

cluding ordering the individual in charge to return the vessel to a mooring and to remain there until the situation creating the hazard is corrected or ended; and

(2) may order the individual in charge of an uninspected fish processing vessel that does not have on board the certificate required under section 4503(1) of this title to return the vessel to a mooring and to remain there until the vessel is in compliance with that section.

(Added Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1587.)

§ 4506. Exemptions

(a)¹ The Secretary may exempt a vessel from any part of this chapter if, under regulations prescribed by the Secretary (including regulations on special operating conditions), the Secretary finds that—

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

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

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

AMENDMENTS

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

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

“(2) is operating—

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

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

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

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

TERRITORIAL SEA OF UNITED STATES

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

§ 4507. Penalties

(a) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel to which this chapter applies which is operated in violation of this chapter or a regulation prescribed under this chapter may each be assessed a civil penalty by the Secretary of not more than \$5,000. Any vessel with respect to which a penalty is assessed under this subsection is liable in rem for the penalty.

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

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

¹ So in original. There is no subsec. (b).

§ 4508. Commercial Fishing Safety Advisory Committee

(a) The Secretary shall establish a Commercial Fishing Safety Advisory Committee. The Committee—

(1) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to the safe operation of vessels to which this chapter applies, including navigation safety, safety equipment and procedures, marine insurance, vessel design, construction, maintenance and operation, and personnel qualifications and training;

(2) may review proposed regulations under this chapter;

(3) may make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary; and

(4) shall meet at the call of the Secretary, who shall call such a meeting at least once during each calendar year.

(b)(1) The Committee shall consist of eighteen members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:

(A) ten members who shall represent the commercial fishing industry and who—

(i) reflect a regional and representational balance; and

(ii) have experience in the operation of vessels to which this chapter applies or as a crew member or processing line worker on a fish processing vessel;

(B) three members who shall represent the general public, including, whenever possible—

(i) an independent expert or consultant in maritime safety;

(ii) a marine surveyor who provides services to vessels to which this chapter applies; and

(iii) a person familiar with issues affecting fishing communities and families of fishermen;

(C) one member each of whom shall represent—

(i) naval architects and marine engineers;

(ii) manufacturers of equipment for vessels to which this chapter applies;

(iii) education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety or personnel qualifications;

(iv) underwriters that insure vessels to which this chapter applies; and

(v) owners of vessels to which this chapter applies.

(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee, and, after timely notice is published, appoint the members of the Committee. An individual may be appointed to a term as a member of the Committee more than once. The Secretary may not seek or use information concerning the political affiliation of individuals in making appointments to the Committee.

(3)(A) A member of the Committee shall serve a term of three years.

(B) If a vacancy occurs in the membership of the Committee, the Secretary shall appoint a member to fill the remainder of the vacated term.

(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(5) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to vessels to which this chapter applies which are under the jurisdiction of their respective agencies. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 App. U.S.C.).

(c)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to the safe operation of vessels to which this chapter applies.

(2) The Secretary shall consider the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding the safe operation of vessels to which this chapter applies.

(d)(1) A member of the Committee who is not an officer or employee of the United States or a member of the Armed Forces, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5 including travel time; and

(B) travel or transportation expenses under section 5703 of title 5.

(2) Payments under this section do not render a member of the Committee an officer or employee of the United States or a member of the Armed Forces for any purpose.

(3) A member of the Committee who is an officer or employee of the United States or a member of the Armed Forces may not receive additional pay based on the member's service to the Committee.

(4) The provisions of this section relating to an officer or employee of the United States or a member of the Armed Forces do not apply to a member of a reserve component of the Armed Forces unless that member is in an active status.

(e)(1) The Federal Advisory Committee Act (5 App. U.S.C.) applies to the Committee, except that the Committee terminates on September 30, 2020.

(2) Two years prior to the termination date referred to in paragraph (1) of this subsection, the Committee shall submit to Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.

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

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsecs. (b)(5) and (e)(1), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2010—Pub. L. 111-281, §604(c)(1)(A), substituted "Commercial Fishing Safety Advisory Committee" for "Commercial Fishing Industry Vessel Safety Advisory Committee" in section catchline.

Subsec. (a). Pub. L. 111-281, §604(c)(1)(B), struck out "Industry Vessel" after "Commercial Fishing" in introductory provisions.

Subsec. (b)(1). Pub. L. 111-281, §604(c)(2)(A), substituted "eighteen" for "seventeen" in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 111-281, §604(c)(2)(B)(i), substituted "who shall represent the commercial fishing industry and who—" for "from the commercial fishing industry who—" in introductory provisions.

Subsec. (b)(1)(A)(ii). Pub. L. 111-281, §604(c)(2)(B)(ii), substituted "a fish processing" for "an uninspected fish processing".

Subsec. (b)(1)(B). Pub. L. 111-281, §604(c)(2)(C), added subpar. (B) and struck out former subpar. (B) which read as follows: "three members from the general public, including, whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing owners of vessels to which this chapter applies and persons representing the marine insurance industry;"

Subsec. (b)(1)(C). Pub. L. 111-281, §604(c)(2)(D)(i), substituted "each of whom shall represent—" for "representing each of—" in introductory provisions.

Subsec. (b)(1)(C)(i). Pub. L. 111-281, §604(c)(2)(D)(ii), substituted "and marine engineers;" for "or marine surveyors;"

Subsec. (b)(1)(C)(v). Pub. L. 111-281, §604(c)(2)(D)(iii)-(v), added cl. (v).

Subsec. (e)(1). Pub. L. 111-281, §604(c)(3), substituted "September 30, 2020" for "September 30, 2010".

2006—Subsec. (e)(1). Pub. L. 109-241 amended directory language of Pub. L. 108-293, §418(a). See 2004 Amendment note below.

2004—Subsec. (e)(1). Pub. L. 108-293, §418(a), as amended by Pub. L. 109-241, substituted "on September 30, 2010" for "on September 30, 2005".

2002—Pub. L. 107-295, §331(a)(1), inserted "Safety" after "Vessel" in section catchline.

Subsec. (a). Pub. L. 107-295, §331(a)(2), inserted "Safety" after "Vessel" in introductory provisions.

Subsec. (e)(1). Pub. L. 107-295, §331(a)(4), substituted "on September 30, 2005" for "on September 30, 2000".

Pub. L. 107-295, §331(a)(3), which directed the substitution of "(5 App. U.S.C.)" for "(5 App. U.S.C. 1 et seq.)", was executed by making substitution for "(5 U.S.C. App. 1 et seq.)", to reflect the probable intent of Congress.

1996—Subsec. (e)(1). Pub. L. 104-324 substituted "2000" for "1994".

1991—Subsec. (e)(1). Pub. L. 102-241 substituted "1994" for "1992".

1989—Subsec. (b)(2). Pub. L. 101-225 inserted provision that Secretary not seek or use information concerning political affiliation in making appointments.

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