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 [Laws in effect as of January 23, 2000]
 [Document not affected by Public Laws enacted between
 January 23, 2000 and December 4, 2001]
 [CITE: **46USC3301**]

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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[Laws in effect as of January 23, 2000]
[Document not affected by Public Laws enacted between
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[CITE: 46USC3304]

TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 33--INSPECTION GENERALLY

Sec. 3304. Transporting individuals in addition to crew

(a) A documented vessel transporting cargo that transports not more than 12 individuals in addition to the crew on international voyages, or not more than 16 individuals in addition to the crew on other voyages, is not subject to inspection as a passenger vessel or a small passenger vessel if the vessel is otherwise subject to inspection under this chapter.

(b) Except when subsection (e) of this section applies, before an individual in addition to the crew is transported on a vessel as permitted by this section, the owner, charterer, managing operator, agent, master, or individual in charge of the vessel first shall notify the individual of the presence on board of dangerous articles as defined by law, and of other conditions or circumstances that would constitute a risk of safety to the individual on board.

(c) A privilege authorized by this section applies to a vessel of a foreign country that affords a similar privilege to vessels of the United States in trades not restricted to vessels under its own flag.

(d) A fishing, fish processing, or fish tender vessel that transports not more than 12 individuals employed in the fishing industry in addition to the crew is not subject to inspection as a passenger or small passenger vessel.

(e) The Secretary may by regulation allow individuals in addition to the crew to be transported in an emergency or under section 2304 of this title.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 513; Pub. L. 98-364, title IV, Sec. 402(4), July 17, 1984, 98 Stat. 446; Pub. L. 99-307, Sec. 1(5)(A), May 19, 1986, 100 Stat. 444.)

Historical and Revision Notes

Revised section	Source section (U.S. Code)
3304.....	46:390-393 46:882

Section 3304 permits the carriage of not more than 12 individuals in addition to the crew on international voyages or not more than 16 individuals in addition to the crew on other voyages without subjecting a documented vessel carrying cargo to the inspection requirements of a passenger vessel. This section permits the bulk of vessels subject to the International Convention for Safety of Life at Sea to carry up to 12 passengers and to permit other cargo vessels, primarily those engaged in the coastwise trade, to carry up to 16 passengers without being categorized as passenger vessels. It also requires that these individuals be notified of the presence of dangerous articles or other conditions or circumstances that constitute a risk of safety. This is of

prime importance on tank vessels that carry flammable or hazardous cargoes.

Amendments

1986--Pub. L. 99-307, Sec. 1(5)(A)(i), substituted ``Transporting'' for ``Carrying'' in section catchline.

Subsec. (a). Pub. L. 99-307, Sec. 1(5)(A)(ii), substituted ``transporting cargo that transports'' for ``carrying cargo that carries'' and inserted ``if the vessel is otherwise subject to inspection under this chapter''.

Subsec. (b). Pub. L. 99-307, Sec. 1(5)(A)(iii), substituted ``Except when subsection (e) of this section applies, before'' for ``Before'' and ``transported'' for ``carried''.

Subsec. (c). Pub. L. 99-307, Sec. 1(5)(A)(iv), substituted ``A privilege'' for ``The privilege''.

Subsec. (e). Pub. L. 99-307, Sec. 1(5)(A)(v), added subsec. (e).

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

Section Referred to in Other Sections

This section is referred to in section 3318 of this title.

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 [Laws in effect as of January 23, 2000]
 [Document not affected by Public Laws enacted between
 January 23, 2000 and December 4, 2001]
 [CITE: **46USC3305**]

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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[Laws in effect as of January 23, 2000]

[Document not affected by Public Laws enacted between
January 23, 2000 and December 4, 2001]

[CITE: **46USC3306**]

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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 [Laws in effect as of January 23, 2000]
 [Document not affected by Public Laws enacted between
 January 23, 2000 and December 4, 2001]
 [CITE: **46USC3307**]

TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 33--INSPECTION GENERALLY

Sec. 3307. Frequency of inspection

Each vessel subject to inspection under this part shall undergo an initial inspection for certification before being put into service. After being put into service--

(1) each passenger vessel, nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage shall be inspected at least once a year; and

(2) any other vessel shall be inspected at least once every 5 years.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 514; Pub. L. 104-324, title VI, Sec. 605(a), Oct. 19, 1996, 110 Stat. 3931.)

Historical and Revision Notes

Revised section	Source section (U.S. Code)
3307(1).....	46:391(c) 46:1295f(c)
3307(2).....	46:390a(a) 46:404-1(6)(i)
3307(3).....	46:391(b) 46:392(b) 46:404-1(6)(ii)

Section 3307 requires each vessel subject to inspection to undergo an initial inspection prior to being placed in service. This is normally started during the construction or reconstruction phase and is a continuing process until final certification for operation in a particular trade. Subsequent periodic inspections are also required for various types of vessels. It is to be noted that a freight vessel of less than 100 gross tons shall be inspected at 3 year intervals while the larger freight vessel has a 2 year inspection period. This is being done to retain the existing procedure of issuing 3 year certificates of inspection to smaller vessels, however, this does not prevent periodic inspections or examinations at intervening periods.

Amendments

1996--Par. (1). Pub. L. 104-324, Sec. 605(a)(1), substituted ``nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage'' for ``and nautical school vessel'' and inserted ``and'' at end.

Pars. (2), (3). Pub. L. 104-324, Sec. 605(a)(2), (3), redesignated par. (3) as (2), substituted ``5 years'' for ``2 years'', and struck out former par. (2) which read as follows: ``each small passenger vessel,

freight vessel or offshore supply vessel of less than 100 gross tons, and sailing school vessel shall be inspected at least once every 3 years; and''.

Section Referred to in Other Sections

This section is referred to in sections 3308, 3309 of this title.

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 [Laws in effect as of January 23, 2000]
 [Document not affected by Public Laws enacted between
 January 23, 2000 and December 4, 2001]
 [CITE: **46USC3308**]

TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 33--INSPECTION GENERALLY

Sec. 3308. Examinations

In addition to inspections required by section 3307 of this title, the Secretary shall examine or have examined--

- (1) each vessel subject to inspection at proper times to ensure compliance with law and regulations; and
- (2) crewmember accommodations on each vessel subject to inspection at least once a month or when the vessel enters United States ports to ensure that the accommodations are--
 - (A) of the size required by law and regulations;
 - (B) properly ventilated and in a clean and sanitary condition; and
 - (C) equipped with proper plumbing and mechanical appliances required by law and regulations, and the appliances are in good working condition.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 514; Pub. L. 104-324, title VI, Sec. 603(c), Oct. 19, 1996, 110 Stat. 3930.)

Historical and Revision Notes

Revised section	Source section (U.S. Code)
3308.....	46:435
	46:660a
	46:660b

Section 3308 requires the Secretary to carry out additional inspections as might be necessary to ensure compliance with applicable laws and regulations, and to ensure that accommodations are maintained in a sanitary condition and that all appliances are in good working order.

Amendments

1996--Pub. L. 104-324 inserted ``or have examined'' after ``examine'' in introductory provisions.

Section Referred to in Other Sections

This section is referred to in section 3305 of this title.