

“(3) The exceptions provided by paragraph (2) shall apply under section 55109 of title 46, United States Code, to the same extent as under former section 1 of the Act of May 28, 1906 [section 292 of the former Appendix to this title, from which this section was derived], as amended by paragraph (1).”

HISTORICAL AND REVISION NOTES

[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.]

§ 55110. Transportation of valueless material or dredged material

Section 55102 of this title applies to the transportation of valueless material or dredged material, regardless of whether it has commercial value, from a point in the United States or on the high seas within the exclusive economic zone, to another point in the United States or on the high seas within the exclusive economic zone.

(Pub. L. 109-304, § 8(c), Oct. 6, 2006, 120 Stat. 1637; Pub. L. 110-181, div. C, title XXXV, § 3527(b)(1), Jan. 28, 2008, 122 Stat. 602.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
55110	46 App.:883 (12th proviso).	June 5, 1920, ch. 250, § 27 (12th proviso), 41 Stat. 999; Pub. L. 100-329, § 1(a), June 7, 1988, 102 Stat. 588.

The words “or place” are omitted as surplus. The words “as defined in the Presidential Proclamation of March 10, 1983” are omitted because “exclusive economic zone” is defined in chapter 1 of the revised title.

AMENDMENTS

2008—Pub. L. 110-181 inserted “valueless material or” before “dredged material” in section catchline.

NONAPPLICABILITY OF PUB. L. 100-329 TO CERTAIN VESSELS

Pub. L. 102-587, title V, § 5501(c), Nov. 4, 1992, 106 Stat. 5085, provided that: “The Act of June 7, 1988 (Public Law 100-329; 102 Stat. 588) [amending sections 316 and 883 (from which this section was derived) of the former Appendix to this title and enacting provisions set out below], including the amendments made by that Act, does not apply to a vessel—

“(1) engaged in the transportation of valueless material or valueless dredged material; and

“(2) owned or chartered by a corporation that had on file with the Secretary of Transportation on Au-

gust 1, 1989, the certificate specified in section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883-1) [now 46 U.S.C. 12118].”

TRANSPORTATION OF MUNICIPAL SEWAGE SLUDGE

Pub. L. 100-329, § 3, June 7, 1988, 102 Stat. 589, provided that: “Notwithstanding the provisions of section 1 of this Act [amending section 883 of the former Appendix to this title, from which this section was derived], a vessel may transport municipal sewage sludge if that vessel, regardless of where it was built, is documented under the laws of the United States and, on the date of enactment of this Act [June 7, 1988], that vessel—

“(1) is in use by a municipality for the transportation of sewage sludge; or

“(2) is under contract with a municipality for the transportation of sewage sludge.”

VESSEL UNDER CONTRACT WITH MUNICIPALITY FOR TRANSPORTATION OF SEWAGE SLUDGE: APPLICABILITY OF PROVISIONS

Pub. L. 100-329, § 4, June 7, 1988, 102 Stat. 589, provided that: “For purposes of the first paragraph of section 805(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1223(a)) [now 46 U.S.C. 58101], a vessel described in section 3(2) of this Act [set out as a note above] is not a vessel engaged in domestic intercoastal or coastwise service, but the prohibitions in the second paragraph apply to that vessel.”

CERTIFICATE OF DOCUMENTATION TO VESSEL TRANSPORTING VALUELESS MATERIAL IN COASTWISE TRADE, OR DREDGED MATERIAL, WHETHER OR NOT OF VALUE; ISSUANCE, ENDORSEMENT, ETC.

Pub. L. 100-329, § 5, June 7, 1988, 102 Stat. 589, provided that: “Notwithstanding the provisions of section 1 of this Act [amending section 883 of the former Appendix to this title, from which this section was derived], the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation under section 12106 [see section 12112] of title 46, United States Code, to a vessel that—

“(1) is engaged in transporting only valueless material in the coastwise trade or transporting dredged material, whether or not of value, (A) from a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983 [16 U.S.C. 1453 note], to a point or place in the United States or to another point or place on the high seas within such Exclusive Economic Zone or (B) from a point or place within the United States to a point or place on the high seas within such Exclusive Economic Zone;

“(2) had a certificate of documentation issued under section 12105 [see section 12111] of that title on October 1, 1987;

“(3) had been sold foreign or placed under a foreign registry before that certificate was issued; and

“(4) was built in the United States;

except that such certificate of documentation shall be endorsed to restrict the use of such vessel to the transportation of valueless material in the coastwise trade, and to the transportation of dredged material, whether or not of value, (i) from a point or place on the high seas within such Exclusive Economic Zone to a point or place in the United States or to another point or place on the high seas within such Exclusive Economic Zone, or (ii) from a point or place within the United States to a point or place on the high seas within such Exclusive Economic Zone.”

§ 55111. Towing

(a) IN GENERAL.—Except when towing a vessel in distress, a vessel may not do any part of any towing described in subsection (b) unless the towing vessel—

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

(2) 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) APPLICABLE TOWING.—Subsection (a) applies to the towing of—

(1) a vessel between ports or places in the United States to which the coastwise laws apply, either directly or via a foreign port or place;

(2) a vessel from point to point within the harbors of ports or places to which the coastwise laws apply; or

(3) a vessel transporting valueless material or dredged material, regardless of whether it has commercial value, from a point in the United States or on the high seas within the exclusive economic zone, to another point in the United States or on the high seas within the exclusive economic zone.

(c) PENALTIES.—

(1) OWNER AND MASTER.—The owner and master of a vessel towing another vessel in violation of this section are each liable for a penalty of at least \$350 but not more than \$1,100. A penalty under this paragraph constitutes a lien on the vessel. The lien is enforceable in a district court of the United States for any district in which the vessel is found. Clearance may not be granted to the vessel until the penalties have been paid.

(2) VESSEL.—In addition to the penalties under paragraph (1), the towing vessel is liable for a penalty of \$60 per ton based on the tonnage of each towed vessel.

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

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
55111	46 App.:316(a), (b).	R.S. §4370; June 11, 1940, ch. 324, 54 Stat. 304; Pub. L. 99-307, §10, May 19, 1986, 100 Stat. 447; Pub. L. 100-329, §2, June 7, 1988, 102 Stat. 589; Pub. L. 104-324, title XI, §1115(b)(3), Oct. 19, 1996, 110 Stat. 3972.

In subsection (a), the words “or to do any part of such towing” and “other than a vessel in distress” in the source provision are made applicable to all the towing described in subsection (b) for clarity and consistency. In paragraph (1), the words “wholly owned by citizens of the United States for purposes of engaging in the coastwise trade” are substituted for “wholly owned by a person who is a citizen of the United States within the meaning of the laws respecting the documentation of vessels” for consistency in this chapter.

Subsection (a)(2) is substituted for “having in force a certificate of documentation issued under section 12106 of title 46” for consistency in this chapter and with section 12102(b) as revised by the bill.

In subsection (b)(1), the words “in the United States to which the coastwise laws apply” are substituted for “in the United States, its Territories or possessions, embraced within the coastwise laws of the United States” because of the definition of “United States” in chapter 1 of the revised title and because of section 55101 of the revised title.

In subsection (b)(3), the words “or place” are omitted as surplus. The words “as defined in the Presidential

Proclamation of March 10, 1983” are omitted because “exclusive economic zone” is defined in chapter 1 of the revised title.

In subsection (c), the penalty amounts reflect the adjustment for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note). See 19 C.F.R. §4.92 (2004). In paragraph (2), the words “which sum may be recovered by way of libel or suit” are omitted as surplus.

The text of 46 App. U.S.C. 316(b) is omitted as unnecessary because of the definition of “person” in section 1 of title 1.

NONAPPLICABILITY OF PUB. L. 100-329 TO CERTAIN VESSEL

Amendment by Pub. L. 100-329 to section 316 of the former Appendix to this title, from which this section was derived, not applicable to a vessel engaged in the transportation of valueless material or valueless dredged material and owned or chartered by a corporation that had on file with Secretary of Transportation on Aug. 1, 1989, the certificate specified in section 883-1 of the former Appendix to this title (now section 12118 of this title), see section 5501(c) of Pub. L. 102-587, set out as a note under section 55110 of this title.

§ 55112. Vessel escort operations and towing assistance

(a) IN GENERAL.—Except in the case of a vessel in distress, only a vessel of the United States may perform the following escort vessel operations within the navigable waters of the United States:

(1) Operations that commence or terminate at a port or place in the United States.

(2) Operations required by United States law or regulation.

(3) Operations provided in whole or in part within or through navigation facilities owned, maintained, or operated by the United States Government or the approaches to those facilities, other than facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

(b) ESCORT VESSELS.—For purposes of this section, an escort vessel is—

(1) any vessel that is assigned and dedicated to assist another vessel, whether or not tethered to that vessel, solely as a safety precaution to assist in controlling the speed or course of the assisted vessel in the event of a steering or propulsion equipment failure, or any other similar emergency circumstance, or in restricted waters where additional assistance in maneuvering the vessel is required to ensure its safe operation; and

(2) in the case of a vessel being towed under section 55111 of this title, any vessel that is assigned and dedicated to the vessel being towed in addition to any towing vessel required under that section.

(c) RELATIONSHIP TO OTHER LAW.—This section does not affect section 55111 of this title.

(d) PENALTY.—A person violating this section is liable to the Government for a civil penalty of not more than \$10,000 for each day during which the violation occurs.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1638.)