

§ 1.26-25

22, U.S. Code, section 2351. The Executive Order No. 10973 dated November 3, 1961 (26 FR 10469), describes the administration of foreign assistance and related functions.

(b) *Diplomatic transactions.* Sales of Coast Guard material under reimbursable aid will be by direction of the Commandant (FS) and as approved by the Office of the Chief of Naval Operations. Reimbursable aid transactions are diplomatic transactions and are negotiated primarily between the respective foreign military attaché or other representatives of their embassy in Washington, DC, and the Office of the Chief of Naval Operations. Prices will be based on material cost only and estimates will not include packing, crating, and handling or transportation costs. Under reimbursable aid, transportation costs are borne by the purchasing country and shipments are usually accomplished on collect commercial bills of lading.

§ 1.26-25 Payment of charges.

(a) The payment of charges shall be by postal money order or check payable to "U.S. Coast Guard," and given or sent to the office of the Coast Guard performing the service or furnishing the supplies, equipment, etc.

PART 2—JURISDICTION

Subpart 2.01—Purpose

Sec.

2.01-1 Purpose.

Subpart 2.05—Definitions of Jurisdictional Terms

- 2.05-1 High seas.
- 2.05-5 Territorial seas.
- 2.05-10 Territorial sea baseline.
- 2.05-15 Contiguous zone.
- 2.05-20 Internal waters and inland waters.
- 2.05-25 Navigable waters of the United States; Navigable Waters; Territorial Waters.
- 2.05-27 Waters subject to tidal influence; waters subject to the ebb and flow of the tide; mean high water.
- 2.05-30 Waters subject to the jurisdiction of the United States; waters over which the United States has jurisdiction.
- 2.05-35 Exclusive Economic Zone.

33 CFR Ch. I (7-1-03 Edition)

Subpart 2.10—Availability of Jurisdictional Decisions

- 2.10-1 Maintenance of decisions.
- 2.10-5 Availability of lists and charts.
- 2.10-10 Decisions subject to change or modification.

AUTHORITY: 14 U.S.C. 633, 80 Stat. 931 (49 U.S.C. 1655(b)); 49 CFR 1.4(b), 1.46(b).

SOURCE: CGD 75-098, 40 FR 49326, Oct. 22, 1975, unless otherwise noted.

Subpart 2.01—Purpose

§ 2.01-1 Purpose.

The purpose of this part is to inform the public of the definitions which the Coast Guard uses to examine waters to determine whether the Coast Guard has jurisdiction on those waters under particular U.S. laws.

Subpart 2.05—Definitions of Jurisdictional Terms

§ 2.05-1 High seas.

(a) Except as provided in paragraphs (b) and (c) of this section, *high seas* means all waters which are neither territorial seas nor internal waters of the United States or of any foreign country.¹

¹It should be noted that under 14 U.S.C. 89 the Coast Guard is authorized to enforce the laws of the United States upon the "high seas" and waters over which the United States has jurisdiction. Certain of the criminal laws of the United States are based on its special maritime and territorial jurisdiction, one of whose components is the "high seas", as defined in paragraph (b). However, this definition of "high seas" does not apply to the use of "high seas" found in 14 U.S.C. 89, to which the definition in paragraph (a) applies. A clear distinction should be maintained between the Coast Guard's authority under 14 U.S.C. 89 and the jurisdictional base of the criminal laws which apply to the special maritime and territorial jurisdiction. For example, while assault (18 U.S.C. 113) committed seaward of the territorial sea could be committed on the "high seas" for both purposes, an assault committed within the territorial sea could be committed on the "high seas" to bring it within the special maritime and territorial jurisdiction and at the same time be committed on waters over which the United States has jurisdiction (not the "high seas") for purposes of the Coast Guard's authority to undertake enforcement action.

(b) *High seas*, as used in 18 U.S.C. 7(1), means the Great Lakes and waters seaward of the low water line along the coast, except waters within harbors or narrow coastal indentations enclosed by promontories.¹

(c) *High seas*, as used in section 2 of the Act of February 19, 1895, as amended, 33 U.S.C. 151, and all laws referring thereto, means the waters seaward of the lines described in 46 CFR 7.

[CGD 75-098, 40 FR 49326, Oct. 22, 1975, as amended by CGD 96-026, 61 FR 33662, June 28, 1996; CGD 97-023, 62 FR 33361, June 19, 1997]

§ 2.05–5 Territorial seas.

(a) With respect to the United States, *territorial seas* means the waters within the belt, 3 nautical miles wide, that is adjacent to its coast and seaward of the territorial sea baseline.

(b) With respect to any foreign country, *territorial seas* means the waters within the belt that is adjacent to its coast and whose breadth and baseline are recognized by the United States.

§ 2.05–10 Territorial sea baseline.

Territorial Sea Baseline means the delimitation of the shoreward extent of the territorial seas of the United States drawn in accordance with principles, as recognized by the United States, of the Convention on the Territorial Sea and the Contiguous Zone, 15 U.S.T. 1606. Charts depicting the territorial sea baseline are available for examination in accordance with § 1.10-5(b) of this chapter.

§ 2.05–15 Contiguous zone.

Contiguous zone means the belt of high seas, 9 nautical miles wide, that is adjacent to and seaward of the territorial seas of the United States and that was declared to exist in Department of State Public Notice 358 of June 1, 1972, 37 FR 11906.

§ 2.05–20 Internal waters and inland waters.

(a) *Internal waters* and, except as provided in paragraph (b) of this section, *inland waters* mean:

(1) With respect to the United States, the waters shoreward of the territorial sea baseline.

(2) With respect to any foreign country, the waters shoreward of the base-

line of its territorial sea, as recognized by the United States.

(b) *Inland waters*, as used in 33 U.S.C. Chapter 3, means the waters shoreward of the lines described in part 80 of this chapter, except the Great Lakes and their connecting and tributary waters as far east as Montreal, the waters of the Mississippi River between its source and the Huey P. Long Bridge and all of its tributaries emptying thereinto and their tributaries, that part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the Red River of the North.

[CGD 75-098, 40 FR 49326, Oct. 22, 1975, as amended by CGD 96-026, 61 FR 33662, June 28, 1996]

§ 2.05–25 Navigable waters of the United States; Navigable Waters; Territorial Waters.²

(a) Except as provided in paragraph (b) of this section, *navigable waters of the United States*, *navigable waters*, and *territorial waters* mean, except where Congress has designated them not to be navigable waters of the United States:

(1) Territorial seas of the United States;

(2) Internal waters of the United States that are subject to tidal influence; and

(3) Internal waters of the United States not subject to tidal influence that:

(i) Are or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, notwithstanding natural or man-made obstructions that require portage, or

(ii) A governmental or non-governmental body, having expertise in waterway improvement, determines to be capable of improvement at a reasonable cost (a favorable balance between

²In various laws administered and enforced by the Coast Guard, the terms "State" and "United States" are defined to include some or all of the territories and possessions of the United States. The definitions in §§ 2.05-25 and 2.05-30 should be considered as supplementary to these statutory definitions and not as interpretive of them.

§ 2.05-27

cost and need) to provide, by themselves or in connection with other waters, highways for substantial interstate or foreign commerce.

(b) *Navigable waters of the United States* and *navigable waters*, as used in sections 311 and 312 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1321 and 1322, mean:

(1) Navigable waters of the United States as defined in paragraph (a) of this section and all waters within the United States tributary thereto; and

(2) Other waters over which the Federal Government may exercise Constitutional authority.

§ 2.05-27 Waters subject to tidal influence; waters subject to the ebb and flow of the tide; mean high water.

Waters subject to tidal influence and waters subject to the ebb and flow of the tide are interpreted as waters below mean high water. "Mean high water" is the average of the height of the diurnal high water at a particular location measured over a lunar cycle period of 19 years. These terms do not include waters above mean high water caused by flood flows, storms, high winds, seismic waves, or other non-lunar phenomena.

(Secs. 107, 108, Pub. L. 97-322, 96 Stat. 1582 (33 U.S.C. 495, 499, 502, 525, 533); 49 CFR 1.46(c))

[CGD 82-102, 47 FR 54299, Dec. 2, 1982]

§ 2.05-30 Waters subject to the jurisdiction of the United States; waters over which the United States has jurisdiction.²

Waters subject to the jurisdiction of the United States and waters over which the United States has jurisdiction mean:

(a) Navigable waters of the United States;

(b) Other waters that are located on lands, owned by the United States, with respect to which jurisdiction has been accepted in accordance with 33 U.S.C. 733 by the authorized federal officer having custody, control, or other authority over them;

(c) Other waters that are located on lands, owned by the United States, with respect to which the United States retains concurrent or exclusive

jurisdiction from the date that the State in which the lands are located entered the union; and

(d) Waters within the territories and possessions of the United States and the Trust Territories of the Pacific Islands.²

§ 2.05-35 Exclusive Economic Zone.

The Exclusive Economic Zone (EEZ) of the United States is a zone contiguous to the territorial sea, including zones contiguous to the territorial sea of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands (to the extent consistent with the Covenant and the United Nations Trusteeship Agreement), and the United States overseas territories and possessions. The EEZ extends to a distance 200 nautical miles from the baseline from which the breadth of the territorial sea is measured. In cases where the maritime boundary with a neighboring State remains to be determined, the boundary of the EEZ will be determined by the United States and the other State concerned in accordance with equitable principles.

[CGD 97-023, 62 FR 33361, June 19, 1997]

Subpart 2.10—Availability of Jurisdictional Decisions

§ 2.10-1 Maintenance of decisions.

Each Coast Guard district maintains:

(a) A list of waters within the district which the Coast Guard has decided to be navigable waters of the United States for the purposes of its jurisdiction, and

(b) Charts reflecting Coast Guard decisions as to the location of the territorial sea baseline for the purposes of Coast Guard jurisdiction, if the district includes portions of the territorial seas.

§ 2.10-5 Availability of lists and charts.

The lists and charts referred to in § 2.10-1 of this chapter are available to the public and may be inspected or obtained in accordance with § 1.10-5(b) of this chapter.

² See footnote 2 to § 2.05-25.