

transportation of merchandise that is transferred, when moving in the foreign trade of the United States, from a barge certified by the owner or operator as designed specifically for carriage on a vessel and carried regularly on a vessel in foreign trade, to another such barge owned or leased by the same owner or operator. However, this subsection does not apply to transportation between the continental United States and noncontiguous States, territories, or possessions to which the coastwise laws apply.

(b) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section applies to a vessel of foreign registry only if the Secretary of Homeland Security finds, based on information from the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1635.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
55106	46 App.:883 (7th proviso).	June 5, 1920, ch. 250, §27 (7th proviso), 41 Stat. 999; July 2, 1935, ch. 355, 49 Stat. 442; Pub. L. 92-163, §1, Nov. 23, 1971, 85 Stat. 486.

In subsection (a), the words “non-self-propelled” are omitted as unnecessary because of the definition of “barge” in chapter 1 of the revised title. The words “between points in the United States” and “without regard to whether any such barge is under foreign registry or qualified to engage in the coastwise trade” are omitted as surplus.

§ 55107. Empty cargo containers and barges

(a) IN GENERAL.—Subject to subsections (b) and (c), and on terms and conditions the Secretary of Homeland Security may prescribe by regulation, section 55102 of this title does not apply to the transportation of—

- (1) empty cargo vans, empty lift vans, or empty shipping tanks;
- (2) equipment for use with cargo vans, lift vans, or shipping tanks;
- (3) empty barges specifically designed for carriage aboard a vessel and equipment (except propulsion equipment) for use with those barges;
- (4) empty instruments for international traffic exempted from the customs laws under section 322(a) of the Tariff Act of 1930 (19 U.S.C. 1322(a)); or
- (5) stevedoring equipment and material.

(b) CONDITIONS.—

(1) PARAGRAPHS (1)–(4).—Paragraphs (1)–(4) of subsection (a) apply only if the items named are owned or leased by the owner or operator of the vessel and transported for its use in handling its cargo in foreign trade.

(2) PARAGRAPH (5).—Paragraph (5) of subsection (a) applies only if the items named are—

- (A) owned or leased by the owner or operator of the vessel or by the stevedoring company having the contract for the loading or unloading of the vessel; and
- (B) transported without charge for use in the handling of cargo in foreign trade.

(c) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section applies to a vessel of for-

eign registry only if the Secretary of Homeland Security finds, based on information from the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1635.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
55107	46 App.:883 (6th proviso).	June 5, 1920, ch. 250, §27 (6th proviso), 41 Stat. 999; July 2, 1935, ch. 355, 49 Stat. 442; Pub. L. 89-194, Sept. 21, 1965, 79 Stat. 823; Pub. L. 90-474, Aug. 11, 1968, 80 Stat. 700; Pub. L. 92-163, §1, Nov. 23, 1971, 85 Stat. 486.

In subsection (a), before paragraph (1), the words “by vessels of the United States not qualified to engage in the coastwise trade, or by vessels of foreign registry” are omitted as unnecessary. In paragraph (4), the words “by the Secretary of the Treasury” are omitted as unnecessary because the section referred to provides who administers it.

§ 55108. Platform jackets

(a) DEFINITIONS.—In this section:

(1) COASTWISE QUALIFIED VESSEL.—The term “coastwise qualified vessel” means a vessel that has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title.

(2) PLATFORM JACKET.—The term “platform jacket” refers to a single physical component and includes any type of offshore exploration, development, or production structure or component thereof, including—

- (A) platform jackets;
- (B) tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure);
- (C) hull (including vertical legs and connecting pontoons or vertical cylinder);
- (D) tower and base sections of a platform jacket;
- (E) jacket structures; and
- (F) deck modules (known as “topsides”).

(b) AUTHORIZED TRANSPORTATION.—Section 55102 of this title does not apply to the transportation of a platform jacket in or on a non-coastwise qualified launch barge between two points in the United States, at one of which there is an installation or other device within the meaning of section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), if—

(1) the launch barge was built before December 31, 2000, and has a launch capacity of at least 12,000 long tons; and

(2) the Secretary of Transportation makes a determination, in accordance with procedures established under subsection (c), that a suitable coastwise qualified vessel is not available for use in the transportation and, if needed, launch or installation of a platform jacket.

(c) PROCEDURES TO MAXIMIZE USE OF COASTWISE QUALIFIED VESSELS.—The Secretary of Transportation shall adopt procedures implementing this section that are reasonably designed to provide timely information so as to

maximize the use of coastwise qualified vessels. The procedures shall, among other things, establish that for purposes of this section, a coastwise qualified vessel shall be deemed to be not available only if—

(1) on application by an owner or operator for the use of a non-coastwise qualified launch barge for transportation of a platform jacket under this section (which application shall include all relevant information, including engineering details and timing requirements), the Secretary promptly publishes a notice in the Federal Register—

(A) describing the project and the platform jacket involved;

(B) advising that all relevant information reasonably needed to assess the transportation requirements for the platform jacket will be made available to interested parties on request; and

(C) requesting that information on the availability of coastwise qualified vessels be submitted within 30 days after publication of that notice; and

(2)(A) no information is submitted to the Secretary within that 30 day period; or

(B) the owner or operator of a coastwise qualified vessel submits information to the Secretary asserting that the owner or operator has a suitable coastwise qualified vessel available for the transportation, but the Secretary determines, within 90 days after the notice is first published, that the coastwise qualified vessel is not suitable or reasonably available for the transportation.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1636.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
55108	46 App.:883 (last proviso).	June 5, 1920, ch. 250, §27 (last proviso), 41 Stat. 999; July 2, 1935, ch. 355, 49 Stat. 442; Pub. L. 101-329 [100-329], §1(a)(2), June 7, 1988, 102 Stat. 588; Pub. L. 107-295, title II, §213(c), Nov. 25, 2002, 116 Stat. 2100; Pub. L. 108-293, title IV, §417, Aug. 9, 2004, 118 Stat. 1048.

In subsection (a), the words “coastwise endorsement under chapter 121” are substituted for “coastwise endorsement under section 12106” because section 12106 is being restated in various sections in revised chapter 121.

In subsection (b), the words “Section 55102 of this title does not apply” are substituted for “shall not be deemed transportation subject to this section” for consistency in the chapter.

§ 55109. Dredging

(a) IN GENERAL.—Except as provided in subsection (b), a vessel may engage in dredging in the navigable waters of the United States only if—

(1) the vessel is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade;

(2) the charterer, if any, is a citizen of the United States for purposes of engaging in the coastwise trade; and

(3) the vessel has been issued a certificate of documentation with a coastwise endorsement

under chapter 121 of this title or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

(b) DREDGING OF GOLD IN ALASKA.—A documented vessel with a registry endorsement may engage in the dredging of gold in Alaska.

(c) PENALTY.—If a vessel is operated in knowing violation of this section, the vessel and its equipment are liable to seizure by and forfeiture to the United States Government.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1637.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
55109	46 App.:292.	May 28, 1906, ch. 2566, §1, 34 Stat. 204; Pub. L. 102-87, title V, §5501(a)(1), Nov. 4, 1992, 106 Stat. 5084.

Subsection (a)(1) is substituted for “(1) the vessel meets the requirements of section 883 of this Appendix and sections 802 and 803 of this Appendix for engaging in the coastwise trade” for consistency with other sections of the revised title and to eliminate unnecessary words. Section 883 requires (among other things) that the vessel be owned by citizens of the United States, and section 802 contains the requirements for certain entities to qualify as citizens. Those requirements are restated in section 5501 which applies to this section. Section 883 also requires that the vessel be built in and documented under the laws of the United States. Those latter two requirements are covered by subsection (a)(3). Note that the build requirement is a requirement for a coastwise endorsement.

In subsection (a)(3), the words “or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement” are added for consistency with section 12102 as revised by the bill.

[H.R. Rep. No. 109-170, at 180 (2005) provided: Section 17(i) of the bill [H.R. 1442, enacted as Pub. L. 109-304] amends section 5501(a) of the Oceans Act of 1992 (Public Law 102-587, 106 Stat. 5084) [see note above] by adding a new paragraph (3). The intent of this amendment is to maintain the status quo under paragraph (2) of section 5501(a) of that Act, as it exists prior to the enactment of this codification legislation. Section 55109 of title 46, United States Code, as contained in this bill, is intended as a codification without substantive change of section 1 of the Act of May 28, 1906, as amended (46 App. U.S.C. 292). Therefore, the exceptions from that latter provision, which currently exist under such paragraph (2), are intended to continue to exist to the same extent under new section 55109 of title 46. In addition, if the original intent of such paragraph (2) was that the restriction contained in the pre-1992 amended version of that 1906 provision continues to apply to the vessels, persons, and entities described in such paragraph (2), then that outcome is intended to remain unchanged by this legislation, despite the repeal by this legislation of that 1906 provision. No expression as to the original intent of such paragraph (2) is intended by this legislation.]

Statutory Notes and Related Subsidiaries

NONAPPLICABILITY TO CERTAIN VESSELS

Pub. L. 109–304, §19, Oct. 6, 2006, 120 Stat. 1711, repealed section 1 of act May 28, 1906, ch. 2566, 34 Stat. 204 (section 292 of the former Appendix to this title, from which this section was derived), except as may be applicable under section 5501(a)(2) of Pub. L. 102-587, set out below.

Pub. L. 102-587, title V, §5501(a)(2), (3), Nov. 4, 1992, 106 Stat. 5084, as amended by Pub. L. 109-304, §17(i), Oct. 6, 2006, 120 Stat. 1709, provided that: