

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-241, title IX, §901(g), July 11, 2006, 120 Stat. 564, provided that the amendment made by section 901(g) is effective Aug. 9, 2004.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

INITIAL APPOINTMENTS TO COMMERCIAL FISHING INDUSTRY ADVISORY COMMITTEE

Pub. L. 100-424, §2(b), Sept. 9, 1988, 102 Stat. 1589, provided that:

“(1) TERMS OF INITIAL APPOINTMENTS.—Of the members first appointed to the Commercial Fishing Industry Advisory Committee under section 4508 of title 46, United States Code (as amended by this Act)—

“(A) one-third of the members shall serve a term of one year and one-third of the members shall serve a term of two years, to be determined by lot at the first meeting of the Committee; and

“(B) terms may be adjusted to coincide with the Government’s fiscal year.

“(2) COMPLETION OF INITIAL APPOINTMENTS.—The Secretary shall complete appointment of members pursuant to this subsection not later than 90 days after the date of the enactment of this Act [Sept. 9, 1988].”

CHAPTER 47—ABANDONMENT OF BARGES

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

§ 4701. Definitions

In this chapter—

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

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

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

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

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

AMENDMENTS

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

APPLICATION TO CERTAIN BARGES

Pub. L. 102-587, title V, §5303, Nov. 4, 1992, 106 Stat. 5083, provided that: “Chapter 47 of title 46, United

States Code, as added by subsection (a) [section 5302], does not apply to a barge abandoned before June 11, 1992, if the barge was removed before the date that is 1 year after the date of enactment of this title [Nov. 4, 1992].”

TERRITORIAL SEA OF UNITED STATES

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

§ 4702. Abandonment of barge prohibited

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

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

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

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

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

AMENDMENTS

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

§ 4703. Penalty for unlawful abandonment of barge

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

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

§ 4704. Removal of abandoned barges

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

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

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

(ii) of the penalty under section 4703.

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

(i) a notice to mariners; and

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

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

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

(b) The owner or operator of an abandoned barge is liable, and an abandoned barge is liable

in rem, for all expenses that the United States incurs in removing an abandoned barge under this chapter.

(c)(1) The Secretary may, after providing notice under subsection (a)(1), solicit by public advertisement sealed bids for the removal of an abandoned barge.

(2) After solicitation under paragraph (1) the Secretary may award a contract. The contract—

(A) may be subject to the condition that the barge and all property on the barge is the property of the barge removal contractor; and

(B) must require the barge removal contractor to submit to the Secretary a plan for the removal.

(3) Removal of an abandoned barge may begin thirty days after the Secretary completes the procedures under subsection (a)(1).

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

§ 4705. Liability of barge removal contractors

(a) A barge removal contractor and its subcontractor are not liable for damages that result from actions taken or omitted to be taken in the course of removing a barge under this chapter.

(b) Subsection (a) does not apply—

(1) with respect to personal injury or wrongful death; or

(2) if the contractor or subcontractor is grossly negligent or engages in willful misconduct.

(Added Pub. L. 102-587, title V, §5302, Nov. 4, 1992, 106 Stat. 5083; amended Pub. L. 109-304, §15(19), Oct. 6, 2006, 120 Stat. 1703.)

AMENDMENTS

2006—Pub. L. 109-304 in subsec. (a) struck out par. (1) designation before “A barge removal” and substituted “subcontractor are not” for “subcontractor not”, redesignated par. (2) as subsec. (b) and subpars. (A) and (B) of former par. (2) as pars. (1) and (2) of subsec. (b), respectively, and substituted “Subsection (a)” for “Paragraph (1)”.

PART C—LOAD LINES OF VESSELS

HISTORICAL AND REVISION NOTES

Part C contains provisions that apply to load lines. A load line is a mark drawn on a vessel that indicates whether a vessel is overloaded. Load line requirements for international voyages are based not only on domestic law but also the 1966 International Load Line Convention.

CHAPTER 51—LOAD LINES

Sec.	
5101.	Definitions.
5102.	Application.
5103.	Load line requirements.
5104.	Assignment of load lines.
5105.	Load line surveys.
5106.	Load line certificate.
5107.	Delegation of authority.
5108.	Special exemptions.
5109.	Reciprocity for foreign vessels.
5110.	Submersible vessels.
5111.	Providing loading information.
5112.	Loading restrictions.
5113.	Detention of vessels.
5114.	Use of Customs Service officers and employees for enforcement.

Sec.	
[5115.	Repealed.]
5116.	Penalties.

HISTORICAL AND REVISION NOTES

Chapter 51 provides for the assignment of load lines and issuance of load line certificates to vessels, and requires that certain classes of vessels be marked with load lines.

AMENDMENTS

1990—Pub. L. 101-595, title VI, §603(5)(B), Nov. 16, 1990, 104 Stat. 2993, struck out item 5115 “Regulations”.

§ 5101. Definitions

In this chapter—

(1) “domestic voyage” means movement of a vessel between places in, or subject to the jurisdiction of, the United States, except movement between—

(A) a place in a territory or possession of the United States or the Trust Territory of the Pacific Islands; and

(B) a place outside that territory, possession, or Trust Territory.

(2) “economic benefit of the overloading” means the amount obtained by multiplying the weight of the overload (in tons) by the lesser of—

(A) the average freight rate value of a ton of the vessel’s cargo for the voyage; or

(B) \$50.

(3) “existing vessel” means—

(A) a vessel on a domestic voyage, the keel of which was laid, or that was at a similar stage of construction, before January 1, 1986; and

(B) a vessel on a foreign voyage, the keel of which was laid, or that was at a similar stage of construction, before July 21, 1968.

(4) “freeboard” means the distance from the mark of the load line assigned under this chapter to the freeboard deck.

(5) “freeboard deck” means the deck or other structure the Secretary prescribes by regulation.

(6) “minimum safe freeboard” means the freeboard that the Secretary decides cannot be reduced safely without limiting the operation of the vessel.

(7) “weight of the overload” means the amount obtained by multiplying the number of inches that the vessel is submerged below the applicable assigned freeboard by the tons-an-inch immersion factor for the vessel at the assigned minimum safe freeboard.

(Pub. L. 99-509, title V, §5101(2), Oct. 21, 1986, 100 Stat. 1913.)

HISTORICAL AND REVISION NOTES

Revised section 5101

Source: Section (U.S. Code) 46 App. U.S.C. 86a.

Section 5101 contains definitions that are limited to Chapter 51—Load Lines. Existing Section 46 App. U.S.C. 86a (which defines only the terms “new ship” and “existing ship”) will be replaced by section 5101. Definitions of technical terms (“freeboard”, “freeboard deck”, and “minimum safe freeboard”) have been added for clarity. The definition of the term “new ship” has been deleted because the term is not used in Chapter 51. The definition of “domestic voyage” includes the