



CAPACITY IN WHICH CHARGED BLOCK ON THE ENFORCEMENT SUMMARY

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Remember that not everyone on a vessel can be charged with a violation. Certain violations can only be charged to certain persons. That requires knowledge of the “applicability” language in the statute or regulation. You must know if the law or regulation applies to the person you intend to charge with the violation. For instance, only the “operator” of a vessel can be charged with boating under the influence. Other laws or regulations may apply to everyone such as the regulation prohibiting the draining of oil into the bilges of a vessel. It states “no one” may do the prohibited act. Still other laws or regulations may apply to two or three persons such as operator, master or person-in-charge.

The question to ask is what is the “capacity of party” (COP) being charged and does the law or regulation violated apply to that “capacity.” You can think about “capacity” as the role of the person such as operator or owner. A regulation may apply only to the vessel master meaning that the vessel owner cannot be charged with its violation. Similarly, a regulation may only apply to a facility owner meaning that the facility operator cannot be charged with violation of that regulation.

If you identify a violation of a regulation, you must identify what capacity can be held responsible under the regulation. Ensure you correctly identify the party and the COP (owner, operator, master, person-in-charge, etc) in the boarding report, investigation or inspection report. Processing officials must be diligent to ensure that the Enforcement Summary reflects that the charged party’s “capacity” is one that can be held responsible under the cited law or regulation.