

Vessels, Owners, Operators Prohibited From Carrying Government Impelled Cargo

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From: Thomas W. Harrelson Director, Office of Cargo Preference

To: All Shippers and Carriers of Government-Impelled Cargo

IMPORTANT NOTICE TO THE TRADE

This memorandum provides notice and guidance for compliance with the Cargo Preference Laws of the United States regarding substandard vessels. Section 408 of the Coast Guard Authorization Act of 1998, Public Law 105-383 (46 U.S.C. 2302(e)), establishes that substandard vessels and vessels operated by operators of substandard vessels are prohibited from the carriage of Government-impelled cargo for up to one year after such determination has been published electronically. The Office of General Counsel of the Department of Transportation has determined this law is applicable to all such vessels, owners and operators posted from April 1, 1999 forward.

A vessel which may not carry Government-impelled cargoes is defined as either (a) a vessel that has been detained and determined to be substandard for violation of an international safety convention to which the United States is a party or, (b) a vessel whose operator has on more than one occasion had a vessel detained and determined to be substandard. In both such situations the name of the owner of the vessel also shall be published.

The prohibition against a specific vessel or an operator expires the earlier of either one (1) year after electronic publication of the prohibition or any date on which the owner or operator prevails in an appeal of the violation.

"Government-impelled cargo" is defined by Section 408 as: "cargo for which a Federal agency contracts directly for shipping by water or for which (or the freight of which) a Federal agency provides financing, including financing by grant, loan or loan guarantee, resulting in shipment of the cargo by water."

A list of those vessels and owners who are ineligible to carry government cargo can be found on the General Information section of the U.S. Coast Guard Port State Control web site at: [Homeport](#)

Shippers of Government-impelled cargoes are cautioned to check the Coast Guard's web site prior to fixing or loading cargo aboard a vessel to determine if the vessel is disqualified either specifically or as a result of being operated by a disqualified owner or operator. In addition, shippers might wish to consider requiring carriers to stipulate in tender offers, charter parties, contracts of affreightment, or other documents that the vessel(s) or owner(s) or operator(s) are not disqualified.

Carriers are cautioned to check these lists to be sure they do not charter, relay, transship, or ship as part of a consortium, government-impelled cargoes on a vessel disqualified either specifically or as a result of being operated by a disqualified owner or operator.

This law does not apply to vessels registered under the U.S.-flag. We quote from the October 3, 1998 USCG letter to Congress: "The Coast Guard does not interpret Section 408 as applying to U.S. Flag vessels. U.S. Flag vessels are not subject to detention under the U.S. Port State Control Program for violations of international safety conventions."

Questions regarding cargo preference should be directed to the Maritime Administration Office of Cargo Preference at 202-366-4610 or email CARGO.MARAD@dot.gov. Questions regarding disqualified vessels or owners or operators should be directed to the Coast Guard Office of Compliance at 202-372-1251 or email: HQS-PF-fldr-CG-3PCV@USCG.MIL.

In addition, other laws prohibit transactions with Blocked, Denied, Debarred, or Entity listed parties. Related links to these sites may be accessed via the .Department of Homeland Security's [CBP webpage](#)

To access the U.S. Coast Guard [Homeport](#):

- Access the website at the above link
- Select the "Port State Control" tab on the left side
- Select "Ship Management and Vessels Prohibited from Carrying Government Cargoes" tab (located under "General Information")
- Download the list that you require