

## Sec. 5102. Application

(a) Except as provided in subsection (b) of this section, this chapter applies to the following:

- (1) a vessel of the United States.
- (2) a vessel on the navigable waters of the United States.
- (3) a vessel -
  - (A) owned by a citizen of the United States or a corporation established by or under the laws of the United States or a State; and

- (B) not registered in a foreign country.

- (4) a public vessel of the United States.

- (5) a vessel otherwise subject to the jurisdiction of the United States.

(b) This chapter does not apply to the following:

- (1) a vessel of war.
- (2) a recreational vessel when operated only for pleasure.
- (3) a fishing vessel.

- (4) a fish processing vessel of not more than 5,000 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title that -

- (A)(i) was constructed as a fish processing vessel before August 16, 1974; or

- (ii) was converted for use as a fish processing vessel before January 1, 1983; and

- (B) is not on a foreign voyage.

- (5) a fish tender vessel of not more than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title that -

- (A)(i) was constructed, under construction, or under contract to be constructed as a fish tender vessel before January 1, 1980; or

- (ii) was converted for use as a fish tender vessel before January 1, 1983; and

- (B)(i) is not on a foreign voyage; or

- (ii) is not engaged in the Aleutian trade (except a vessel in that trade assigned a load line at any time before June 1, 1992).

- (6) a vessel of the United States on a domestic voyage that does not cross the Boundary Line, except a voyage on the Great Lakes.

- (7) a vessel of less than 24 meters (79 feet) overall in length.

- (8) a public vessel of the United States on a domestic voyage.

- (9) a vessel excluded from the application of this chapter by an international agreement to which the United States Government is a party.

- (10) an existing vessel of not more than 150 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title that is on a domestic voyage.

- (11) a small passenger vessel on a domestic voyage.

(12) a vessel of the working fleet of the Panama Canal Commission not on a foreign voyage.

(c) On application by the owner and after a survey under section 5105 of this title, the Secretary may assign load lines for a vessel excluded from the application of this chapter under subsection (b) of this section. A vessel assigned load lines under this subsection is subject to this chapter until the surrender of its load line certificate and the removal of its load line marks.

(d) This chapter does not affect an international agreement to which the Government is a party that is not in conflict with the International Convention on Load Lines currently in force for the United States.

#### HISTORICAL AND REVISION NOTES

Revised section 5102

Source: Section (U.S. Code) 46 App. U.S.C. 86b, 86c, 88.

The delineation of the vessels that will be subject to load line requirements is made in section 5102 as follows: subsection (a) is an all-inclusive list of vessels subject to load line requirements, followed by subsection (b) which specifically exempts those vessels to which the requirements do not apply.

Section 5102(a) lists five categories of vessels which are subject to load line requirements. They are as follows:

Clause (1) regarding "a vessel of the United States" includes all vessels documented under Chapter 121 of title 46 or numbered under Chapter 123 of title 46.

Clause (2) regarding "a vessel on the navigable waters of the United States" includes all domestic or foreign vessels found in or on the navigable waters of the United States.

Clause (3) regarding "a vessel owned by a citizen of the United States or a corporation established by or under the laws of the United States or a State, and not registered in a foreign country" includes all vessels owned by citizens of the United States (as defined in 5107(7)) [sic] and not registered under the laws of a foreign country, wherever the vessels may be located.

Clause (4) regarding "a public vessel of the United States" includes all United States public vessels.

Clause (5) regarding "a vessel otherwise subject to the jurisdiction of the United States" includes foreign vessels that are subject to United States jurisdiction as a result of bilateral agreements, licenses, customary international law or other means, including those using deepwater port or outer continental shelf or EEZ facilities located in areas subject to the jurisdiction of the United States.

Section 5102(b) lists the specific exemptions from load line requirements. The specific exemptions may be grouped as follows:

- (a) Vessel type (ships of war, pleasure vessels, fishing vessels, small passenger vessels on domestic voyages);
- (b) Area of operation (rivers, harbors, bays, sounds, etc.);
- (c) Minimum size (length); and
- (d) Treaty exclusions.

Clause (1) exempts vessels of war from load line requirements.

Clause (2) exempts recreational vessels operated only for pleasure from load line requirements.

Clause (3) exempts fishing vessels from load line requirements.

Clauses (4) and (5) exempt certain existing fish processing and fish tender vessels not on a foreign voyage from load line

requirements. The exception is limited to those vessels not on international voyages to ensure compliance with United States obligations under the International Load Line Convention.

Clause (6) exempts from load line requirements all U.S. vessels operating on domestic voyages within the Boundary Line, as defined in section 2101 of this title, except vessels operating on the Great Lakes.

Clause (7) exempts all vessels that are less than 24 meters (79 feet) in length from load line requirements whether on international or domestic voyages.

Clause (8) exempts from load line requirements those public vessels that are on domestic voyages.

Clause (9) exempts from load line requirements those vessels which have been excluded from the requirements "by specific action of a treaty of the United States." The only current treaty which excludes vessels from load line requirements is the Convention Between the United States of America and the Dominion of Canada Concerning Load Lines (49 Stat. 2685), which entered into force on August 11, 1934.

Clause (10) exempts from load line requirements existing U.S. vessels that are under 150 gross tons while engaged on a domestic voyage. This is a grandfather provision, continuing the existing exemption for these vessels. Vessels built after January 1, 1986 must be marked with a load line, however, if they are over 79 feet long and do not qualify for any other exemption.

Clause (11) exempts small passenger vessels engaged on domestic voyages from load line requirements. Small passenger vessels are inspected under Subchapter T of Title 46 of the Code of Federal Regulations. Under Subchapter T, the Coast Guard regulates these vessels with regard to safety; the requirements are based on the number of passengers, length, and gross tonnage of the vessel. Safety-related requirements in Subchapter T regulations include hull structure and watertightness, stability, weathertight integrity, and safe movement of persons on deck, the principal safety features covered by load line regulations. This specific exemption from load line requirements for small passenger vessels is consistent with existing law and does not alter in any way the Coast Guard's authority to regulate small passenger vessels under Subchapter T.

Clause (12) exempts vessels of the working voyages from the requirement to have load lines.

Section 5102(c) authorizes the Secretary to assign load lines for any vessel exempted from load line requirements by subsection (b) upon the request of the owner. It also provides that any exempted vessel for which load lines are assigned will remain subject to the load line requirements until its load line certificate is surrendered and the load line marks are removed.

Section 5102(d) provides that this chapter shall not be construed as abrogating the provisions of other treaties and conventions to which the United States is a party, which are not in conflict with the International Convention on Load Lines.

#### AMENDMENTS

2002 - Subsec. (b)(5)(B)(ii). Pub. L. 107-295 inserted "is not" after "(ii)".

1996 - Subsec. (b)(4). Pub. L. 104-324, Sec. 719(1), inserted "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the

Secretary under section 14104 of this title" after "5,000 gross tons" in introductory provisions.

Subsec. (b)(5). Pub. L. 104-324, Sec. 719(2), inserted "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title" after "500 gross tons" in introductory provisions.

Subsec. (b)(10). Pub. L. 104-324, Sec. 719(3), inserted "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title" after "150 gross tons".

1990 - Subsec. (b)(5)(B). Pub. L. 101-595 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "is not on a foreign voyage."

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-595 effective Nov. 16, 1990, with provision that before Jan. 1, 2003, a fish tender vessel is exempt from this chapter when engaged in Aleutian trade if the vessel either operated in that trade before Sept. 8, 1990, or was purchased before that date to be used in such trade and entered into service in that trade before June 1, 1992, did not undergo a major conversion, and did not have a load line assigned at any time before Nov. 16, 1990, see section 602(f) of Pub. L. 101-595, set out as a note under section 4502 of this title.

#### FISH TENDER VESSELS IN ALEUTIAN TRADE

Pub. L. 107-295, title IV, Sec. 436(b), (c), Nov. 25, 2002, 116 Stat. 2129, provided that:

"(b) Implementation. - Except as provided in subsection (c), a fish tender vessel that before January 1, 2003, transported cargo (not including fishery related products) in the Aleutian trade is subject to chapter 51 of title 46, United States Code (as amended by subsection (a) of this section [amending this section]).

"(c) Exception. -

"(1) In general. - Before December 31, 2006, the BOWFIN (United States official number 604231) is exempt from chapter 51 of title 46, United States Code (as amended by subsection (a) of this section) when engaged in the Aleutian trade, if the vessel does not undergo a major conversion.

"(2) Ensuring safety. - Before the date referred to in paragraph (1), a Coast Guard official who has reason to believe that the vessel referred to in paragraph (1) operating under this subsection is in a condition or is operated in a manner that creates an immediate threat to life or the environment or is operated in a manner that is inconsistent with section 3302 of title 46, United States Code, may direct the master or individual in charge to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge."

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

