

stances 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, § 402(4), July 17, 1984, 98 Stat. 446; Pub. L. 99-307, § 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, § 1(5)(A)(i), substituted “Transporting” for “Carrying” in section catchline.

Subsec. (a). Pub. L. 99-307, § 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, § 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, § 1(5)(A)(iv), substituted “A privilege” for “The privilege”.

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

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

§ 3305. Scope and standards of inspection

(a)(1) The inspection process shall ensure that a vessel subject to inspection—

(A) is of a structure suitable for the service in which it is to be employed;

(B) is equipped with proper appliances for lifesaving, fire prevention, and firefighting;

(C) has suitable accommodations for the crew, sailing school instructors, and sailing school students, and for passengers on the vessel if authorized to carry passengers;

(D) has an adequate supply of potable water for drinking and washing by passengers and crew;

(E) is in a condition to be operated with safety to life and property; and

(F) complies with applicable marine safety laws and regulations.

(2) In determining the adequacy of the supply of potable water under paragraph (1)(D), the Secretary shall consider—

(A) the size and type of vessel;

(B) the number of passengers or crew on board;

(C) the duration and routing of voyages; and

(D) guidelines for potable water recommended by the Centers for Disease Control and Prevention and the Public Health Service.

(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 558 of title 40 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, § 1(a)(1), May 15, 1985, 99 Stat. 67; Pub. L. 99-640, § 13(e), Nov. 10, 1986, 100 Stat. 3551; Pub. L. 107-217, § 3(m)(2), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 108-293, title IV, § 416, Aug. 9, 2004, 118 Stat. 1047; Pub. L. 109-241, title IX, § 901(f), July 11, 2006, 120 Stat. 564.)

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 superceded 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.

AMENDMENTS

2006—Subsec. (a)(2). Pub. L. 109-241 realigned margins.

2004—Subsec. (a). Pub. L. 108-293, §416(b), designated existing provisions as par. (1), redesignated former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (1), and added par. (2).

Subsec. (a)(4) to (6). Pub. L. 108-293, §416(a), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

2002—Subsec. (c). Pub. L. 107-217 substituted "section 558 of title 40" for "section 13 of the Coast Guard Authorization Act of 1986".

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.

§ 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 51102 of this title), 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.

(j) The Secretary may establish by regulation a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels.

(k)(1) Each vessel of the United States that is constructed under a contract entered into after the date of enactment of the Maritime Safety Act of 2010, or that is delivered after January 1, 2011, with an aggregate capacity of 600 cubic meters or more of oil fuel, shall comply with the requirements of Regulation 12A under Annex I to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, entitled "Oil Fuel Tank Protection".

(2) The Secretary may prescribe regulations to apply the requirements described in Regulation 12A to vessels described in paragraph (1) that are not otherwise subject to that convention. Any such regulation shall be considered to be an interpretive rule for the purposes of section 553 of title 5.

(3) In this subsection the term "oil fuel" means any oil used as fuel in connection with the propulsion and auxiliary machinery of the vessel in which such oil is carried.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 513; Pub. L. 98-364, title IV, § 402(5), July 17, 1984, 98 Stat. 446; Pub. L. 103-206, title V, § 512(a), Dec. 20, 1993, 107 Stat. 2442; Pub. L. 104-324, title VI, § 604(a), (c), title VII, § 712, Oct. 19, 1996, 110 Stat. 3930, 3931, 3936; Pub. L. 108-293, title IV, § 415(b), Aug. 9, 2004, 118 Stat. 1047; Pub. L. 109-304, § 15(12), Oct. 6, 2006, 120 Stat. 1703; Pub. L. 111-281, title VI, § 612, Oct. 15, 2010, 124 Stat. 2970.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source section (U.S. Code)</i> |
|------------------------|-----------------------------------|
| 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 lim-

ited 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.

REFERENCES IN TEXT

The date of enactment of the Maritime Safety Act of 2010, referred to in subsec. (k)(1), is the date of enactment of title VI of Pub. L. 111-281, which was approved Oct. 15, 2010.

AMENDMENTS

- 2010—Subsec. (k). Pub. L. 111-281 added subsec. (k).
- 2006—Subsec. (d). Pub. L. 109-304 substituted "section 51102 of this title" for "section 1302(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295a(3))".
- 2004—Subsec. (j). Pub. L. 108-293 added subsec. (j).
- 1996—Subsec. (a)(4). Pub. L. 104-324, § 604(c), substituted "paragraphs (1), (2), and (3)" for "clauses (1)-(3)".
- Subsec. (b). Pub. L. 104-324, § 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, § 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, § 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

Pub. L. 103-206, title V, § 512(b), (c), Dec. 20, 1993, 107 Stat. 2442, 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."

TOWING VESSELS

Pub. L. 111-281, title VII, § 701(c), Oct. 15, 2010, 124 Stat. 2980, provided that: "No later than 90 days after the date of enactment of this Act [Oct. 15, 2010], the Secretary shall issue a notice of proposed rulemaking regarding inspection requirements for towing vessels required under section 3306(j) of title 46, United States Code. The Secretary shall issue a final rule pursuant to that rulemaking no later than 1 year after the date of enactment of this Act."

["Secretary" as used in section 701(c) of Pub. L. 111-281, set out above, probably means the Secretary of the department in which the Coast Guard is operating, see section 701(a)(1) of Pub. L. 111-281, set out as a note under section 1321 of Title 33, Navigation and Navigable Waters.]

FOREIGN APPROVALS

Pub. L. 104-324, title VI, § 604(b), Oct. 19, 1996, 110 Stat. 3931, 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.

§ 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, §605(a), Oct. 19, 1996, 110 Stat. 3931.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Rows include 3307(1), 3307(2), and 3307(3) with corresponding source codes.

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, §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, §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”.

§ 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, §603(c), Oct. 19, 1996, 110 Stat. 3930.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row includes 3308 with source codes 46:435, 46:660a, and 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.

§ 3309. Certificate of inspection

(a) When an inspection under section 3307 of this title has been made and a vessel has been found to be in compliance with the requirements of law and regulations, a certificate of inspection, in a form prescribed by the Secretary, shall be issued to the vessel.

(b) The Secretary may issue a temporary certificate of inspection in place of a regular certificate of inspection issued under subsection (a) of this section.

(c) At least 30 days before the current certificate of inspection issued to a vessel under subsection (a) of this section expires, the owner, charterer, managing operator, agent, master, or individual in charge of the vessel shall submit to the Secretary in writing a notice that the vessel—

- (1) will be required to be inspected; or
(2) will not be operated so as to require an inspection.

(d) A certificate of inspection issued under this section shall be signed by the senior Coast Guard member or civilian employee who inspected the vessel, in addition to the officer in charge of marine inspection.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 515; Pub. L. 98–498, title II, §211(a), Oct. 19, 1984, 98 Stat. 2303; Pub. L. 104–324, title VI, §606, Oct. 19, 1996, 110 Stat. 3931; Pub. L. 111–281, title V, §522(c), Oct. 15, 2010, 124 Stat. 2957.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row includes 3309 with source codes 46:390c, 46:391a(8), 46:395(d), and 46:399.

Section 3309 provides for the issuance of a certificate of inspection that attests to the fact that the vessel has

AMENDMENTS

2006—Subsec. (f). Pub. L. 109-304 struck out period after “felony”.

1996—Subsec. (a). Pub. L. 104-324, §713(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 “100 gross tons”.

Subsec. (b)(1). Pub. L. 104-324, §310, designated existing provisions as par. (1) and added par. (2).

Subsec. (j)(1). Pub. L. 104-324, §713(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 “1,600 gross tons”.

1990—Subsec. (b). Pub. L. 101-380, §4302(b)(1), substituted “commits a class D felony” for “shall be fined not more than \$10,000, imprisoned for not more than 5 years, or both”.

Subsec. (c). Pub. L. 101-380, §4302(b)(2), substituted “commits a class D felony” for “shall be fined not more than \$5,000, imprisoned for not more than 5 years, or both”.

Subsec. (d). Pub. L. 101-380, §4302(b)(3), substituted “commits a class D felony” for “shall be fined not more than \$5,000, imprisoned for not more than 5 years, or both”.

Subsec. (e). Pub. L. 101-380, §4302(b)(4), substituted “commits a class A misdemeanor” for “shall be fined not more than \$10,000, imprisoned for not more than 2 years, or both”.

Subsec. (f). Pub. L. 101-380, §4302(b)(5), substituted “commits a class D felony.” for “shall be fined not less than \$1,000 but not more than \$10,000, and imprisoned for not less than 2 years but not more than 5 years.”.

1986—Subsec. (f). Pub. L. 99-307 in provision preceding par. (1) substituted “than” for “then” in two places.

1984—Subsec. (a). Pub. L. 98-498, §211(c)(1), substituted “Except as otherwise provided in this part, the” for “The” and “not more than \$5,000” for “\$1,000, except that when the violation involves operation of a barge, the penalty is \$500”.

Subsec. (c). Pub. L. 98-498, §211(c)(2), substituted “\$5,000” for “\$2,000”.

Subsec. (d). Pub. L. 98-498, §211(c)(3), substituted “\$5,000” for “\$2,000”.

Subsec. (e). Pub. L. 98-498, §211(c)(4), substituted “\$10,000” for “\$2,000”.

Subsec. (f). Pub. L. 98-498, §211(c)(5), substituted “\$10,000” for “\$5,000”.

Subsec. (g). Pub. L. 98-498, §211(c)(6), substituted “is liable to the Government for a civil penalty of not more than \$5,000” for “shall be fined not more than \$10,000, imprisoned for not more than one year, or both”.

Subsec. (h). Pub. L. 98-498, §211(c)(7), substituted “Government for a civil penalty of not more than \$1,000.” for “United States Government for a civil penalty of not more than \$500.”

Subsecs. (i) to (l). Pub. L. 98-498, §211(c)(8), added subsecs. (i) to (l).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

CHAPTER 35—CARRIAGE OF PASSENGERS

| | |
|-------|--|
| Sec. | |
| 3501. | Number of passengers. |
| 3502. | List or count of passengers. |
| 3503. | Fire-retardant materials. |
| 3504. | Notification to passengers. |
| 3505. | Prevention of departure. |
| 3506. | Copies of laws. |
| 3507. | Passenger vessel security and safety requirements ¹ |

¹ So in original. Probably should be followed by a period.

| | |
|-------|---|
| Sec. | |
| 3508. | Crime scene preservation training for passenger vessel crewmembers ¹ |

HISTORICAL AND REVISION NOTES

Chapter 35 consolidates the laws that have specific application to the carriage of passengers. They provide special provisions for listing and counting the number of passengers on board a vessel, for notifying the general public of the safety standards that are applicable, and for related control measures.

AMENDMENTS

2010—Pub. L. 111-207, §3(b), July 27, 2010, 124 Stat. 2251, added items 3507 and 3508.

§ 3501. Number of passengers

(a) Each certificate of inspection issued to a vessel carrying passengers (except a ferry) shall include a statement on the number of passengers that the vessel is permitted to carry.

(b) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel is liable to a person suing them for carrying more passengers than the number of passengers permitted by the certificate of inspection in an amount equal to—

- (1) passage money; and
- (2) \$100 for each passenger in excess of the number of passengers permitted.

(c) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel that knowingly carries more passengers than the number of passengers permitted by the certificate of inspection also shall be fined not more than \$100, imprisoned for not more than 30 days, or both.

(d) The vessel also is liable in rem for a penalty under this section.

(e) An offshore supply vessel may not carry passengers except in an emergency.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 519; Pub. L. 99-36, §1(a)(2), May 15, 1985, 99 Stat. 67.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source section (U.S. Code)</i> |
|------------------------|-----------------------------------|
| 3501 | 46:404-1 |
| | 46:451 |
| | 46:452 |
| | 46:462 |

Section 3501 requires that a vessel carrying passengers, including a passenger vessel as well as a small passenger vessel (except a ferry), shall have on the certificate of inspection a statement as to the number of passengers the vessel is permitted to carry. It also provides penalties for carrying passengers in excess of the number permitted.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99-36, §1(a)(2)(A), struck out the comma after “(except a ferry)”.

Subsec. (c). Pub. L. 99-36, §1(a)(2)(B), substituted “carries more passengers than the number of passengers permitted by the certificate of inspection” for “violates subsection (b) of this section”.

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.

§ 3502. List or count of passengers

(a) The owner, charterer, managing operator, master, or individual in charge of the following

categories of vessels carrying passengers shall keep a correct list of passengers received and delivered from day to day:

(1) vessels arriving from foreign ports (except at United States Great Lakes ports from Canadian Great Lakes ports).

(2) seagoing vessels in the coastwise trade.

(3) passenger vessels making voyages of more than 300 miles on the Great Lakes except from a Canadian to a United States port.

(b) The master of a vessel carrying passengers (except a vessel listed in subsection (a) of this section) shall keep a correct count of all passengers received and delivered.

(c) Lists and counts required under this section shall be open to the inspection of designated officials of the Coast Guard and the Customs Service at all times. The total number of passengers shall be provided to the Coast Guard when requested.

(d) This section applies to a foreign vessel arriving at a United States port.

(e) The owner, charterer, managing operator, master, or individual in charge of a passenger vessel failing to make a list or count of passengers as required by this section is liable to the United States Government for a civil penalty of \$100. The vessel also is liable in rem for the penalty.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 519.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source section (U.S. Code)</i> |
|------------------------|---------------------------------------|
| 3502 | 46:460 46:460a 46:461 46:462 |

Section 3502 is related to section 3501 and requires the listing or counting of passengers on certain vessels. This requirement applies to large as well as small passenger vessels when operating on the types of voyages enumerated. This section also applies to a foreign vessel arriving at a port or place in the United States.

TRANSFER OF FUNCTIONS

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

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3503. Fire-retardant materials

(a) A passenger vessel of the United States having berth or stateroom accommodations for at least 50 passengers shall be granted a certificate of inspection only if the vessel is constructed of fire-retardant materials. Before November 1, 2008, this section does not apply to

any vessel in operation before January 1, 1968, and operating only within the Boundary Line.

(b)(1) When a vessel is exempted from the fire-retardant standards of this section—

(A) the owner or managing operator of the vessel shall notify prospective passengers that the vessel does not comply with applicable fire safety standards due primarily to the wooden construction of passenger berthing areas;

(B) the owner or managing operator of the vessel may not disclaim liability to a passenger for death, injury, or any other loss caused by fire due to the negligence of the owner or managing operator;

(C) the penalties provided in section 3504(c) of this title apply to a violation of this subsection; and

(D) the owner or managing operator of the vessel shall notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations comply with any non-combustible material requirements that the Coast Guard prescribes for nonpublic spaces. Coast Guard requirements shall be consistent with preservation of the historic integrity of the vessel in areas carrying or accessible to passengers or generally visible to the public.

(2) The Secretary shall prescribe regulations under this subsection on the manner in which prospective passengers are to be notified.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 519; Pub. L. 99-307, §1(7)(A), May 19, 1986, 100 Stat. 445; Pub. L. 102-241, §20, Dec. 19, 1991, 105 Stat. 2216; Pub. L. 104-324, title XI, §1133, Oct. 19, 1996, 110 Stat. 3985.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source section (U.S. Code)</i> |
|------------------------|-----------------------------------|
| 3503 | 46:369(b) |

Section 3503 requires the use of fire retardant materials on a vessel having berthing facilities for at least 50 passengers. This requirement in the case of vessels engaged in foreign trade is consistent with our international treaty obligations, which impose extensive and additional fire safety standards. A waiver that grandfathers existing inland river passenger vessels is also included.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-324 substituted “Before November 1, 2008, this section does not apply to any vessel in operation before January 1, 1968, and operating only within the Boundary Line.” for “Before November 1, 1998, this section does not apply to a vessel in operation before January 1, 1968, and operating only on the inland rivers.”

1991—Subsec. (a). Pub. L. 102-241, §20(1), substituted “1998” for “1993”.

Subsec. (b)(1)(D). Pub. L. 102-241, §20(2), added subpar. (D).

1986—Pub. L. 99-307 designated existing provision as subsec. (a), substituted “November 1, 1993” for “November 1, 1988” and inserted “in operation before January 1, 1968, and” after “to a vessel”, and added subsec. (b).

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security.