

(Pub. L. 109–304, § 4, Oct. 6, 2006, 120 Stat. 1488.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
116	46:2101(46).	

[CHAPTER 3—TRANSFERRED]

Editorial Notes

CODIFICATION

Pub. L. 116–283, div. G, title LVXXXVI [LXXXVI], § 8605(a)(2), (3), Jan. 1, 2021, 134 Stat. 4765, renumbered this chapter as chapter 461 and transferred it to part D of subtitle IV of this title and renumbered sections 301 to 308 as sections 46101 to 46108 of this title, respectively.

[[§ 301 to 308. Renumbered §§ 46101 to 46108]

CHAPTER 5—OTHER GENERAL PROVISIONS

Sec.	
501.	Waiver of navigation and vessel-inspection laws.
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§ 501. Waiver of navigation and vessel-inspection laws

(a) ON REQUEST OF SECRETARY OF DEFENSE.—

(1) IN GENERAL.—On request of the Secretary of Defense, the head of an agency responsible for the administration of the navigation or vessel-inspection laws shall waive compliance with those laws to the extent the Secretary considers necessary in the interest of national defense to address an immediate adverse effect on military operations.

(2) SUBMITTAL OF EXPLANATION TO CONGRESS.—Not later than 24 hours after making a request under paragraph (1), the Secretary of Defense shall submit to the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate a written explanation of the circumstances requiring such a waiver in the interest of national defense, including a confirmation that there are insufficient qualified vessels to meet the needs of national defense without such a waiver.

(b) BY HEAD OF AGENCY.—

(1) IN GENERAL.—Upon a determination by the President that a waiver of the navigation or vessel-inspection laws is necessary in the interest of national defense, the head of an agency responsible for the administration of such laws,¹ may waive compliance with such laws—

(A) following a determination in accordance with the requirements of paragraph (3) by the Maritime Administrator, acting in the Administrator's capacity as Director, National Shipping Authority, of the non-

availability of qualified United States flag capacity to meet national defense requirements;

(B) not earlier than 48 hours after a waiver request is published under paragraph (6)(A); and

(C) on a vessel specific basis to the extent, in the manner, and on the terms the head of such agency, in consultation with the Administrator, acting in such capacity, prescribes.

(2) DURATION OF WAIVER.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a waiver issued under this subsection shall be for a period of not more than 10 days.

(B) WAIVER EXTENSION.—Upon the termination of the period of a waiver issued under this subsection, the head of an agency may extend the waiver for an additional period of not more than 10 days, if the Maritime Administrator makes the determination referred to in paragraph (1)(A).

(C) AGGREGATE DURATION.—The aggregate duration of the period of all waivers and extensions of waivers under this subsection with respect to any one set of events shall not exceed 45 days.

(3) DETERMINATIONS.—The Maritime Administrator shall—

(A) for each determination referred to in paragraph (1)(A)—

(i) identify any actions that could be taken to enable qualified United States flag capacity to meet national defense requirements prior to the issuance of a waiver; and

(ii) not assess the non-availability of qualified United States flag capacity to meet national defense requirements retroactively after the date on which a waiver is requested;

(B) provide notice of each such determination to the Secretary of Transportation and the head of the agency referred to in paragraph (1) for which the determination is made; and

(C) publish each such determination on the Internet Web site of the Department of Transportation not later than 48 hours after notice of the determination is provided to the Secretary of Transportation.

(4) NOTICE TO CONGRESS.—

(A) IN GENERAL.—The head of an agency referred to in paragraph (1) shall notify the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate—

(i) of any request for a waiver of the navigation or vessel-inspection laws under this section not later than 48 hours after receiving such a request; and

(ii) of the issuance of any such waiver not later than 48 hours after such issuance.

(B) CONTENTS.—Such head of an agency shall include in each notification under subparagraph (A)(ii) an explanation of—

¹ So in original. The comma probably should not appear.

- (i) the reasons the waiver is necessary; and
- (ii) the reasons actions referred to in paragraph (3)(A) are not feasible.

(C) NOTIFICATION REQUIRED FOR EXTENSIONS.—For purposes of this paragraph, an extension requested or issued under paragraph (2)(B) shall be treated in the same manner as a waiver requested or issued under this subsection.

(5) PROSPECTIVE APPLICATION.—No waiver shall be issued for a vessel if, at the time of the waiver request under this section, such vessel is laden with merchandise that, pursuant to the requested waiver, could be unladen at points or places to which the coastwise laws apply.

(6) PUBLICATION REQUIREMENTS.—

(A) PUBLICATION OF WAIVER REQUESTS.—Upon receiving a request for a waiver under this subsection, the head of an agency referred to in paragraph (1) shall publish such request on the website of such agency.

(B) PUBLICATION OF WAIVER DENIAL.—Not later than 48 hours after denying a waiver requested under this subsection, the head of an agency referred to in paragraph (1) shall publish on the website of such agency an explanation for denying such waiver, including applicable findings to support the denial.

(c) REPORT.—

(1) IN GENERAL.—Not later than 10 days after the date of the conclusion of the voyage of a vessel that, during such voyage, operated under a waiver issued under this section, the owner or operator of the vessel and the individual requesting such waiver (if not the owner or operator of the vessel) shall submit to the Maritime Administrator a report that includes—

- (A) the name and flag of the vessel;
- (B) the name of the owner and operator of the vessel;
- (C) the dates of the voyage;
- (D) any relevant ports of call;
- (E) a description of the cargo carried;
- (F) an explanation as to why the waiver was in the interest of national defense; and
- (G) any other information the Maritime Administrator determines necessary.

(2) PUBLICATION.—Not later than 48 hours after receiving a report under paragraph (1), the Maritime Administrator shall publish such report on an appropriate website of the Department of Transportation.

(d) TERMINATION OF AUTHORITY.—The authority granted by this section shall terminate at such time as the Congress by concurrent resolution or the President may designate.

(Pub. L. 109–304, § 4, Oct. 6, 2006, 120 Stat. 1490; Pub. L. 110–417, div. C, title XXXV, § 3510, Oct. 14, 2008, 122 Stat. 4769; Pub. L. 112–213, title III, § 301, Dec. 20, 2012, 126 Stat. 1562; Pub. L. 112–239, div. C, title XXXV, § 3517(a)(2), Jan. 2, 2013, 126 Stat. 2229; Pub. L. 116–283, div. C, title XXXV, § 3502(a)(1), Jan. 1, 2021, 134 Stat. 4397; Pub. L. 117–263, div. C, title XXXV, § 3541, Dec. 23, 2022, 136 Stat. 3093.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
501	46 App.:3 note prec.	Dec. 27, 1950, ch. 1155, §§ 1, 2, 64 Stat. 1120.

In subsection (b), the words “When the head of an agency . . . considers it necessary” are substituted for “either upon his own initiative or upon the written recommendation of the head of any other Government agency, when he deems that such action is necessary” to eliminate unnecessary words.

Editorial Notes

AMENDMENTS

2022—Subsec. (b)(1). Pub. L. 117–263, § 3541(1)(A), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the individual, following a determination by the Maritime Administrator, acting in the Administrator’s capacity as Director, National Shipping Authority, of the non-availability of qualified United States flag capacity to meet national defense requirements, may waive compliance with those laws to the extent, in the manner, and on the terms the individual, in consultation with the Administrator, acting in that capacity, prescribes.”

Subsec. (b)(2)(B). Pub. L. 117–263, § 3541(1)(B), substituted “determination referred to in paragraph (1)(A)” for “determinations referred to in paragraph (1)”.

Subsec. (b)(3)(A). Pub. L. 117–263, § 3541(1)(C), added subpar. (A) and struck out former subpar. (A). Prior to amendment, subpar. (A) read as follows: “for each determination referred to in paragraph (1), identify any actions that could be taken to enable qualified United States flag capacity to meet national defense requirements;”.

Subsec. (b)(5), (6). Pub. L. 117–263, § 3541(1)(D), added pars. (5) and (6).

Subsec. (c)(1). Pub. L. 117–263, § 3541(2), inserted “and the individual requesting such waiver (if not the owner or operator of the vessel)” before “shall submit” in introductory provisions, added subpars. (B), (E), and (F), and redesignated former subpars. (B), (C), and (D) as (C), (D), and (G), respectively.

2021—Subsec. (a). Pub. L. 116–283, § 3502(a)(1)(A), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “On request of the Secretary of Defense, the head of an agency responsible for the administration of the navigation or vessel-inspection laws shall waive compliance with those laws to the extent the Secretary considers necessary in the interest of national defense.”

Subsec. (b)(2), (3). Pub. L. 116–283, § 3502(a)(1)(B)(i), (ii), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 116–283, § 3502(a)(1)(B)(i), redesignated par. (3) as (4).

Subsec. (b)(4)(B)(ii). Pub. L. 116–283, § 3502(a)(1)(B)(ii)(I), substituted “paragraph (3)(A)” for “paragraph (2)(A)”.

Subsec. (b)(4)(C). Pub. L. 116–283, § 3502(a)(1)(B)(ii)(II), added subpar. (C).

Subsecs. (c), (d). Pub. L. 116–283, § 3502(a)(1)(C), (D), added subsec. (c) and redesignated former subsec. (c) as (d).

2013—Subsec. (b)(3)(A). Pub. L. 112–239 substituted “the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate” for “the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate” in introductory provisions.

2012—Subsec. (b). Pub. L. 112-213 designated existing provisions as par. (1), inserted par. (1) heading, and added pars. (2) and (3).

2008—Subsec. (b). Pub. L. 110-417 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the individual may waive compliance with those laws to the extent, in the manner, and on the terms the individual prescribes.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-283, div. C, title XXXV, §3502(a)(2), Jan. 1, 2021, 134 Stat. 4398, provided that: “The amendments made by paragraph (1) [amending this section] shall apply with respect to waivers issued after the date of the enactment of this Act [Jan. 1, 2021].”

§ 502. Cargo exempt from forfeiture

Cargo on a vessel is exempt from forfeiture under this title if—

(1) the cargo is owned in good faith by a person not the owner, master, or crewmember of the vessel; and

(2) the customs duties on the cargo have been paid or secured for payment as provided by law.

(Pub. L. 109-304, §4, Oct. 6, 2006, 120 Stat. 1490.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 502: 46 App.:326, R.S. §4378.

§ 503. Notice of seizure

When a forfeiture of a vessel or cargo accrues, the official of the United States Government required to give notice of the seizure of the vessel or cargo shall include in the notice, if they are known to that official, the name and the place of residence of the owner or consignee at the time of the seizure.

(Pub. L. 109-304, §4, Oct. 6, 2006, 120 Stat. 1490.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 503: 46 App.:327, R.S. §4379.

§ 504. Remission of fees and penalties

Any part of a fee, tax, or penalty paid or a forfeiture incurred under a law or regulation relating to vessels or seamen may be remitted if—

(1) application for the remission is made within one year after the date of the payment or forfeiture; and

(2) it is found that the fee, tax, penalty, or forfeiture was improperly or excessively imposed.

(Pub. L. 109-304, §4, Oct. 6, 2006, 120 Stat. 1491.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 504: 46:2108.

This section replaces 46 U.S.C. 2108, which was enacted as part of the codification of subtitle II of title

46 in 1983. That provision was based on section 26 of the Act of June 26, 1884, ch. 121, 23 Stat. 59, which prior to the subtitle II codification appeared at 46 U.S.C. 8 (1982 ed.). In the enactment of 46 U.S.C. 2108, the scope of the 1884 provision was narrowed, presumably inadvertently. This section restores the remissions authority to its prior scope. Note that 19 C.F.R. §4.24 (2003) still refers to “the authority to make refunds in accordance with section 26 of the Act of June 26, 1884 (46 U.S.C. 8)” as if that provision had not been replaced by 46 U.S.C. 2108 in 1983.

§ 505. Penalty for violating regulation or order

A person convicted of knowingly and willfully violating a regulation or order of the Federal Maritime Commission or the Secretary of Transportation under subtitle IV or V of this title, for which no penalty is expressly provided, shall be fined not more than \$500. Each day of a continuing violation is a separate offense.

(Pub. L. 109-304, §4, Oct. 6, 2006, 120 Stat. 1491.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 505: 46 App.:1228 (last par.), June 29, 1936, ch. 858, title VIII, §806(d); as added Aug. 4, 1939, ch. 417, §13, 53 Stat. 1187; Pub. L. 97-31, §12(125), Aug. 6, 1981, 95 Stat. 164.

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