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Title 33 —Navigation and Navigable Waters

Chapter I —Coast Guard, Department of Homeland Security

Subchapter A —General

Part 2 Jurisdiction

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PART 2—JURISDICTION

Authority: 14 U.S.C. 503; 33 U.S.C. 70031; Public Law 89-670, 80 Stat. 931, 49 U.S.C. 108; Public Law 107-296, 116 Stat. 2135, 2249, 6 U.S.C. 101 note and 468; Department of Homeland Security Delegation No. 0170.1.

Source: USCG-2001-9044, 68 FR 42598, July 18, 2003, unless otherwise noted.

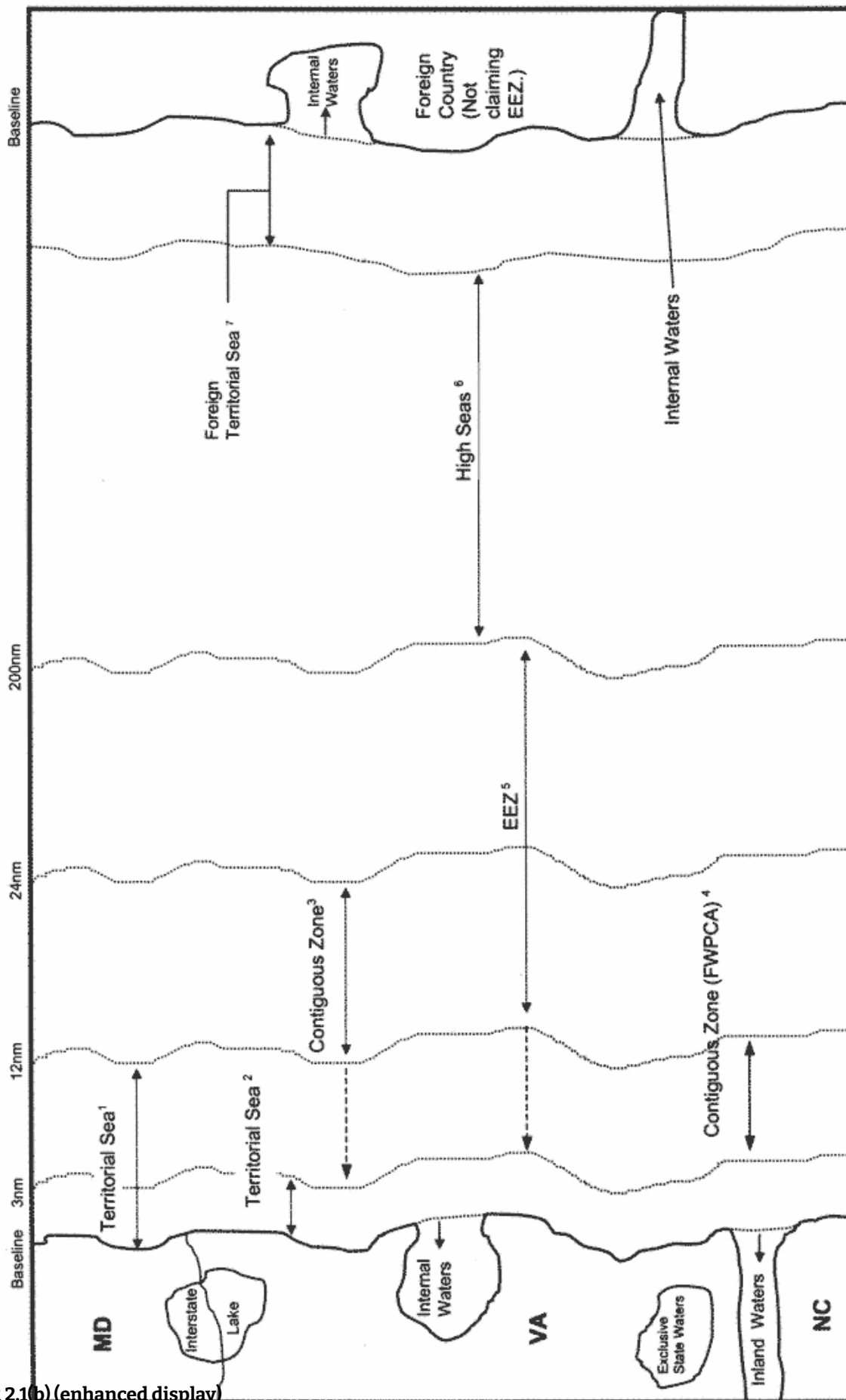
Subpart A—General

§ 2.1 Purpose.

- (a) The purpose of this part is to define terms the Coast Guard uses in regulations, policies, and procedures, to determine whether it has jurisdiction on certain waters in cases where specific jurisdictional definitions are not otherwise provided.

(b) Figure 2.1 is a visual aid to assist you in understanding this part.

FIGURE 2.1. JURISDICTIONAL AREAS



¹ Territorial sea for purposes identified in § 2.22(a)(1).

² Territorial sea for purposes identified in § 2.22(a)(2).

³ Contiguous zone as described in § 2.28(b), varies with territorial sea width for particular purpose involved.

⁴ Contiguous zone as described in § 2.28(a), for Federal Water Pollution Control Act purposes.

⁵ Exclusive Economic Zone (EEZ) is measured from the seaward limit of the territorial sea.

⁶ EEZ will vary for particular purposes.

⁷ High seas as defined in § 2.32(d). When a nation has not proclaimed an EEZ, the high seas begin at the seaward edge of their territorial sea.

The U.S. recognizes territorial sea claims of other nations up to a maximum distance of 12 nautical miles from the baseline.

§ 2.5 Specific definitions control.

In cases where a particular statute, regulation, policy or procedure provides a specific jurisdictional definition that differs from the definitions contained in this part, the former definition controls.

Note to § 2.5: For example, the definition of “inland waters” in the Inland Navigational Rules Act of 1980 (33 U.S.C. 2003(o)) would control the interpretation of inland navigation rules created under that Act and the “inland waters” definition in 46 CFR 10.107 would control regulations in 46 CFR part 10. Also, in various laws administered and enforced by the Coast Guard, the terms “State” and “United States” are defined to include some or all of the territories and possessions of the United States. The definitions in §§ 2.36 and 2.38 should be considered as supplementary to these statutory definitions and not as interpretive of them.

[USCG-2001-9044, 68 FR 42598, July 18, 2003, as amended by USCG-2020-0304, 85 FR 58275, Sept. 18, 2020]

Subpart B—Jurisdictional Terms

§ 2.20 Territorial sea baseline.

Territorial sea baseline means the line defining the shoreward extent of the territorial sea of the United States drawn according to the principles, as recognized by the United States, of the Convention on the Territorial Sea and the Contiguous Zone, 15 U.S.T. 1606, and the 1982 United Nations Convention on the Law of the Sea (UNCLOS), 21 I.L.M. 1261. Normally, the territorial sea baseline is the mean low water line along the coast of the United States.

Note to § 2.20: Charts depicting the territorial sea baseline are available for examination in accordance with § 1.10-5 of this chapter.

§ 2.22 Territorial sea.

(a) With respect to the United States, the following apply—

- (1) **Territorial sea** means the waters, 12 nautical miles wide, adjacent to the coast of the United States and seaward of the territorial sea baseline, for—
 - (i) Statutes included within subtitle II, subtitle VI, and subtitle VII, title 46, U.S.C.; the Act of June 15, 1917, as amended (46 U.S.C. 70051-70054); and the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201-1208), and any regulations issued under the authority of these statutes.
 - (ii) Purposes of criminal jurisdiction pursuant to Title 18, United States Code.
 - (iii) The special maritime and territorial jurisdiction as defined in 18 U.S.C. 7.
 - (iv) Interpreting international law.
 - (v) Any other treaty, statute, or regulation, or amendment thereto, interpreted by the Coast Guard as incorporating the definition of territorial sea as being 12 nautical miles wide, adjacent to the coast of the United States and seaward of the territorial sea baseline.

- (2) Unless otherwise specified in paragraph (a)(1) of this section, *territorial sea* means the waters, 3 nautical miles wide, adjacent to the coast of the United States and seaward of the territorial sea baseline.
- (3) In cases where regulations are promulgated under the authority of statutes covered by both paragraphs (a)(1) and (a)(2) of this section, the Coast Guard may use the definition of territorial sea in paragraph (a)(1) of this section.
- (b) With respect to any other nation, *territorial sea* means the waters adjacent to its coast that have a width and baseline recognized by the United States.

[USCG-2001-9044, 68 FR 42598, July 18, 2003, as amended by USCG-2003-14792, 68 FR 60470, Oct. 22, 2003; USCG-2020-0304, 85 FR 58275, Sept. 18, 2020]

§ 2.24 Internal waters.

- (a) With respect to the United States, *internal waters* means the waters shoreward of the territorial sea baseline.
- (b) With respect to any other nation, *internal waters* means the waters shoreward of its territorial sea baseline, as recognized by the United States.

§ 2.26 Inland waters.

Inland waters means the waters shoreward of the territorial sea baseline.

§ 2.28 Contiguous zone.

- (a) For the purposes of the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), *contiguous zone* means the zone, 9 nautical miles wide, adjacent to and seaward of the territorial sea, as defined in § 2.22(a)(2), that was declared to exist in Department of State Public Notice 358 of June 1, 1972 and that extends from 3 nautical miles to 12 nautical miles as measured from the territorial sea baseline.
- (b) For all other purposes, *contiguous zone* means all waters within the area adjacent to and seaward of the territorial sea, as defined in § 2.22(a), and extending to 24 nautical miles from the territorial sea baseline, but in no case extending within the territorial sea of another nation, as declared in Presidential Proclamation 7219 of September 2, 1999 (113 Stat. 2138).

§ 2.30 Exclusive Economic Zone.

- (a) With respect to the United States, including the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the United States Virgin Islands, and any other territory or possession over which the United States exercises sovereignty, *exclusive economic zone* means the zone seaward of and adjacent to the territorial sea, as defined in § 2.22(a), including the contiguous zone, and extending 200 nautical miles from the territorial sea baseline (except where otherwise limited by treaty or other agreement recognized by the United States) in which the United States has the sovereign rights and jurisdiction and all nations have the high seas freedoms mentioned in Presidential Proclamation 5030 of March 10, 1983.
- (b) Under customary international law as reflected in Article 55 of the 1982 United Nations Convention on the Law of the Sea, and with respect to other nations, *exclusive economic zone* means the waters seaward of and adjacent to the territorial sea, not extending beyond 200 nautical miles from the territorial sea baseline, as recognized by the United States.

[USCG-2001-9044, 68 FR 42598, July 18, 2003, as amended by USCG-2012-0306, 77 FR 37309, June 21, 2012]

§ 2.32 High seas.

- (a) For purposes of special maritime and territorial jurisdiction of the United States as defined in 18 U.S.C. 7, *high seas* means all waters seaward of the territorial sea baseline.
- (b) For the purposes of section 2 of the Act of February 19, 1895, as amended (33 U.S.C. 151) and the Inland Navigational Rules Act of 1980 (33 U.S.C. Chapter 34), *high seas* means the waters seaward of any lines established under these statutes, including the lines described in part 80 of this chapter and 46 CFR part 7.
- (c) For the purposes of 14 U.S.C. 522, 14 U.S.C. 545, 33 U.S.C. 409, and 33 U.S.C. 1471 *et seq.*, high seas includes the exclusive economic zones of the United States and other nations, as well as those waters that are seaward of territorial seas of the United States and other nations.
- (d) Under customary international law as reflected in the 1982 United Nations Convention on the Law of the Sea and without prejudice to high seas freedoms that may be exercised within exclusive economic zones pursuant to article 58 of the United Nations Convention on the Law of the Sea, and unless the context clearly requires otherwise (e.g., The International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, including annexes thereto), *high seas* means all waters that are not the exclusive economic zone (as defined in § 2.30), territorial sea (as defined in § 2.22), or internal waters of the United States or any other nation.

[USCG-2001-9044, 68 FR 42598, July 18, 2003, as amended by USCG-2007-27887, 72 FR 45902, Aug. 16, 2007; USCG-2020-0304, 85 FR 58275, Sept. 18, 2020;]

§ 2.34 Waters subject to tidal influence; waters subject to the ebb and flow of the tide; mean high water.

- (a) *Waters subject to tidal influence and waters subject to the ebb and flow of the tide* are waters below mean high water. These terms do not include waters above mean high water caused by flood flows, storms, high winds, seismic waves, or other non-lunar phenomena.
- (b) *Mean high water* is the average of the height of the diurnal high water at a particular location measured over a lunar cycle of 19 years.

§ 2.36 Navigable waters of the United States, navigable waters, and territorial waters.

- (a) Except as provided in paragraph (b) of this section, *navigable waters of the United States, navigable waters, and territorial waters* mean, except where Congress has designated them not to be navigable waters of the United States:
 - (1) Territorial seas of the United States;
 - (2) Internal waters of the United States that are subject to tidal influence; and
 - (3) Internal waters of the United States not subject to tidal influence that:
 - (i) Are or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, notwithstanding natural or man-made obstructions that require portage, or

(ii) A governmental or non-governmental body, having expertise in waterway improvement, determines to be capable of improvement at a reasonable cost (a favorable balance between cost and need) to provide, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce.

(b) **Navigable waters of the United States** and *navigable waters*, as used in sections 311 and 312 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1321 and 1322, mean:

- (1) Navigable waters of the United States as defined in paragraph (a) of this section and all waters within the United States tributary thereto; and
- (2) Other waters over which the Federal Government may exercise Constitutional authority.

§ 2.38 Waters subject to the jurisdiction of the United States; waters over which the United States has jurisdiction.

Waters subject to the jurisdiction of the United States and *waters over which the United States has jurisdiction* mean the following waters—

- (a) Navigable waters of the United States, as defined in § 2.36(a).
- (b) Waters, other than those under paragraph (a) of this section, that are located on lands for which the United States has acquired title or controls and—
 - (1) Has accepted jurisdiction according to 40 U.S.C. 255; or
 - (2) Has retained concurrent or exclusive jurisdiction from the date that the State in which the lands are located entered the Union.
- (c) Waters made subject to the jurisdiction of the United States by operation of the international agreements and statutes relating to the former Trust Territory of the Pacific Islands, and waters within the territories and possessions of the United States.

Subpart C—Availability of Jurisdictional Decisions

§ 2.40 Maintenance of decisions.

- (a) From time to time, the Coast Guard makes navigability determinations of specific waterways, or portions thereof, in order to determine its jurisdiction on those waterways. Copies of these determinations are maintained by the District Commander in whose district the waterway is located.
- (b) If the district includes portions of the territorial sea, charts reflecting Coast Guard decisions as to the location of the territorial sea baseline for the purposes of Coast Guard jurisdiction are maintained by the District Commander in whose district the portion of the territorial sea is located.

§ 2.45 Decisions subject to change or modification and availability of lists and charts.

The determinations referred to in § 2.40 are subject to change or modification. The determinations are made for Coast Guard use at the request of Coast Guard officials. Determinations made or subsequently changed are available to the public under § 1.10-5(b) of this chapter. Inquiries concerning whether a determination has been made for specific waters, for the purposes of Coast Guard jurisdiction, should be directed to the District Commander of the district in which the waters are located.