

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12117	46:12106(d).	

Editorial Notes

PRIOR PROVISIONS

A prior section 12117, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 589; Pub. L. 100-710, title I, §104(a)(4), Nov. 23, 1988, 102 Stat. 4750, originally derived from section 65q of former Title 46, Shipping, related to recording of United States built vessels, prior to the general amendment of this chapter by Pub. L. 109-304. See section 12137 of this title.

§ 12118. Owners engaged primarily in manufacturing or mineral industry

(a) DEFINITIONS.—In this section:

(1) BOWATERS CORPORATION.—The term “Bowaters corporation” means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that—

(A) the corporation is incorporated under the laws of the United States or a State;

(B) a majority of the officers and directors of the corporation are individuals who are citizens of the United States;

(C) at least 90 percent of the employees of the corporation are residents of the United States;

(D) the corporation is engaged primarily in a manufacturing or mineral industry in the United States;

(E) the total book value of the vessels owned by the corporation is not more than 10 percent of the total book value of the assets of the corporation; and

(F) the corporation buys or produces in the United States at least 75 percent of the raw materials used or sold in its operations.

(2) PARENT.—The term “parent” means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

(A) is incorporated under the laws of the United States or a State; and

(B) controls, directly or indirectly, at least 50 percent of the voting stock of a Bowaters corporation.

(3) SUBSIDIARY.—The term “subsidiary” means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

(A) is incorporated under the laws of the United States or a State; and

(B) has at least 50 percent of its voting stock controlled, directly or indirectly, by a Bowaters corporation or its parent.

(b) DEEMED CITIZEN.—A Bowaters corporation is deemed to be a citizen of the United States for purposes of chapters 121, 551, and 561 and section 80104 of this title.

(c) ISSUANCE OF DOCUMENTATION.—A certificate of documentation and appropriate endorsement may be issued for a vessel that—

- (1) is owned by a Bowaters corporation;
- (2) was built in the United States; and
- (3)(A) is self-propelled and less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; or
- (B) is not self-propelled.

(d) EFFECTS OF DOCUMENTATION.—

(1) IN GENERAL.—Subject to paragraph (2)—

(A) a vessel documented under this section may engage in the coastwise trade; and

(B) the vessel and its owner and master are entitled to the same benefits and are subject to the same requirements and penalties as if the vessel were otherwise documented or exempt from documentation under this chapter.

(2) TRANSPORTATION OF PASSENGERS OR MERCHANDISE.—A vessel documented under this section may transport passengers or merchandise for hire in the coastwise trade only—

(A) as a service for a parent or subsidiary of the corporation owning the vessel; or

(B) when under a demise or bareboat charter, at prevailing rates for use not in the domestic noncontiguous trades, from the corporation owning the vessel to a carrier that—

(i) is subject to jurisdiction under subchapter II of chapter 135 of title 49;

(ii) otherwise qualifies as a citizen of the United States under section 50501 of this title; and

(iii) is not owned or controlled, directly or indirectly, by the corporation owning the vessel.

(e) VALIDITY OF CORPORATE CERTIFICATE.—A certificate filed by a corporation under this section remains valid only as long as the corporation continues to satisfy the conditions required of the corporation by this section. When a corporation no longer satisfies those conditions, the corporation loses its status under this section and immediately shall surrender to the Secretary any documents issued to it based on that status.

(f) PENALTIES.—

(1) FALSIFYING MATERIAL FACT.—If a corporation knowingly falsifies a material fact in a certificate filed under subsection (a), the vessel (or its value) documented or operated under this section shall be forfeited.

(2) TRANSPORTING MERCHANDISE.—If a vessel transports merchandise for hire in violation of this section, the merchandise shall be forfeited to the United States Government.

(3) TRANSPORTING PASSENGERS.—If a vessel transports passengers for hire in violation of this section, the vessel is liable for a penalty of \$200 for each passenger so transported.

(4) REMISSION OR MITIGATION.—A penalty or forfeiture incurred under this subsection may be remitted or mitigated under section 2107(b) of this title.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1500.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12118(a)(1) ..	46 App.:883-1 (1st par. words through cl. (e) less citizenship, 4th par. 1st sentence).	June 5, 1920, ch. 250, §27A, as added Pub. L. 85-902, Sept. 2, 1958, 72 Stat. 1736; Pub. L. 104-88, title III, §321(2), Dec. 29, 1995, 109 Stat. 950; Pub. L. 104-324, title VII, §706, Oct. 19, 1996, 110 Stat. 3934.
12118(a)(2), (3).	46 App.:883-1 (2d par., 4th par. 2d sentence).	
12118(b)	46 App.:883-1 (1st par. related to citizenship).	
12118(c)	46 App.:883-1 (3d par. words before 5th comma).	
12118(d)(1) ..	46 App.:883-1 (3d par. words after 5th comma).	
12118(d)(2) ..	46 App.:883-1 (1st par. words after cl. (e)).	
12118(e)	46 App.:883-1 (last par.).	
12118(f)	46 App.:883-1 (4th par. 3d-6th sentences).	

In this section, the word "Secretary" is substituted for "Secretary of the Treasury", thereby incorporating the definition of "Secretary" in section 2101 of title 46. The functions of the Secretary of the Treasury relating to the Coast Guard previously were transferred to the Secretary of Transportation by section 6(b) of the Department of Transportation Act (Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 938). The Coast Guard and the functions of the Secretary of Transportation relating to the Coast Guard were again transferred to the Department of Homeland Security by section 888(b) of the Homeland Security Act of 2002 (Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2135).

In subsection (a)(1), the words "seeking hereunder to document a vessel under the laws of the United States or to operate a vessel exempt from documentation under the laws of the United States" are omitted as unnecessary because of the reorganization of the section.

Subsection (d)(1)(B) is substituted for "together with their owners or masters, shall be entitled to all the other benefits and privileges and shall be subject to the same requirements, penalties, and forfeitures as may be applicable in the case of vessels built in the United States and otherwise documented or exempt from documentation under the laws of the United States" to eliminate unnecessary words.

In subsection (d)(2), the words before subparagraph (A) are substituted for "no vessel owned by any such corporation shall engage in the fisheries or in the transportation of merchandise or passengers for hire between points in the United States, including Territories, Districts, and possessions thereof, embraced within the coastwise laws, except" to eliminate unnecessary words. See the definition of "United States" in chapter 1 of the revised title.

Editorial Notes**PRIOR PROVISIONS**

A prior section 12118, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 589, originally derived from section 65r of former Title 46, Shipping, related to registration of funnel marks and house flags, prior to being repealed by Pub. L. 100-710, title I, §§106(b)(5), 107(a), Nov. 23, 1988, 102 Stat. 4752, effective Jan. 1, 1989.

§ 12119. Owners engaged primarily in leasing or financing transactions

(a) DEFINITIONS.—In this section:

(1) AFFILIATE.—The term "affiliate" means, with respect to any person, any other person that is—

(i) directly or indirectly controlled by, under common control with, or controlling that person; or

(ii) named as being part of the same consolidated group in any report or other document submitted to the United States Securities and Exchange Commission or the Internal Revenue Service.

(2) CARGO.—The term "cargo" does not include cargo to which title is held for non-commercial reasons and primarily for the purpose of evading the requirements of subsection (c)(3).

(3) OIL.—The term "oil" has the meaning given that term in section 2101(26) of this title.

(4) PASSIVE INVESTMENT.—The term "passive investment" means an investment in which neither the investor nor any affiliate of the investor is involved in, or has the power to be involved in, the formulation, determination, or direction of any activity or function concerning the management, use, or operation of the asset that is the subject of the investment.

(5) QUALIFIED PROPRIETARY CARGO.—The term "qualified proprietary cargo" means—

(A) oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that submits to the Secretary an application or annual certification under subsection (c)(3), or by an affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on a vessel owned by that person;

(B) oil, petroleum products, petrochemicals, or liquefied natural gas cargo not beneficially owned by the person that submits to the Secretary an application or an annual certification under subsection (c)(3), or by an affiliate of that person, but which is carried in coastwise trade by a vessel owned by that person and which is part of an arrangement in which vessels owned by that person and at least one other person are operated collectively as one fleet, to the extent that an equal amount of oil, petroleum products, petrochemicals, or liquefied natural gas cargo beneficially owned by that person, or by an affiliate of that person, is carried in coastwise trade on one or more other vessels, not owned by that person, or by an affiliate of that person, if the other vessel or vessels are also part of the same arrangement;

(C) in the case of a towing vessel associated with a non-self-propelled tank vessel where both vessels function as a single self-propelled vessel, oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that owns both the towing vessel and the non-self-propelled tank vessel, or any United States affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on either of those vessels; or

(D) any oil, petroleum products, petrochemicals, or liquefied natural gas cargo carried on any vessel that is either a self-propelled tank vessel having a length of at least 210 meters or a tank vessel that is a liquefied natural gas carrier that—