

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>    | <i>Source (Statutes at Large)</i>   |
|------------------------|------------------------------|---|
| 12133 .....            | 46:12103(e).<br>46 App.:277. | R.S. §4336; Aug. 5, 1935, ch. 438, title III, §312, 49 Stat. 528; Pub. L. 85-237, §2, Aug. 30, 1957, 71 Stat. 518; Pub. L. 103-182, title VI, §686(a)(5), Dec. 8, 1993, 107 Stat. 2220. |

This section consolidates and clarifies the requirements contained in the source provisions. The specific civil penalties are omitted as unnecessary because of the general civil penalty in section 12151(a) of the revised title. See also 19 U.S.C. 1581.

**§ 12134. Evidentiary uses of documentation**

A certificate of documentation is—

- (1) conclusive evidence of nationality for international purposes, but not in a proceeding conducted under the laws of the United States;
- (2) conclusive evidence of qualification to engage in a specified trade; and
- (3) not conclusive evidence of ownership in a proceeding in which ownership is in issue.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1506.)

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| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------|
| 12134 .....            | 46:12104.                 |                                   |

**§ 12135. Invalidation of certificates of documentation**

A certificate of documentation or an endorsement on the certificate is invalid if the vessel for which it is issued—

- (1) no longer meets the requirements of this chapter and regulations prescribed under this chapter applicable to the certificate or endorsement; or
- (2) is placed under the command of an individual not a citizen of the United States in violation of section 12131 of this title.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1506.)

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|------------------------|---------------------------|-----------------------------------|
| 12135 .....            | 46:12111(a).              |                                   |

In paragraph (2), the words “except for a recreational endorsement” are omitted as unnecessary because a recreational endorsement does not permit a vessel to engage in a trade.

**§ 12136. Surrender of certificates of documentation**

(a) SURRENDER.—An invalid certificate of documentation, or a certificate with an invalid endorsement, shall be surrendered as provided by regulations prescribed by the Secretary.

(b) CONDITIONS FOR SURRENDER.—

(1) VESSELS OVER 1,000 TONS.—The Secretary may condition approval of the surrender of the certificate of documentation for a vessel over 1,000 gross tons.

(2) VESSELS COVERED BY MORTGAGE.—The Secretary may approve the surrender of the

certificate of documentation of a vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.

(3) NOTICE OF LIEN.—The Secretary may not refuse to approve the surrender of the certificate of documentation for a vessel solely on the basis that a notice of a claim of a lien on the vessel has been recorded under section 31343(a) of this title.

(c) CONTINUED APPLICATION OF CERTAIN LAWS.—

(1) IN GENERAL.—Notwithstanding subsection (a), until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

(B) sections 56101 and 56102(a)(2) and chapter 563 of this title; and

(C) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

(2) EXCEPTION.—This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1506.)

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|------------------------|---------------------------|-----------------------------------|
| 12136(a) .....         | 46:12111(b).              |                                   |
| 12136(b)(1) ..         | 46:12111(d)(2).           |                                   |
| 12136(b)(2) ..         | 46:12111(c)(3).           |                                   |
| 12136(b)(3) ..         | 46:12111(d)(1).           |                                   |
| 12136(c)(1) ..         | 46:12111(c)(1).           |                                   |
| 12136(c)(2) ..         | 46:12111(c)(2).           |                                   |

In subsection (a), the words “or a certificate with an invalid endorsement” are added for clarity.

**Statutory Notes and Related Subsidiaries**

DOCUMENTATION SURRENDER AND INVALIDATION

Pub. L. 101-225, title III, §301(b), Dec. 12, 1989, 103 Stat. 1922, provided that: “Section 12111(c)(3) [now section 12136(b)(2)] of title 46, United States Code, does not apply to a mortgage that—

“(1) was filed or recorded before January 1, 1989; and

“(2) was not a preferred mortgage (as that term is defined in section 31301(6) of that title) on that date.”

**§ 12137. Recording of vessels built in the United States**

The Secretary may provide for recording and certifying information about vessels built in the United States that the Secretary considers to be in the public interest.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1507.)

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|------------------------|---------------------------|-----------------------------------|
| 12137 .....            | 46:12117.                 |                                   |

**§ 12138. List of documented vessels**

(a) IN GENERAL.—The Secretary shall publish periodically a list of all documented vessels and information about those vessels that the Secretary considers pertinent or useful. The list shall contain a notation clearly indicating all vessels classed by the American Bureau of Shipping.

(b) VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR.—

(1) IN GENERAL.—The Secretary of Transportation shall develop, maintain, and periodically update an inventory of vessels that are documented under this chapter, are at least 200 feet in length, and have the capability to lay, maintain, or repair a submarine cable, without regard to whether a particular vessel is classed as a cable ship or cable vessel.

(2) INFORMATION TO BE INCLUDED.—For each vessel listed in the inventory, the Secretary of Transportation shall include in the inventory—

(A) the name, length, beam, depth, and other distinguishing characteristics of the vessel;

(B) the abilities and limitations of the vessel with respect to laying, maintaining, and repairing a submarine cable; and

(C) the name and address of the person to whom inquiries regarding the vessel may be made.

(3) PUBLICATION.—The Secretary of Transportation shall publish in the Federal Register an updated inventory every 6 months.

(Pub. L. 109-304, § 5, Oct. 6, 2006, 120 Stat. 1507.)

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| Revised Section | Source (U.S. Code) | Source (Statutes at Large)                                       |
|-----------------|--------------------|--|
| 12138(a) .....  | 46:12119.          |  |
| 12138(b) .....  | 46:12119 note.     | Pub. L. 107-295, title IV, § 403, Nov. 25, 2002, 116 Stat. 2114. |

In subsection (b), the word “Secretary” is substituted for “Secretary of Transportation” for consistency in the chapter.

**§ 12139. Reports**

(a) IN GENERAL.—To ensure compliance with this chapter and laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners, masters, charterers, and mortgagees of documented vessels to submit reports in any reasonable form and manner the Secretary may prescribe.

(b) VESSELS REBUILT OUTSIDE UNITED STATES.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary, if a vessel exceeding the tonnage specified in paragraph (2) and documented or last documented under the laws of the United States is rebuilt outside the United States, the owner or master shall submit a report of the rebuilding to the Secretary.

(2) TONNAGE.—The tonnage referred to in paragraph (1) is—

(A) 500 gross tons as measured under section 14502 of this title; or

(B) an alternate tonnage as measured under section 14302 of this title as prescribed

by the Secretary under section 14104 of this title.

(3) TIMING OF SUBMISSION.—If the rebuilding is completed in the United States, the report shall be submitted when the rebuilding is completed. If the rebuilding is completed outside the United States, the report shall be submitted when the vessel first arrives at a port in the customs territory of the United States.

(Pub. L. 109-304, § 5, Oct. 6, 2006, 120 Stat. 1507; Pub. L. 109-241, title III, § 308, July 11, 2006, 120 Stat. 528; Pub. L. 110-181, div. C, title XXXV, § 3525(a)(2), (b), Jan. 28, 2008, 122 Stat. 600, 601.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)           | Source (Statutes at Large)   |
|-----------------|------------------------------|--|
| 12139(a) .....  | 46:12120.                    |  |
| 12139(b) .....  | 46 App.:883a (1st sentence). | July 14, 1956, ch. 600, § 2 (1st sentence), 70 Stat. 544; Pub. L. 86-583, § 2, July 5, 1960, 74 Stat. 321; Pub. L. 104-324, title VII, § 707, Oct. 19, 1996, 110 Stat. 3934. |

In subsection (b)(1), 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). The words “rebuilt outside the United States” are substituted for “and any part of the rebuilding, including the construction of major components of the hull and superstructure of the vessel, is not effected within the United States, its Territories (not including trust territories) or its possessions” because of the definition of “rebuilt” in section 12101, and the definition of “United States” in chapter 1, of the revised title.

**Editorial Notes**

AMENDMENTS

2008—Pub. L. 110-181, § 3525(b), repealed Pub. L. 109-241, § 308. See 2006 Amendment note below.

Subsec. (a). Pub. L. 110-181, § 3525(a)(2), incorporated the substance of the amendment by Pub. L. 109-241, § 308, into this section by substituting “charterers, and mortgagees” for “and charterers”. See 2006 Amendment note below and section 18(a) of Pub. L. 109-304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

2006—Pub. L. 109-241, § 308, which directed the amendment of former section 12120 of this title from which subsec. (a) of this section was derived, was repealed by Pub. L. 110-181, § 3525(b). See 2008 Amendment note for subsec. (a) and Historical and Revision notes above.

**§ 12140. Investigations by Secretary**

(a) IN GENERAL.—The Secretary may conduct investigations and inspections regarding compliance with this chapter and regulations prescribed under this chapter.

(b) AUTHORITY TO OBTAIN EVIDENCE.—

(1) IN GENERAL.—For the purposes of any investigation conducted under this section, the Secretary may issue a subpoena to require the attendance of a witness or the production of documents or other evidence relevant to the matter under investigation if—