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TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 33--INSPECTION GENERALLY

Sec. 3301. Vessels subject to inspection

The following categories of vessels are subject to inspection under this part:

- (1) freight vessels.
- (2) nautical school vessels.
- (3) offshore supply vessels.
- (4) passenger vessels.
- (5) sailing school vessels.
- (6) seagoing barges.
- (7) seagoing motor vessels.
- (8) small passenger vessels.
- (9) steam vessels.
- (10) tank vessels.
- (11) fish processing vessels.
- (12) fish tender vessels.
- (13) Great Lakes barges.
- (14) oil spill response vessels.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 510; Pub. L. 98-364, title IV, Sec. 402(2), July 17, 1984, 98 Stat. 445; Pub. L. 102-587, title V, Sec. 5208(b), Nov. 4, 1992, 106 Stat. 5076; Pub. L. 104-324, title XI, Sec. 1104(g), Oct. 19, 1996, 110 Stat. 3967.)

Historical and Revision Notes

Revised section	Source section (U.S. Code)
3301(1).....	46:391 46:404
3301(2).....	46:1295f(c)
3301(3).....	46:404-1
3301(4).....	46:390a 46:391
3301(5).....	46:390a
3301(6).....	46:395
3301(7).....	46:367
3301(8).....	46:390a
3301(9).....	46:362 46:391 46:405
3301(10).....	46:391a

Section 3301 lists all classes of vessels that are subject to inspection and certification by the Coast Guard. This section represents one of the sought-after advantages of the bill to simplify access to the provisions of law governing the regulation of vessels. Under the present law, a vessel's inspection status must be determined by examining a

table appearing at section 2.01-7A of title 46, Code of Federal Regulations that divides all vessels into more than 70 separate classes.

It is important to note that while the classes of vessels are now limited to ten, there is no prohibition against developing regulations to meet the special needs of various size vessels within any one category. For example, it is expected that the Coast Guard will continue the practice of establishing standards for freight vessels of not more than 100 gross tons and other standards for larger freight vessels.

It should also be noted that a particular vessel can, when engaged in various types of operations, be subject to varying inspection laws. For example, an offshore supply vessel could be classed as a small passenger vessel or a passenger vessel when it operates as a crew boat carrying individuals other than those defined in section 2101(21). If the offshore supply vessel is 500 gross tons and over it would then be subject to inspection as a seagoing motor vessel, a freight vessel, or a passenger vessel.

Amendments

1996--Par. (14). Pub. L. 104-324 added par. (14).

1992--Par. (13). Pub. L. 102-587 added par. (13).

1984--Pars. (11), (12). Pub. L. 98-364 added pars. (11) and (12).

Effective Date of 1992 Amendment

Amendment by Pub. L. 102-587 effective Nov. 4, 1992, for Great Lakes barges placed in operation after Nov. 4, 1992, and effective one year after Nov. 4, 1992, for Great Lakes barges in operation on Nov. 4, 1992, with provision for interim safety requirements, see section 5208(c), (d) of Pub. L. 102-587, set out as a note under section 2101 of this title.

Effective Date

Chapter effective Apr. 15, 1984, see section 2(g)(1) of Pub. L. 98-89, set out as a note under section 3101 of this title.

Short Title of 1984 Amendment

Pub. L. 98-498, title II, Sec. 210, Oct. 19, 1984, 98 Stat. 2303, provided that: ``This subtitle [subtitle A (Secs. 210-214) of title II of Pub. L. 98-498, enacting section 2306 of this title, amending sections 2301, 3309, 3311, 3318, 6101, and 6103 of this title and section 183 of the Appendix to this title, and enacting provisions set out as notes under section 2306 of this title and section 183 of the Appendix to this title] may be cited as the `Maritime Safety Act of 1984'.''

Pilot Program

Pub. L. 105-383, title IV, Sec. 412(b), Nov. 13, 1998, 112 Stat. 3432, provided that:

``(1) In general.--The Secretary may establish a pilot program to exempt a vessel of at least 300 gross tons as measured under chapter 143 or chapter 145 of title 46, United States Code, from the requirement to be inspected under section 3301(7) of title 46, United States Code, as a seagoing motor vessel, if--

``(A) the vessel does not carry any cargo or passengers for hire;

``(B) the vessel does not engage in commercial service, commercial fisheries, or oceanographic research; and

((C) the vessel does not engage in towing.

((2) Expiration of authority.--The authority to grant the exemptions under this subsection expires 2 years after the date of the enactment of this Act [Nov. 13, 1998]. Any specific exemptions granted under this subsection shall nonetheless remain in effect.''

Small Passenger Vessel Pilot Inspection Program With State of Minnesota

Section 1122 of Pub. L. 104-324 provided that:

((a) In General.--The Secretary may enter into an agreement with the State under which the State may inspect small passenger vessels operating in waters of that State designated by the Secretary, if--

((1) the State plan for the inspection of small passenger vessels meets such requirements as the Secretary may require to ensure the safety and operation of such vessels in accordance with the standards that would apply if the Coast Guard were inspecting such vessels; and

((2) the State will provide such information obtained through the inspection program to the Secretary annually in such form and in such detail as the Secretary may require.

((b) Fees.--The Secretary may adjust or waive the user fee imposed under section 3317 of title 46, United States Code, for the inspection of small passenger vessels inspected under the State program.

((c) Termination.--The authority provided by subsection (a) terminates on December 31, 1999.

((d) Definitions.--For purposes of this section--

((1) Secretary.--The term 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

((2) State.--The term 'State' means the State of Minnesota.

((3) Small passenger vessel.--The term 'small passenger vessel' means a small passenger vessel (as defined in section 2101(35) of title 46, United States Code) of not more than 40 feet overall in length.''

Section Referred to in Other Sections

This section is referred to in sections 2101, 3302 of this title.

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TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 33--INSPECTION GENERALLY

Sec. 3305. Scope and standards of inspection

(a) The inspection process shall ensure that a vessel subject to inspection--

- (1) is of a structure suitable for the service in which it is to be employed;
- (2) is equipped with proper appliances for lifesaving, fire prevention, and firefighting;
- (3) has suitable accommodations for the crew, sailing school instructors, and sailing school students, and for passengers on the vessel if authorized to carry passengers;
- (4) is in a condition to be operated with safety to life and property; and
- (5) complies with applicable marine safety laws and regulations.

(b) If an inspection, or examination under section 3308 of this title, reveals that a life preserver, lifesaving device, or firehose is defective and incapable of being repaired, the owner or master shall destroy the life preserver, lifesaving device, or firehose in the presence of the official conducting the inspection or examination.

(c) A nautical school vessel operated by a civilian nautical school or by an educational institution under section 13 of the Coast Guard Authorization Act of 1986 shall be inspected like a small passenger vessel or a passenger vessel, depending on its tonnage.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 513; Pub. L. 99-36, Sec. 1(a)(1), May 15, 1985, 99 Stat. 67; Pub. L. 99-640, Sec. 13(e), Nov. 10, 1986, 100 Stat. 3551.)

Historical and Revision Notes

Revised section	Source section (U.S. Code)
3305.....	46:369
	46:390a
	46:391
	46:392
	46:395
	46:404-1
	46:405
	46:406
	46:407
	46:408
	46:660a
	46:881

Section 3305 consolidates, at one place, the basic scope of coverage of the inspection process. It is to be noted that the time difference in

enactment of various statutes has resulted in some anomalies. Thus, for example, R.S. 4417 (46 U.S.C. 391) which had originally set periods of inspection and vested authority in "local inspectors" was expanded over the years to provide the base for inspection of certain classes of vessels as well as setting out the periods and scope. The distillation of inspection objectives and standards in later laws and the transfer of all functions of separately created bureaus and functionaries to the Coast Guard permit this consolidation. There are those who have a desire to see the scope and standards of inspection be more specific in law similar to those presently applicable to boilers and boiler plating that predate 1871. The Committee believes this serves no useful purpose since the specifics are either antiquated or too limiting and have, in fact, been superseded by the statutorily authorized adoption of various industrial specifications, standards, and codes by the Coast Guard. These include the American Bureau of Shipping (ABS), American Society of Mechanical Engineers (ASME), American National Standards Institute (ANSI), American Society for Testing and Materials (ASTM), American Welding Society (AWS), Underwriters Laboratories (UL), and many others. In addition, Coast Guard regulations must also implement and conform to the numerous international maritime safety treaties to which the United States is signatory. The Committee expects that the regulatory flexibility being provided will not reduce the present vessel inspection requirements that have been historically developed.

Section 3305(a) establishes the statutory scope of the Coast Guard's vessel inspection authority and duty. The inspection process shall ensure that a vessel is of suitable structure, equipment, and accommodations, is maintained in an operating condition consistent with safety of life and property, and complies with applicable marine safety laws and regulations.

Subsection (b) requires that defective life preservers and firehose be destroyed in the presence of the inspecting official, normally a qualified Coast Guard marine inspector. The Committee believes that if this equipment is defective for use on an inspected vessel, it should be destroyed so that it cannot be used on an uninspected or recreational vessel.

Subsection (c) provides flexibility in the inspection of various sizes of nautical school vessels.

References in Text

Section 13 of the Coast Guard Authorization Act of 1986, referred to in subsec. (c), is section 13 of Pub. L. 99-640, which enacted section 484d of Title 40, Public Buildings, Property, and Works, and amended sections 2101 and 3305 of this title.

Amendments

1986--Subsec. (c). Pub. L. 99-640 inserted "or by an educational institution under section 13 of the Coast Guard Authorization Act of 1986".

1985--Subsec. (b). Pub. L. 99-36 substituted "lifesaving" and "life preserver, lifesaving device, or firehose" for "life-saving" and "life preserver or firehose", respectively.

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TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 33--INSPECTION GENERALLY

Sec. 3306. Regulations

(a) To carry out this part and to secure the safety of individuals and property on board vessels subject to inspection, the Secretary shall prescribe necessary regulations to ensure the proper execution of, and to carry out, this part in the most effective manner for--

(1) the design, construction, alteration, repair, and operation of those vessels, including superstructures, hulls, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, boilers, unfired pressure vessels, piping, electric installations, and accommodations for passengers and crew, sailing school instructors, and sailing school students;

(2) lifesaving equipment and its use;

(3) firefighting equipment, its use, and precautionary measures to guard against fire;

(4) inspections and tests related to paragraphs (1), (2), and

(3) of this subsection; and

(5) the use of vessel stores and other supplies of a dangerous nature.

(b) (1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that--

(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

(C) for lifesaving equipment, the foreign government--

(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.

(c) In prescribing regulations for sailing school vessels, the Secretary shall consult with representatives of the private sector having experience in the operation of vessels likely to be certificated as sailing school vessels. The regulations shall--

(1) reflect the specialized nature of sailing school vessel operations, and the character, design, and construction of vessels operating as sailing school vessels; and

(2) include requirements for notice to sailing school instructors and sailing school students about the specialized nature

of sailing school vessels and applicable safety regulations.

(d) In prescribing regulations for nautical school vessels operated by the United States Merchant Marine Academy or by a State maritime academy (as defined in section 1302(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295a(3))), the Secretary shall consider the function, purpose, and operation of the vessels, their routes, and the number of individuals who may be carried on the vessels.

(e) When the Secretary finds it in the public interest, the Secretary may suspend or grant exemptions from the requirements of a regulation prescribed under this section related to lifesaving and firefighting equipment, muster lists, ground tackle and hawsers, and bilge systems.

(f) In prescribing regulations for offshore supply vessels, the Secretary shall consider the characteristics, methods of operation, and the nature of the service of offshore supply vessels.

(g) In prescribing regulations for fish processing or fish tender vessels, the Secretary shall consult with representatives of the private sector having experience in the operation of these vessels. The regulations shall reflect the specialized nature and economics of fish processing or fish tender vessel operations and the character, design, and construction of fish processing or fish tender vessels.

(h) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less than 300 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 carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of section 2113(4) of this title.

(i) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less 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 carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of section 2113(5) of this title.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 513; Pub. L. 98-364, title IV, Sec. 402(5), July 17, 1984, 98 Stat. 446; Pub. L. 103-206, title V, Sec. 512(a), Dec. 20, 1993, 107 Stat. 2442; Pub. L. 104-324, title VI, Sec. 604(a), (c), title VII, Sec. 712, Oct. 19, 1996, 110 Stat. 3930, 3931, 3936.)

Historical and Revision Notes

Revised section	Source section (U.S. Code)
3306.....	46:366
	46:369
	46:375
	46:390b
	46:392
	46:404
	46:408
	46:411
	46:412
	46:416
	46:420
	46:445
	46:459
	46:473
	46:477
	46:478

46:479
46:481
46:482
46:483
46:489
46:526p
46:1295f(c)

Section 3306 contains broad authority to prescribe regulations for the proper inspection and certification of vessels. It provides regulatory flexibility for meeting technological changes. The section also permits flexibility in prescribing regulations for nautical school vessels operated by the United States Merchant Marine Academy or by a State maritime academy. The Secretary may suspend or grant exemptions to certain limited inspection requirements when the Secretary finds that this is necessary in the public interest. It also contains the requirement that in regulating offshore supply vessels consideration must be given to the special nature of their operations.

Amendments

1996--Subsec. (a)(4). Pub. L. 104-324, Sec. 604(c), substituted ``paragraphs (1), (2), and (3)'' for ``clauses (1)-(3)''.

Subsec. (b). Pub. L. 104-324, Sec. 604(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ``Equipment subject to regulation under this section may not be used on any vessel without prior approval as prescribed by regulation.''

Subsec. (h). Pub. L. 104-324, Sec. 712(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 ``300 gross tons''.

Subsec. (i). Pub. L. 104-324, Sec. 712(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''.

1993--Subsecs. (h), (i). Pub. L. 103-206 added subsecs. (h) and (i).

1984--Subsec. (g). Pub. L. 98-364 added subsec. (g).

Regulations

Section 512(b), (c) of Pub. L. 103-206 provided that:

``(b) The Secretary of Transportation shall, within twenty-four months of the date of enactment of this Act [Dec. 20, 1993], prescribe regulations establishing the structural fire protection, manning, operating, and equipment requirements for vessels which meet the requirements of subsections (h) and (i) of section 3306 of title 46, United States Code, as amended by this Act.

``(c) Before the Secretary of Transportation prescribes regulations under subsections (h) and (i) of section 3306 of title 46, United States Code, as amended by this Act, the Secretary may prescribe the route, service, manning, and equipment for those vessels based on existing passenger vessel and small passenger vessel regulations.''

Foreign Approvals

Section 604(b) of Pub. L. 104-324 provided that: ``The Secretary of Transportation, in consultation with other interested Federal agencies, shall work with foreign governments to have those governments approve the use of the same equipment and materials on vessels documented under the laws of those countries that the Secretary requires on United States documented vessels.''

International Convention for Safety of Life at Sea

For International Conventions for the Safety of Life at Sea to which the United States has been a party, see section 1602 of Title 33, Navigation and Navigable Waters, and notes thereunder.

Section Referred to in Other Sections

This section is referred to in sections 3313, 3318 of this title.

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TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 37--CARRIAGE OF LIQUID BULK DANGEROUS CARGOES

Sec. 3702. Application

(a) Subject to subsections (b)-(e) of this section, this chapter applies to a tank vessel.

(b) This chapter does not apply to a documented vessel that would be subject to this chapter only because of the transfer of fuel from the fuel supply tanks of the vessel to offshore drilling or production facilities in the oil industry if the vessel is--

- (1) 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;
- (2) not a tanker; and
- (3) in the service of oil exploitation.

(c) This chapter does not apply to a fishing or 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 when engaged only in the fishing industry.

(d) This chapter does not apply to 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. However, the vessel is subject to regulation by the Secretary when carrying flammable or combustible liquid cargo in bulk.

(e) This chapter does not apply to a foreign vessel on innocent passage on the navigable waters of the United States.

(f) This chapter does not apply to an oil spill response vessel if--

- (1) the vessel is used only in response-related activities; or
- (2) the vessel is--
 - (A) 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;
 - (B) designated in its certificate of inspection as an oil spill response vessel; and
 - (C) engaged in response-related activities.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 521; Pub. L. 98-364, title IV, Sec. 402(6), July 17, 1984, 98 Stat. 446; Pub. L. 104-324, title VII, Sec. 714, title XI, Sec. 1104(b), Oct. 19, 1996, 110 Stat. 3936, 3966.)

Historical and Revision Notes

Revised section	Source section (U.S. Code)
3702.....	46:391a

Section 3702, with certain exceptions, makes this chapter applicable to any tank vessel operating in the navigable waters of the United States or transferring oil or hazardous materials in any port or place subject to the jurisdiction of the United States, and which carries oil or any hazardous materials in bulk as cargo or in residue, regardless of tonnage, size or manner of propulsion; whether it is self-propelled or not; whether it is carrying freight or passengers for hire or not; and whether it is a vessel of the United States or a foreign vessel.

It exempts certain small vessels documented in the service of oil exploitation, certain small tender and fishing vessels used in the Northwest salmon or crab fisheries, certain vessels used in the processing and assembling of fishery products used in the Northwest fisheries, public vessels, and foreign vessels engaged on innocent passage on the navigable waters of the United States. However, processing vessels, while not treated as tank vessels, are still subject to regulation when carrying flammable or combustible liquid cargo in bulk.

Amendments

1996--Subsec. (b)(1). Pub. L. 104-324, Sec. 714(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 ``500 gross tons''.

Subsec. (c). Pub. L. 104-324, Sec. 714(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''.

Subsec. (d). Pub. L. 104-324, Sec. 714(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 ``5,000 gross tons''.

Subsec. (f). Pub. L. 104-324, Sec. 1104(b), added subsec. (f).

1984--Subsec. (c). Pub. L. 98-364, Sec. 402(6)(A), substituted ``This chapter does not apply to a fishing or fish tender vessel of not more than 500 gross tons when engaged only in the fishing industry'' for ``This chapter does not apply to a cannery tender, fishing tender, or fishing vessel of not more than 500 gross tons, used in the salmon or crab fisheries of Alaska, Oregon, or Washington, when engaged only in the fishing industry''.

Subsec. (d). Pub. L. 98-364, Sec. 402(6)(B), substituted ``This chapter does not apply to a fish processing vessel of not more than 5,000 gross tons'' for ``This chapter does not apply to a vessel of not more than 5,000 gross tons used in processing and assembling fishery products of the fisheries of Alaska, Oregon, and Washington''.

Section Referred to in Other Sections

This section is referred to in section 8703 of this title; title 49 section 5117.

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TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 37--CARRIAGE OF LIQUID BULK DANGEROUS CARGOES

Sec. 3703. Regulations

(a) The Secretary shall prescribe regulations for the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels to which this chapter applies, that may be necessary for increased protection against hazards to life and property, for navigation and vessel safety, and for enhanced protection of the marine environment. The Secretary may prescribe different regulations applicable to vessels engaged in the domestic trade, and also may prescribe regulations that exceed standards set internationally. Regulations prescribed by the Secretary under this subsection are in addition to regulations prescribed under other laws that may apply to any of those vessels. Regulations prescribed under this subsection shall include requirements about--

- (1) superstructures, hulls, cargo holds or tanks, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, and boilers;
- (2) the handling or stowage of cargo, the manner of handling or stowage of cargo, and the machinery and appliances used in the handling or stowage;
- (3) equipment and appliances for lifesaving, fire protection, and prevention and mitigation of damage to the marine environment;
- (4) the manning of vessels and the duties, qualifications, and training of the officers and crew;
- (5) improvements in vessel maneuvering and stopping ability and other features that reduce the moseibility of marine casualties;
- (6) the reduction of cargo loss if a marine casualty occurs; and
- (7) the reduction or elimination of discharges during ballasting, deballasting, tank cleaning, cargo handling, or other such activity.

(b) In prescribing regulations under subsection (a) of this section, the Secretary shall consider the types and grades of cargo permitted to be on board a tank vessel.

(c) In prescribing regulations under subsection (a) of this section, the Secretary shall establish procedures for consulting with, and receiving and considering the views of--

- (1) interested departments, agencies, and instrumentalities of the United States Government;
- (2) officials of State and local governments;
- (3) representatives of port and harbor authorities and associations;
- (4) representatives of environmental groups; and
- (5) other interested parties knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 522.)

Historical and Revision Notes

Revised section	Source section (U.S. Code)
3703.....	46:391a(6) 46:391a(12)

Section 3703 requires the Secretary to issue regulations to implement this section. Specific items are listed to be included within the regulations issued. The regulatory authority must be exercised under the Administrative Procedure Act and, in prescribing these regulations, the Secretary must consider the kinds and grades of cargo carried on board. Furthermore, in addition to any requirements of the Administrative Procedure Act, the Secretary must establish specific consultation procedures for considering the views of various specified interested officials, groups, and individuals. The procedures are intended to provide for consultation as early as possible in the regulatory process.

Studies Addressing Various Sources of Oil Spill Risk

Pub. L. 104-324, title IX, Sec. 903, Oct. 19, 1996, 110 Stat. 3947, provided that:

((a) Study of Group-5 Fuel Oil Spills.--

((1) Definition.--In this subsection, the term 'group-5 fuel oil' means a petroleum-based oil that has a specific gravity of greater than 1.0.

((2) Coordination of study.--The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council to conduct a study of the relative environmental and public health risks posed by discharges of group-5 fuel oil.

((3) Matters to be included.--The study under this subsection shall include a review and analysis of--

((A) the specific risks posed to the public health or welfare of the United States, including fish, shellfish and wildlife, public and private property, shorelines, beaches, habitat, and other natural resources under the jurisdiction or control of the United States, as a result of an actual or threatened discharge of group-5 fuel oil from a vessel or facility;

((B) cleanup technologies currently available to address actual or threatened discharge of group-5 fuel oil; and

((C) any technological and financial barriers that prevent the prompt remediation of discharges of group-5 fuel oil.

((4) Report.--Not later than 18 months after the date of enactment of this Act [Oct. 19, 1996], the Secretary of Transportation shall submit to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study under this subsection.

((5) Rulemaking.--If the Secretary of Transportation determines, based on the results of the study under this subsection, that there are significant risks to public health or the environment resulting from the actual or threatened discharge of group-5 fuel oil from a vessel or facility that cannot be technologically or economically addressed by existing or anticipated cleanup efforts, the Secretary may initiate a rulemaking to take such action as is necessary to abate the threat.

((b) Study of Automatic Fueling Shutoff Equipment.--

((1) Coordination of study.--The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council to conduct a study of the unintentional or accidental

discharge of fuel oil during lightering or fuel loading or off-loading activity.

((2) Matters to be included.--The study under this subsection shall include a review and analysis of current monitoring and fueling practices to determine the need for automatic fuel shutoff equipment to prevent the accidental discharge of fuel oil, and whether such equipment is needed as a supplement to or replacement of existing preventive equipment or procedures.

((3) Report.--Not later than 18 months after the date of enactment of this Act [Oct. 19, 1996], the Secretary of Transportation shall submit to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study under this subsection.

((4) Rulemaking.--If the Secretary of Transportation determines, based on the results of the study conducted under this subsection, that the use of automatic oil shutoff equipment is necessary to prevent the actual or threatened discharge of oil during lightering or fuel loading or off[-]loading activity, the Secretary may initiate a rulemaking to take such action as is necessary to abate a threat to public health or the environment.

((c) Lightering Study.--The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council on a study into the actual incidence and risk of oil spills from lightering operations off the coast of the United States. Among other things, the study shall address the manner in which existing regulations are serving to reduce oil spill risks. The study shall take into account current or proposed international rules and standards and also include recommendations on measures that would be likely to further reduce the risks of oil spills from lightering operations. Not later than 18 months after the date of enactment of this Act [Oct. 19, 1996], the Secretary shall submit a report on the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.''

Existing Tank Vessel Research

Pub. L. 104-324, title XI, Sec. 1134, Oct. 19, 1996, 110 Stat. 3985, provided that:

((a) Funding.--The Secretary of Transportation shall take steps to allocate funds appropriated for research, development, testing, and evaluation, including the combination of funds from any source available and authorized for this purpose, to ensure that any Government-sponsored project intended to evaluate double hull alternatives that provide equal or greater protection to the marine environment, or interim solutions to remediate potential environmental damage resulting from oil spills from existing tank vessels, commenced prior to the date of enactment of this section [Oct. 19, 1996], is fully funded for completion by the end of fiscal year 1997. Any vessel construction or repair necessary to carry out the purpose of this section must be performed in a shipyard located in the United States.

((b) Use of Public Vessels.--The Secretary may provide vessels owned by, or demise chartered to, and operated by the Government and not engaged in commercial service, without reimbursement, for use in and the support of projects sponsored by the Government for research, development, testing, evaluation, and demonstration of new or improved technologies that are effective in preventing or mitigating oil discharges and protecting the environment.''

Oil Spill Prevention and Response Technology Test and Evaluation Program

Pub. L. 103-206, title III, Sec. 310, Dec. 20, 1993, 107 Stat. 2425,

provided that:

((a) Not later than 6 months after the date of enactment of this Act [Dec. 20, 1993], the Secretary of Transportation shall establish a program to evaluate the technological feasibility and environmental benefits of having tank vessels carry oil spill prevention and response technology. To implement the program the Secretary shall--

((1) publish in the Federal Register an invitation for submission of proposals including plans and procedures for testing; and

((2) review and evaluate technology using, to the maximum extent possible, existing evaluation and performance standards.

((b) The Secretary shall, to the maximum extent possible, incorporate in the program established in subsection (a), the results of existing studies and evaluations of oil spill prevention and response technology carried on tank vessels.

((c) Not later than 2 years after the date of the enactment of this Act [Dec. 20, 1993], the Secretary shall evaluate the results of the program established in subsection (a) and submit a report to Congress with recommendations on the feasibility and environmental benefits of, and appropriate equipment and utilization standards for, requiring tank vessels to carry oil spill prevention and response equipment.

((d) Not later than 6 months after the date of the enactment of this Act [Dec. 20, 1993], the Secretary shall evaluate and report to the Congress on the feasibility of using segregated ballast tanks for emergency transfer of cargo and storage of recovered oil.''

Regulations Requiring Periodic Gauging of Plating Thickness for Oil Carrying Commercial Vessels

Pub. L. 101-380, title IV, Sec. 4109, Aug. 18, 1990, 104 Stat. 515, provided that: ((Not later than 1 year after the date of the enactment of this Act [Aug. 18, 1990], the Secretary shall issue regulations for vessels constructed or adapted to carry, or that carry, oil in bulk as cargo or cargo residue--

((1) establishing minimum standards for plating thickness; and

((2) requiring, consistent with generally recognized principles of international law, periodic gauging of the plating thickness of all such vessels over 30 years old operating on the navigable waters or the waters of the exclusive economic zone.''

Regulations Requiring Use of Overfill and Tank Level or Monitoring Devices on Oil Carrying Commercial Vessels

Pub. L. 101-380, title IV, Sec. 4110, Aug. 18, 1990, 104 Stat. 515, provided that:

((a) Standards.--Not later than 1 year after the date of the enactment of this Act [Aug. 18, 1990], the Secretary shall establish, by regulation, minimum standards for devices for warning persons of overfills and tank levels of oil in cargo tanks and devices for monitoring the pressure of oil cargo tanks.

((b) Use.--Not later than 1 year after the date of the enactment of this Act [Aug. 18, 1990], the Secretary shall issue regulations establishing, consistent with generally recognized principles of international law, requirements concerning the use of--

((1) overfill devices, and

((2) tank level or pressure monitoring devices, which are referred to in subsection (a) and which meet the standards established by the Secretary under subsection (a), on vessels constructed or adapted to carry, or that carry, oil in bulk as cargo or cargo residue on the navigable waters and the waters of the exclusive economic zone.''

Tanker Navigation Safety Standards Study

Pub. L. 101-380, title IV, Sec. 4111, Aug. 18, 1990, 104 Stat. 515, directed Secretary, not later than 2 years after Aug. 18, 1990, to conduct a study and report to Congress on whether existing laws and regulations are adequate to ensure safe navigation of vessels transporting oil or hazardous substances in bulk on navigable waters and waters of the exclusive economic zone.

Rules Governing Operation of Vessels on Auto-Pilot or With Unattended Engine Room

Pub. L. 101-380, title IV, Sec. 4114(a), Aug. 18, 1990, 104 Stat. 517, provided that: ``In order to protect life, property, and the environment, the Secretary shall initiate a rulemaking proceeding within 180 days after the date of the enactment of this Act [Aug. 18, 1990] to define the conditions under, and designate the waters upon, which tank vessels subject to section 3703 of title 46, United States Code, may operate in the navigable waters with the auto-pilot engaged or with an unattended engine room.''

Regulations Requiring Escorts for Certain Tankers; ``Tanker'' Defined

Pub. L. 101-380, title IV, Sec. 4116(c), (d), Aug. 18, 1990, 104 Stat. 523, provided that:

``(c) Escorts for Certain Tankers.--Not later than 6 months after the date of the enactment of this Act [Aug. 18, 1990], the Secretary shall initiate issuance of regulations under section 3703(a)(3) of title 46, United States Code, to define those areas, including Prince William Sound, Alaska, and Rosario Strait and Puget Sound, Washington (including those portions of the Strait of Juan de Fuca east of Port Angeles, Haro Strait, and the Strait of Georgia subject to United States jurisdiction), on which single hulled tankers over 5,000 gross tons transporting oil in bulk shall be escorted by at least two towing vessels (as defined under section 2101 of title 46, United States Code) or other vessels considered appropriate by the Secretary.

``(d) Tanker Defined.--In this section [amending section 8502 of this title] the term `tanker' has the same meaning the term has in section 2101 of title 46, United States Code.''

Section Referred to in Other Sections

This section is referred to in title 42 section 7511b.

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TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 37--CARRIAGE OF LIQUID BULK DANGEROUS CARGOES

Sec. 3711. Evidence of compliance by foreign vessels

(a) A foreign vessel to which this chapter applies may operate on the navigable waters of the United States, or transfer oil or hazardous material in a port or place under the jurisdiction of the United States, only if the vessel has been issued a certificate of compliance by the Secretary. The Secretary may issue the certificate only after the vessel has been examined and found to be in compliance with this chapter and regulations prescribed under this chapter. The Secretary may accept any part of a certificate, endorsement, or document, issued by the government of a foreign country under a treaty, convention, or other international agreement to which the United States is a party, as a basis for issuing a certificate of compliance.

(b) A certificate issued under this section is valid for not more than 24 months and may be renewed as specified by the Secretary. In appropriate circumstances, the Secretary may issue a temporary certificate valid for not more than 30 days.

(c) A certificate shall be suspended or revoked if the Secretary finds that the vessel does not comply with the conditions under which the certificate was issued.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 525.)

Historical and Revision Notes

Revised section	Source section (U.S. Code)
3711.....	46:391a(8) (B)
	46:391a(8) (C)
	46:391a(8) (E)

Section 3711 prohibits any foreign vessel from operating on the navigable waters of the United States or from transferring oil or hazardous material in any port or place under the jurisdiction of the United States, unless it has a certificate of compliance issued by the Secretary indicating that the vessel has been examined and found to be in compliance with the provisions of the applicable regulations. It also authorizes the Secretary to accept, in whole or in part, an appropriate foreign certificate issued pursuant to any international agreement to which the United States is a party, as a basis for issuing the certificate of compliance. This means that the Secretary does not have to accept foreign certificates as evidence of compliance, but may take additional action to assure compliance with applicable domestic laws and regulations and international treaty provisions.

Section Referred to in Other Sections

This section is referred to in section 3715 of this title.

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TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 37--CARRIAGE OF LIQUID BULK DANGEROUS CARGOES

Sec. 3714. Inspection and examination

(a) (1) The Secretary shall have each vessel to which this chapter applies inspected or examined at least once each year.

(2) Each of those vessels that is more than 10 years of age shall undergo a special and detailed inspection of structural strength and hull integrity as specified by the Secretary.

(3) The Secretary may make contracts for conducting inspections or examinations in the United States and in foreign countries. An inspector conducting an inspection or examination under contract may not issue a certificate of inspection or a certificate of compliance, but the inspector may issue a temporary certificate.

(4) The Secretary shall prescribe by regulation reasonable fees for an inspection or examination conducted under this section outside the United States, or which, when involving a foreign vessel, is conducted under a contract authorized by paragraph (3) of this subsection. The owner, charterer, or managing operator of a vessel inspected or examined by the Secretary is liable for the fees. Amounts received as fees shall be deposited in the Treasury.

(5) The Secretary may allow provisional entry of a vessel to conduct an inspection or examination under this chapter.

(b) Each vessel to which this chapter applies shall have on board those documents the Secretary considers necessary for inspection and enforcement, including documents listing--

- (1) the type, grade, and approximate quantities of cargo on board;
- (2) the shipper and consignee of the cargo;
- (3) the places of origin and destination of the vessel; and
- (4) the name of an agent in the United States authorized to accept service of legal process.

(c) Each vessel to which this chapter applies that operates in the United States shall have a person designated as authorized to accept service of legal process for the vessel.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 526; Pub. L. 99-307, Sec. 1(8), May 19, 1986, 100 Stat. 445.)

Historical and Revision Notes

Revised section	Source section (U.S. Code)
3714.....	46:391a(15)

Section 3714(a) requires the Secretary to establish a program for the inspection of tank vessels, foreign or domestic, at least once each year. The Committee contemplates that United States vessels will be issued a 2 year certificate of inspection with a mid-period examination.

The Committee also contemplates that foreign-flag vessels will continue to be tracked and boarded at least once a year or when they first arrive in the United States. The Secretary may examine the foreign-flag tank vessel but may accept, as a basis for the issuance of a certificate of compliance, in whole or in part a foreign-issued certificate.

Each vessel over 10 years of age must undergo a special and detailed inspection of structural strength and hull integrity, as specified by the Secretary. An inspection or examination may be conducted by any officer authorized by the Secretary. The Committee expects that, whenever possible, a qualified marine inspector will be used wherever the vessel undergoes these 10-year inspections. The Secretary may also contract for inspections or examinations in the United States and in foreign countries.

The primary reason for including a provision that permits the contracting for the conduct of inspections and examinations is to provide flexibility in foreign areas where Coast Guard marine inspectors are not normally available.

A contract inspector may be authorized to act on behalf of the Secretary, but may not issue a certificate of inspection or compliance. The inspector may, however, issue a temporary certificate.

The Committee understands that the 10-year inspections of United States-flag and foreign-flag vessels may occur at the time the vessel is scheduled for shipyard availability to complete the periodic classification society survey.

The Secretary is also authorized and directed to prescribe by regulation reasonable fees for certain inspections or examinations conducted pursuant to this section based on the cost incurred. The owner of any vessel inspected or examined by the Secretary or his designee shall be liable for the fee. Amounts received as fees under this section are to be deposited in the Treasury.

Section 3714(b) requires each vessel subject to this chapter to have on board those documents the Secretary declares are necessary for inspection or enforcement, including, but not limited to documents indicating the kind, grade, and approximate quantities of any cargo on board; the shipper and consignee of the cargo; the points of origin and destination of the vessel; and the name of an agent in the United States authorized to accept legal process.

Section 3714(c) requires each vessel subject to this chapter to have a person authorized to accept service of legal process for the vessel.

Amendments

1986--Subsec. (a) (4). Pub. L. 99-307 substituted ``charterer'' for ``charter''.

Section Referred to in Other Sections

This section is referred to in section 3717 of this title.