, the report shall be submitted when the vessel first arrives at a port in the customs territory of the United States.

(Pub. L. 109–304, § 5, Oct. 6, 2006, 120 Stat. 1507; Pub. L. 109–241, title III, §308, July 11, 2006, 120 Stat. 528; Pub. L. 110–181, div. C, title XXXV, §3525(a)(2), (b), Jan. 28, 2008, 122 Stat. 600, 601.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12139(a)	46:12120.	
12139(b)	46 App.:883a (1st sentence).	July 14, 1956, ch. 600, §2 (1st sentence), 70 Stat. 544; Pub. L. 86–583, §2, July 5, 1960, 74 Stat. 321; Pub. L. 104–324, title VII, §707, Oct. 19, 1996, 110 Stat. 3934.

In subsection (b)(1), the word “Secretary” is substituted for “Secretary of the Treasury”, thereby in-

corporating the definition of “Secretary” in section 2101 of title 46. The functions of the Secretary of the Treasury relating to the Coast Guard previously were transferred to the Secretary of Transportation by section 6(b) of the Department of Transportation Act (Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 938). The Coast Guard and the functions of the Secretary of Transportation relating to the Coast Guard were again transferred to the Department of Homeland Security by section 888(b) of the Homeland Security Act of 2002 (Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2135). The words “rebuilt outside the United States” are substituted for “and any part of the rebuilding, including the construction of major components of the hull and superstructure of the vessel, is not effected within the United States, its Territories (not including trust territories) or its possessions” because of the definition of “rebuilt” in section 12101, and the definition of “United States” in chapter 1, of the revised title.

AMENDMENTS

2008—Pub. L. 110-181, §3525(b), repealed Pub. L. 109-241, §308. See 2006 Amendment note below.

Subsec. (a). Pub. L. 110-181, §3525(a)(2), incorporated the substance of the amendment by Pub. L. 109-241, §308, into this section by substituting “charterers, and mortgagees” for “and charterers”. See 2006 Amendment note below and section 18(a) of Pub. L. 109-304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

2006—Pub. L. 109-241, §308, which directed the amendment of former section 12120 of this title from which subsec. (a) of this section was derived, was repealed by Pub. L. 110-181, §3525(b). See 2008 Amendment note for subsec. (a) and Historical and Revision notes above.

SUBCHAPTER IV—PENALTIES

§ 12151. Penalties

(a) IN GENERAL.—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 a continuing violation is a separate violation.

(b) SEIZURE AND FORFEITURE OF VESSELS.—A vessel and its equipment are liable to seizure by and forfeiture to the Government if—

(1) the owner of the 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 of the vessel or in applying for documentation of the vessel;

(2) a certificate of documentation is knowingly and fraudulently used for the vessel;

(3) the vessel is operated after its endorsement has been denied or revoked under section 12152 of this title;

(4) the vessel is employed in a trade without an appropriate endorsement;

(5) the vessel has only a recreational endorsement and is operated other than for pleasure;

(6) the vessel is a documented vessel and is placed under the command of a person not a citizen of the United States, except as authorized by section 12131(b) of this title; or

(7) the vessel is rebuilt outside the United States and a report of the rebuilding is not submitted as required by section 12139(b) of this title.

(c) ENGAGING IN FISHING AFTER FALSIFYING ELIGIBILITY.—In addition to other penalties

under this section, the owner of a documented vessel for which a fishery endorsement has been issued is liable to the Government for a civil penalty of not more than \$100,000 for each day the vessel engages in fishing (as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) within the exclusive economic zone, 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, about the eligibility of the vessel under section 12113(c) or (d) of this title in applying for or applying to renew the fishery endorsement.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1508.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12151(a)	46:12122(a).	R.S. §4136 (last proviso); Feb. 24, 1915, ch. 57, §38 Stat. 812; Pub. L. 103-182, title VI, §686(a)(4), Dec. 8, 1993, 107 Stat. 2220. July 14, 1956, ch. 600, §2 (2d, last sentences), 70 Stat. 544; Pub. L. 86-583, §2, July 5, 1960, 74 Stat. 321.
12151(b)	46:12122(b). 46 App.:14 (last proviso). 46 App.:883a (2d, last sentences).	
12151(c)	46:12122(c).	

In subsection (b), in restating 46 App. U.S.C. 883a (2d, last sentences), the penalty of \$200 for the owner and master of the vessel is omitted because subsection (a) provides a general civil penalty for violation of this chapter. The authority to remit or mitigate a penalty under section 2107(b) is omitted because section 2107(b) applies to subtitle II and this section is in subtitle II.

§ 12152. Denial or revocation of endorsement for non-payment of civil penalty

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

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1508.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12152	46:12123.	

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.

§ 12301. Numbering vessels

(a) An undocumented vessel equipped with propulsion machinery of any kind shall have a number issued by the proper issuing authority