

(c) VERIFICATION OF COMPLIANCE.—The Secretary shall—

(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

(2) revoke the Secretary's approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

(d) ENFORCEMENT.—At the request of the Secretary, the Secretary of Homeland Security shall withhold or revoke the clearance required by section 60105 of this title of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.

(Added Pub. L. 104-324, title VI, § 602(a), Oct. 19, 1996, 110 Stat. 3929; amended Pub. L. 109-304, § 15(10), Oct. 6, 2006, 120 Stat. 1703; Pub. L. 110-181, div. C, title XXXV, § 3529(b)(1)(A), Jan. 28, 2008, 122 Stat. 603.)

AMENDMENTS

2008—Subsec. (d). Pub. L. 110-181 amended Pub. L. 109-304, § 15(10). See 2006 Amendment note below.

2006—Subsec. (d). Pub. L. 109-304, § 15(10), as amended by Pub. L. 110-181, substituted “Secretary of Homeland Security shall withhold or revoke the clearance required by section 60105 of this title” for “Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 U.S.C. App. 91)”.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. C, title XXXV, § 3529(b)(2), Jan. 28, 2008, 122 Stat. 603, provided that: “The amendments made by paragraph (1) [amending this section and section 31325 of this title] shall be effective as if included in the enactment of Public Law 109-304.”

CHAPTER 33—INSPECTION GENERALLY

Sec.	
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HISTORICAL AND REVISION NOTES

Chapter 33 consolidates the laws governing the inspection and certification of vessels by the Coast Guard

that have developed over a period in excess of 140 years. The original laws were directed to the safety of the relatively new and potentially dangerous steam vessel. The demand for Federal remedial legislation began during the early 1800's after frequent and disastrous explosions of steam boilers on passenger vessels. This directly led to the first maritime safety laws in 1838 that required periodic inspection and certification of vessels engaged in the transportation of passengers and freight on the waters of the United States. This was followed by a more extensive steamboat inspection law in 1852 which adopted for the first time the principle of licensing for river pilots and engineers. It also created a new Federal maritime safety inspection service called the Federal Inspection Service that eventually became the Bureau of Marine Inspection and Navigation, whose duties were temporarily assumed in 1941 and permanently assumed in 1946 by the United States Coast Guard.

In 1864 the principal inspection and licensing provisions of the 1852 act were made applicable to ferries, towing vessels, and canal boats. However, steamboat explosions continued with high loss of life and property. One of the greatest of all disasters, the destruction of the passenger vessel *Sultana* by explosion and fire with a loss of life estimated at more than 1500 lives in April 1865, led to renewed legislation efforts. In 1871 this culminated with legislation that combined a number of new requirements into a coherent and unified body of maritime safety laws. At the time of the adoption of the Revised Statutes in 1874, a maritime safety code was well established for vessels propelled in whole or in part by steam.

In the more than 100 years since then, as the public recognized the need for vessel safety legislation, primarily as the result of maritime disasters, other classes of vessels were subjected to Federal inspection or regulatory control. These included vessels propelled by gas, fluid, naphtha, or electric motors in 1897; sail vessels and barges carrying passengers for hire in 1898; seagoing barges in 1908; motorboats in 1910; steam vessels owned by the Department of Commerce in 1919; seagoing vessels of 300 gross tons and over on June 20, 1936; all tank vessels carrying flammable or combustible liquid cargo in bulk regardless of size or means of propulsion of June 23, 1936; motorboats again in 1940; all vessels carrying more than six passengers in 1956; tank vessels again in 1978; and offshore supply vessels in 1980. There was also considerable legislation that amended or supplemented these primary maritime safety laws.

The net result has been a patchwork quilt of categories and classifications that requires a tabulation of more than seventy different classes of inspected vessels. This revision gathers into one section of the law all classes of vessels that are subject to inspection and certification without changing the application of present law as to any one class of vessel. The revision does not alter the application of the present law so as to expand inspection requirements to any vessel presently not subject to inspection nor to remove from inspection any vessel that is presently subject to inspection.

AMENDMENTS

1996—Pub. L. 104-324, title VI, § 607(b)(2), Oct. 19, 1996, 110 Stat. 3932, substituted “Classification societies” for “United States classification societies” in item 3316.

1986—Pub. L. 99-307, § 1(5)(B), May 19, 1986, 100 Stat. 445, substituted “Transporting” for “Carrying” in item 3304.

§ 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.
- (15) towing vessels.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 510; Pub. L. 98-364, title IV, § 402(2), July 17, 1984, 98 Stat. 445; Pub. L. 102-587, title V, § 5208(b), Nov. 4, 1992, 106 Stat. 5076; Pub. L. 104-324, title XI, § 1104(g), Oct. 19, 1996, 110 Stat. 3967; Pub. L. 108-293, title IV, § 415(a), Aug. 9, 2004, 118 Stat. 1047.)

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 46:390a
3301(5) .....	46:395
3301(6) .....	46:367
3301(7) .....	46:390a
3301(8) .....	46:362 46:391 46:405
3301(9) .....	46:391a
3301(10) .....	

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

- 2004—Par. (15). Pub. L. 108-293 added par. (15).
- 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.

PILOT PROGRAM

Pub. L. 105-383, title IV, § 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

Pub. L. 104-324, title XI, § 1122, Oct. 19, 1996, 110 Stat. 3979, 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.”

[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.]

§ 3302. Exemptions

(a) A vessel is not excluded from one category only because the vessel is—

(1) included in another category of section 3301 of this title; or

(2) excluded by this section from another category of section 3301 of this title.

(b) Except as provided in subsection (c)(3) of this section, a fishing vessel, including a vessel chartered part-time as a fish tender vessel, is exempt from section 3301(1), (7), (11), and (12) of this title.

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

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 like 46:391(c), 46:1295f(c), etc.

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, 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), 46:399.

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

**CHAPTER 37—CARRIAGE OF LIQUID BULK DANGEROUS CARGOES**

- Sec.
- 3701. Definitions.
- 3702. Application.
- 3703. Regulations.
- 3703a. Tank vessel construction standards.
- 3704. Coastwise trade vessels.
- 3705. Crude oil tanker minimum standards.
- 3706. Product carrier minimum standards.
- 3707. Tanker minimum standards.
- 3708. Self-propelled tank vessel minimum standards.
- 3709. Exemptions.
- 3710. Evidence of compliance by vessels of the United States.
- 3711. Evidence of compliance by foreign vessels.
- 3712. Notification of noncompliance.
- 3713. Prohibited acts.
- 3714. Inspection and examination.
- 3715. Lightering.
- 3716. Tank washings.
- 3717. Marine safety information system.
- 3718. Penalties.
- 3719. Reduction of oil spills from single hull non-self-propelled tank vessels.

**AMENDMENTS**

- 2006—Pub. L. 109-304, §15(14), Oct. 6, 2006, 120 Stat. 1703, inserted “single hull” before “non-self-propelled” in item 3719.
- 1996—Pub. L. 104-324, title IX, §901(c), Oct. 19, 1996, 110 Stat. 3947, added item 3719.
- 1990—Pub. L. 101-380, title IV, §4115(c), Aug. 18, 1990, 104 Stat. 520, added item 3703a.

**HISTORICAL AND REVISION NOTES**

Chapter 37 consolidates the laws that are applicable to vessels that transport oil or hazardous material in bulk as cargo or cargo residue.

The history of Federal authority to carry out a tank vessel safety program begins with the enactment of the so-called Tank Vessel Act of 1936 which, as amended, is presently codified in section 391a of title 46, United States Code. The 1936 Act remained essentially the same until it was amended by the Ports and Waterways Safety Act of 1972. The 1972 amendment contained more specific standards for the protection of a tank vessel and its crew and added vessel standards to improve the quality of the marine environment. After a rash of tank vessel accidents during the latter part of 1976 and early 1977 within our territorial seas and in nearby coastal waters, there was an outpouring of public attention to the need to protect United States ports and waterways, for the safety of tank vessels, and for the protection of the marine environment. This led to the enactment of the Port and Tanker Safety Act of 1978, which provided broader and more extensive regulatory authority over areas already regulated and over many areas not previously regulated. It provided for improvements in the supervision and control of vessels of all types operating in the navigable waters of the United States, and in the safety of all tank vessels, foreign or domestic, that transport or transfer oil or hazardous cargoes in ports or places subject to the jurisdiction of the United States. The 1978 amendments also reflect, in part, certain tank vessel standards and requirements that have been accepted internationally, in particular those developed by the International Conference on Tanker Safety and Pollution Prevention held in London in February, 1978.

**§ 3701. Definitions**

In this chapter—

- (1) “existing”, when referring to a type of vessel to which this chapter applies, means a vessel that is not a new vessel.

[(2) Repealed. Pub. L. 100-424, §8(c)(2), Sept. 9, 1988, 102 Stat. 1593.]

(3) “new”, when referring to a type of vessel to which this chapter applies, means a vessel—

- (A) for which the building contract is placed after June 1, 1979;

- (B) in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction, after January 1, 1980;

- (C) the delivery of which is after June 1, 1982; or

- (D) that has undergone a major conversion under a contract made after June 1, 1979, or construction work that began after January 1, 1980, or was completed after June 1, 1982.

(4) “person” means an individual (even if not a citizen or national of the United States), a corporation, partnership, association, or other entity (even if not organized or existing under the laws of a State), the United States Government, a State or local government, a government of a foreign country, or an entity of one of those governments.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 521; Pub. L. 99-509, title V, §5102(b)(5), Oct. 21, 1986, 100 Stat. 1927; Pub. L. 100-424, §8(c)(2), Sept. 9, 1988, 102 Stat. 1593.)

**HISTORICAL AND REVISION NOTES**

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3701(1) .....	46:391a(2)(R)
3701(2) .....	46:391a(2)(P)
3701(3) .....	46:391a(2)(Q)
3701(4) .....	46:391a(2)(F)
3701(5) .....	46:391a(2)(J)
3701(6) .....	46:391a(2)(K)

Section 3701 contains definitions that are of a special nature with limited applicability to this chapter.

**AMENDMENTS**

1988—Par. (2). Pub. L. 100-424 struck out par. (2) which read as follows: “‘major conversion’ means a conversion of an existing vessel that substantially changes the dimensions or carrying capacity of the vessel or changes the type of vessel or substantially prolongs its life or that otherwise so changes the vessel that it is essentially a new vessel, as decided by the Secretary.”

1986—Pars. (5), (6). Pub. L. 99-509 struck out par. (5) defining “State” as including Trust Territory of the Pacific Islands in addition to its meaning under section 2101(36) of this title, and struck out par. (6) defining “United States” as including the Trust Territory of the Pacific Islands in addition to its meaning under section 2101(44) 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.

**§ 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 a tanker; and
- (2) 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, § 402(6), July 17, 1984, 98 Stat. 446; Pub. L. 104–324, title VII, § 714, title XI, § 1104(b), Oct. 19, 1996, 110 Stat. 3936, 3966; Pub. L. 111–281, title VI, § 617(a)(2), Oct. 15, 2010, 124 Stat. 2973.)

HISTORICAL AND REVISION NOTES

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

2010—Subsec. (b)(1) to (3). Pub. L. 111–281 redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1), which read as follows: “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;”.

1996—Subsec. (b)(1). Pub. L. 104–324, § 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, § 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, § 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, § 1104(b), added subsec. (f). 1984—Subsec. (c). Pub. L. 98–364, § 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, § 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”.

§ 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 possibility 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.

(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, § 402(6), July 17, 1984, 98 Stat. 446; Pub. L. 104-324, title VII, § 714, title XI, § 1104(b), Oct. 19, 1996, 110 Stat. 3936, 3966; Pub. L. 111-281, title VI, § 617(a)(2), Oct. 15, 2010, 124 Stat. 2973.)

HISTORICAL AND REVISION NOTES

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

2010—Subsec. (b)(1) to (3). Pub. L. 111-281 redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1), which read as follows: “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;”.

1996—Subsec. (b)(1). Pub. L. 104-324, § 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, § 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, § 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, § 1104(b), added subsec. (f). 1984—Subsec. (c). Pub. L. 98-364, § 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, § 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”.

§ 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 possibility 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

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

OIL FUEL TANK PROTECTION

Pub. L. 111–281, title VI, §617(e), Oct. 15, 2010, 124 Stat. 2973, provided that:

“(1) APPLICATION.—An offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of title 46, United States Code, that is constructed under a contract entered into after the date of enactment of this Act [Oct. 15, 2010], or that is delivered after August 1, 2010, 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, regardless of whether such vessel is engaged in the coastwise trade or on an international voyage.

“(2) DEFINITION.—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.”

REGULATIONS FOR OFFSHORE SUPPLY VESSELS OF AT LEAST 6,000 GROSS TONS

Pub. L. 111–281, title VI, §617(f), Oct. 15, 2010, 124 Stat. 2974, as amended by Pub. L. 111–330, §1(8), Dec. 22, 2010, 124 Stat. 3569, provided that:

“(1) IN GENERAL.—Not later than January 1, 2012, the Secretary of the department in which the Coast Guard is operating shall promulgate regulations to implement the amendments and authorities enacted by this section [amending sections 2101, 3702, 7312, and 8104 of this title, enacting provisions set out as a note under this section, and amending provisions set out as a note under section 2101 of this title] for offshore supply ves-

sels of at least 6,000 gross tons as measured under section 14302 of title 46, United States Code, and to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on such vessels. The final rule issued pursuant to such rulemaking may supersede the interim final rule promulgated under paragraph (2) of this subsection. In promulgating regulations under this subsection, the Secretary shall take into consideration the characteristics of offshore supply vessels, their methods of operation, and their service in support of exploration, exploitation, or production of offshore mineral or energy resources.

“(2) INTERIM FINAL RULE AUTHORITY.—As soon as is practicable and without regard to the provisions of chapters 5 and 6 of title 5, United States Code, the Secretary shall issue an interim final rule as a temporary regulation implementing this section (including the amendments made by this section) for offshore supply vessels of at least 6,000 gross tons as measured under section 14302 of title 46, United States Code, and to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on such vessels.

“(3) INTERIM PERIOD.—After the effective date of this Act [Oct. 15, 2010], prior to the effective date of the regulations prescribed by paragraph (2) of this subsection, and without regard to the provisions of chapters 5 and 6 of title 5, United States Code, and the offshore supply vessel tonnage limits of applicable regulations and policy guidance promulgated prior to the date of enactment of this Act [Oct. 15, 2010], the Secretary of the department in which the Coast Guard is operating may—

“(A) issue a certificate of inspection under section 3309 of title 46, United States Code, to an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of that title if the Secretary determines that such vessel’s arrangements and equipment meet the current Coast Guard requirements for certification as a cargo and miscellaneous vessel;

“(B) authorize a master, mate, or engineer who possesses an ocean or near coastal license and endorsement under part 11 of subchapter B of title 46, Code of Federal Regulations, (or any successor regulation) that qualifies the licensed officer for service on offshore supply vessels of at least 3,000 gross tons but less than 6,000 gross tons, as measured under section 14302 of title 46, United States Code, to operate offshore supply vessels of at least 6,000 gross tons, as measured under such section; and

“(C) authorize any such master, mate, or engineer who also possesses an ocean or near coastal license and endorsement under such part that qualifies the licensed officer for service on non trade-restricted vessels of at least 1,600 gross tons but less than 3,000 gross tons, as measured under such section, to increase the tonnage limitation of such license and endorsement under section 11.402(c) of such part, using service on vessels certificated under both subchapters I and L of such title and measured only under such section, except that such tonnage limitation shall not exceed 10,000 gross tons as measured under such section.”

OIL TRANSFERS FROM VESSELS

Pub. L. 111–281, title VII, §702, Oct. 15, 2010, 124 Stat. 2980, as amended by Pub. L. 111–330, §1(10), Dec. 22, 2010, 124 Stat. 3570, provided that:

“(a) REGULATIONS.—Within 1 year after the date of enactment of this Act [Oct. 15, 2010], the Secretary of the department in which the Coast Guard is operating shall promulgate regulations to reduce the risks of oil spills in operations involving the transfer of oil from or to a tank vessel. The regulations—

“(1) shall focus on operations that have the highest risks of discharge, including operations at night and in inclement weather;

“(2) shall consider—

“(A) requirements for the use of equipment, such as putting booms in place for transfers, safety, and environmental impacts;

“(B) operational procedures such as manning standards, communications protocols, and restrictions on operations in high-risk areas; or

“(C) both such requirements and operational procedures; and

“(3) shall take into account the safety of personnel and effectiveness of available procedures and equipment for preventing or mitigating transfer spills.

“(b) APPLICATION WITH STATE LAWS.—The regulations promulgated under subsection (a) do not preclude the enforcement of any State law or regulation the requirements of which are at least as stringent as requirements under the regulations (as determined by the Secretary) that—

“(1) applies in State waters; and

“(2) does not conflict with, or interfere with the enforcement of, requirements and operational procedures under the regulations.”

#### IMPROVEMENTS TO REDUCE HUMAN ERROR AND NEAR MISS INCIDENTS

Pub. L. 111-281, title VII, § 703, Oct. 15, 2010, 124 Stat. 2981, as amended by Pub. L. 111-330, § 1(11), Dec. 22, 2010, 124 Stat. 3570, provided that:

“(a) REPORT.—Within 1 year after the date of enactment of this Act [Oct. 15, 2010], the Secretary of the department in which the Coast Guard is operating shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure that, using available data—

“(1) identifies the types of human errors that, combined, could cause oil spills, with particular attention to human error caused by fatigue, in the past 10 years;

“(2) in consultation with representatives of industry and labor and experts in the fields of marine casualties and human factors, identifies the most frequent types of near-miss oil spill incidents involving vessels such as collisions, allisions, groundings, and loss of propulsion in the past 10 years;

“(3) describes the extent to which there are gaps in the data required under paragraphs (1) and (2), including gaps in the ability to define and identify fatigue, and explains the reason for those gaps; and

“(4) includes recommendations by the Secretary and representatives of industry and labor and experts in the fields of marine casualties and human factors to address the identified types of errors and any such gaps in the data.

“(b) MEASURES.—Based on the findings contained in the report required by subsection (a), the Secretary shall take appropriate action to reduce the risk of oil spills caused by human error.

“(c) CONFIDENTIALITY OF VOLUNTARILY SUBMITTED INFORMATION.—The identity of a person making a voluntary disclosure under this section, and any information obtained from any such voluntary disclosure, shall be treated as confidential.

“(d) DISCOVERY OF VOLUNTARILY SUBMITTED INFORMATION.—

“(1) IN GENERAL.—Except as provided in this subsection, a party in a judicial proceeding may not use discovery to obtain information or data collected or received by the Secretary for use in the report required in subsection (a).

“(2) EXCEPTION.—

“(A) Notwithstanding paragraph (1), a court may allow discovery by a party in a judicial proceeding of data described in paragraph (1) if, after an in camera review of the information or data, the court decides that there is a compelling reason to allow the discovery.

“(B) When a court allows discovery in a judicial proceeding as permitted under this paragraph, the court shall issue a protective order—

“(i) to limit the use of the data to the judicial proceeding; and

“(ii) to prohibit dissemination of the data to any person who does not need access to the data for the proceeding.

“(C) A court may allow data it has decided is discoverable under this paragraph to be admitted into

evidence in a judicial proceeding only if the court places the data under seal to prevent the use of the data for a purpose other than for the proceeding.

“(3) APPLICATION.—Paragraph (1) shall not apply to—

“(A) any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading; or

“(B) any disclosure made with reckless disregard as to the truth or falsity of that disclosure.

“(e) RESTRICTION ON USE OF DATA.—Data that is voluntarily submitted for the purpose of the study required under subsection (a) shall not be used in an administrative action under chapter 77 of title 46, United States Code.”

[Pub. L. 111-330, § 1(11), Dec. 22, 2010, 124 Stat. 3570, which directed amendment of section 703(a) of Pub. L. 111-281, set out above, by inserting “of the department in which the Coast Guard is operating” after “Secretary”, was executed by making the insertion after “Secretary” the first place appearing, to reflect the probable intent of Congress.]

#### PRESERVATION OF STATE AUTHORITY

Pub. L. 111-281, title VII, § 711(c), Oct. 15, 2010, 124 Stat. 2987, provided that: “Nothing in this Act [see Tables for classification] or in any other provision of Federal law related to the regulation of maritime transportation of oil shall affect, or be construed or interpreted as preempting, the authority of any State or political subdivision thereof which require the escort by one or more tugs of laden oil tankers in the areas which are specified in section 4116(c) of the Oil Pollution Act of 1990 [Pub. L. 101-380] (46 U.S.C. 3703 note).”

#### STUDIES ADDRESSING VARIOUS SOURCES OF OIL SPILL RISK

Pub. L. 104-324, title IX, § 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, §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, §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, §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, §4110, Aug. 18, 1990, 104 Stat. 515, as amended by Pub. L. 108-293, title VII, §702(a), Aug. 9, 2004, 118 Stat. 1068, provided that:

“(a) STANDARDS.—The Secretary may 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.—No sooner than 1 year after the Secretary prescribes regulations under subsection (a), the Secretary may 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 any 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, §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, §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, §4116(c), (d), Aug. 18, 1990, 104 Stat. 523, as amended by Pub. L. 111-281, title VII, §711(b)(1), Oct. 15, 2010, 124 Stat. 2987, provided that:

##### “(c) ESCORTS FOR CERTAIN TANKERS.—

“(1) IN GENERAL.—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.

##### “(2) PRINCE WILLIAM SOUND, ALASKA.—

“(A) IN GENERAL.—The requirement in paragraph (1) relating to single hulled tankers in Prince William Sound, Alaska, described in that paragraph being escorted by at least 2 towing vessels or other vessels considered to be appropriate by the Secretary (including regulations promulgated in accordance with section 3703(a)(3) of title 46, United States Code, as set forth in part 168 of title 33, Code of Federal Regulations (as in effect on March 1, 2009) implementing this subsection with respect to those tankers) shall apply to double hulled tankers over 5,000 gross tons transporting oil in bulk in Prince William Sound, Alaska.

“(B) IMPLEMENTATION OF REQUIREMENTS.—The Secretary of the department in which the Coast Guard is operating shall prescribe interim final regulations to carry out subparagraph (A) as soon as practicable without notice and hearing pursuant to section 553 of title 5 of the United States Code.”

“(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.”

[Pub. L. 111-281, title VII, §711(b)(2), Oct. 15, 2010, 124 Stat. 2987, provided that: “The amendments made by subsection (b) [amending section 4116(c) of Pub. L. 101-380, set out above] take effect on the date that is 90 days after the date of enactment of this Act [Oct. 15, 2010].”]

### § 3703a. Tank vessel construction standards

(a) Except as otherwise provided in this section, a vessel to which this chapter applies shall be equipped with a double hull—

(1) if it is constructed or adapted to carry, or carries, oil in bulk as cargo or cargo residue; and

(2) when operating on the waters subject to the jurisdiction of the United States, including the Exclusive Economic Zone.

(b) This section does not apply to—

(1) a vessel used only to respond to a discharge of oil or a hazardous substance;

(2) a vessel of less 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 equipped with a double containment system determined by the Secretary to be as effective as a double hull for the prevention of a discharge of oil;

(3) before January 1, 2015—

(A) a vessel unloading oil in bulk at a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); or

(B) a delivering vessel that is offloading in lightering activities—

(i) within a lightering zone established under section 3715(b)(5) of this title; and

(ii) more than 60 miles from the baseline from which the territorial sea of the United States is measured;

(4) a vessel documented under chapter 121 of this title that was equipped with a double hull before August 12, 1992;

(5) a barge of less than 1,500 gross tons (as measured under chapter 145 of this title) carrying refined petroleum product in bulk as cargo in or adjacent to waters of the Bering Sea, Chukchi Sea, and Arctic Ocean and waters tributary thereto and in the waters of the Aleutian Islands and the Alaskan Peninsula west of 155 degrees west longitude; or

(6) a vessel in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).

(c)(1) In this subsection, the age of a vessel is determined from the later of the date on which the vessel—

(A) is delivered after original construction;

(B) is delivered after completion of a major conversion; or

(C) had its appraised salvage value determined by the Coast Guard and is qualified for documentation as a wrecked vessel under section 12112 of this title.

(2) A vessel of less 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 for which a building contract or contract for major conversion was placed before June 30, 1990, and that is delivered under that contract before January 1, 1994, and a vessel of less 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 that had its appraised salvage value determined by the Coast Guard before June 30, 1990, and that qualifies for documentation as a wrecked vessel under section

steering gear compartment, and a means of communication and rudder angle indicators at specified locations.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-324, §716(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 “10,000 gross tons” in introductory provisions.

Subsec. (b). Pub. L. 104-324, §716(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 “10,000 gross tons”.

§ 3708. Self-propelled tank vessel minimum standards

A self-propelled tank vessel of at least 10,000 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 shall be equipped with—

- (1) a dual radar system with short-range and long-range capabilities, each with true-north features;
(2) an electronic relative motion analyzer that is at least functionally equivalent to equipment complying with specifications established by the Secretary of Transportation;
(3) an electronic position-fixing device;
(4) adequate communications equipment;
(5) a sonic depth finder;
(6) a gyrocompass; and
(7) up-to-date charts.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 524; Pub. L. 104-324, title VII, §717, Oct. 19, 1996, 110 Stat. 3937.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 3708, 46:391a(7)(J)

Section 3708 requires compliance with certain minimum standards by a self-propelled tank vessel. These requirements apply to any tank vessel of 10,000 gross tons or above with no distinction being made as to whether or not the vessel is “primarily” constructed or adapted to carry oil or hazardous material in bulk in the cargo spaces. These vessels are required to be equipped with a dual radar system, a computerized relative motion analyzer, an electronic position fixing device, adequate communications equipment, a sonic depth finder, a gyrocompass, and up-to-date charts.

AMENDMENTS

1996—Pub. L. 104-324 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 “10,000 gross tons”.

§ 3709. Exemptions

The Secretary may exempt a vessel from the minimum requirements established by sections 3704-3706 of this title for segregated ballast, crude oil washing, and dedicated clean ballast if the Secretary decides that shore-based reception facilities are a preferred method of handling ballast and that adequate facilities are readily available.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 524.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 3709, 46:391a(7)(N)

Section 3709 provides the Secretary with the authority to exempt certain minimum tanker requirements of sections 3704, 3705, and 3706 when shorebased reception facilities are a better way of handling ballast and when the facilities are adequate and readily available.

§ 3710. Evidence of compliance by vessels of the United States

(a) A vessel of the United States to which this chapter applies that has on board oil or hazardous material in bulk as cargo or cargo residue must have a certificate of inspection issued under this part, endorsed to indicate that the vessel complies with regulations prescribed under this chapter.

(b) Each certificate endorsed under this section is valid for not more than 5 years 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. 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. 524; Pub. L. 104-324, title VI, §605(b), Oct. 19, 1996, 110 Stat. 3931.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 3710, 46:391a(8)(A), 46:391a(8)(E)

Section 3710 prohibits any vessels of the United States subject to this chapter from having on board oil or hazardous material in bulk as cargo or in residue, unless it has a required Certificate of Inspection endorsed to indicate vessel compliance with applicable regulations. Certificates shall be valid for a period not to exceed two years and may be renewed as specified by the Secretary. The Secretary may issue temporary certificates of not more than thirty days duration and may revoke or suspend any certificate under designated circumstances.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-324 substituted “5 years” for “24 months”.

§ 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

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

§ 3712. Notification of noncompliance

The Secretary shall notify the owner, charterer, managing operator, agent, master, or individual in charge of a vessel found not to be in compliance with a regulation prescribed under this part and state how compliance may be achieved.

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

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3712 .....	46:391a(8)(A) 46:391a(8)(B)

Section 3712 requires the Secretary to notify appropriate parties when a vessel is found not to be in compliance with applicable requirements, standards, or regulations and what remedial steps must be taken in order to comply with them.

§ 3713. Prohibited acts

(a) A person may not—

(1) violate this chapter or a regulation prescribed under this chapter;

(2) refuse to permit any official, authorized by the Secretary to enforce this chapter, to board a vessel or to enter a shore area, place, or premises, under a person's control to make an inspection under this chapter; or

(3) refuse to obey a lawful directive issued under this chapter.

(b) A vessel to which this chapter applies may not—

(1) operate on the navigable waters of the United States or use a port or place subject to the jurisdiction of the United States when not

in compliance with this chapter or a regulation prescribed under this chapter;

(2) fail to comply with a lawful directive issued under this chapter; or

(3) carry a type or grade of oil or hazardous material in bulk as cargo or cargo residue unless its certificate is endorsed to allow that carriage.

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

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3713 .....	46:391a(13)

Section 3713(a) prohibits any person from violating any provision of this chapter or a regulation prescribed under its authority. It prohibits the refusal to permit authorized officials to board a vessel or to enter a shore area for the purposes of inspection of the vessel or premises. It also prohibits the refusal to obey any lawful directive issued under this chapter.

Section 3713(b) prohibits any vessel, subject to the provisions of this chapter from operating on the navigable waters of the United States, or from using any port or place subject to the jurisdiction of the United States while not in compliance with any provision of applicable law or regulation. It further prohibits any vessel from failing to comply with a lawful directive issued pursuant to the authority of this chapter. It also prohibits the vessel from carrying oil or hazardous material as cargo or cargo residue unless its certificate is so endorsed to permit its carriage.

§ 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.



(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

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

§ 3712. Notification of noncompliance

The Secretary shall notify the owner, charterer, managing operator, agent, master, or individual in charge of a vessel found not to be in compliance with a regulation prescribed under this part and state how compliance may be achieved.

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

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3712 .....	46:391a(8)(A) 46:391a(8)(B)

Section 3712 requires the Secretary to notify appropriate parties when a vessel is found not to be in compliance with applicable requirements, standards, or regulations and what remedial steps must be taken in order to comply with them.

§ 3713. Prohibited acts

(a) A person may not—

(1) violate this chapter or a regulation prescribed under this chapter;

(2) refuse to permit any official, authorized by the Secretary to enforce this chapter, to board a vessel or to enter a shore area, place, or premises, under a person's control to make an inspection under this chapter; or

(3) refuse to obey a lawful directive issued under this chapter.

(b) A vessel to which this chapter applies may not—

(1) operate on the navigable waters of the United States or use a port or place subject to the jurisdiction of the United States when not

in compliance with this chapter or a regulation prescribed under this chapter;

(2) fail to comply with a lawful directive issued under this chapter; or

(3) carry a type or grade of oil or hazardous material in bulk as cargo or cargo residue unless its certificate is endorsed to allow that carriage.

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

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3713 .....	46:391a(13)

Section 3713(a) prohibits any person from violating any provision of this chapter or a regulation prescribed under its authority. It prohibits the refusal to permit authorized officials to board a vessel or to enter a shore area for the purposes of inspection of the vessel or premises. It also prohibits the refusal to obey any lawful directive issued under this chapter.

Section 3713(b) prohibits any vessel, subject to the provisions of this chapter from operating on the navigable waters of the United States, or from using any port or place subject to the jurisdiction of the United States while not in compliance with any provision of applicable law or regulation. It further prohibits any vessel from failing to comply with a lawful directive issued pursuant to the authority of this chapter. It also prohibits the vessel from carrying oil or hazardous material as cargo or cargo residue unless its certificate is so endorsed to permit its carriage.

§ 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, §1(8), May 19, 1986, 100 Stat. 445.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
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”.

§ 3715. Lightering

(a) A vessel may transfer oil or hazardous material in a port or place subject to the jurisdiction of the United States, when the cargo has

been transferred from another vessel on the navigable waters of the United States or in the marine environment, only if—

(1) the transfer was conducted consistent with regulations prescribed by the Secretary;

(2) both the delivering and receiving vessels had on board, at the time of transfer, a certificate of inspection or a certificate of compliance, as would have been required under section 3710 or 3711 of this title, had the transfer taken place in a port or place subject to the jurisdiction of the United States; and<sup>1</sup>

(3) the delivering and the receiving vessel had on board at the time of transfer, a certificate of financial responsibility as would have been required under section 1016 of the Oil Pollution Act of 1990, had the transfer taken place in a place subject to the jurisdiction of the United States;

(4) the delivering and the receiving vessel had on board at the time of transfer, evidence that each vessel is operating in compliance with section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)); and

(5) the delivering and the receiving vessel are operating in compliance with section 3703a of this title.

(b) The Secretary shall prescribe regulations to carry out subsection (a) of this section. The regulations shall include provisions on—

(1) minimum safe operating conditions, including sea state, wave height, weather, proximity to channels or shipping lanes, and other similar factors;

(2) the prevention of spills;

(3) equipment for responding to a spill;

(4) the prevention of any unreasonable interference with navigation or other reasonable uses of the high seas, as those uses are defined by treaty, convention, or customary international law;

(5) the establishment of lightering zones; and

(6) requirements for communication and pre-arrival messages.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 526; Pub. L. 101-380, title IV, §4115(d), Aug. 18, 1990, 104 Stat. 520.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3715 .....	46:391a(17)

Section 3715 requires the Secretary to control lightering operations; that is, the transferring of cargoes at sea from large deep-draft vessels to shallow-draft vessels for subsequent transfer to shoreside terminals due to the inability of the larger tank vessels to enter shallow ports. It prohibits a tank vessel from unloading any cargo of oil or hazardous material at any port or terminal under the jurisdiction of the United States, unless the cargo has been transferred in accordance with lightering regulations. It also prohibits the shoreside transfer unless both the delivering and receiving vessels involved in the prior lightering had on board at the time of the offshore transfer, the certificates that would have been required had the transfer taken place in a port or place subject to the jurisdiction of the United States.

<sup>1</sup> So in original. The word “and” probably should not appear.

ber of activities, but the portion restated in this chapter deals with the establishment of national construction and performance standards for recreational vessels and their associated equipment, the necessary flexible regulatory authority for inspection and testing, Federal preemption, certain necessary prohibited acts, enforcement authority, investigation and reporting requirements, procedures for repair and defect notification, and attendant penalties and injunctive relief. These laws are a direct response to the dramatic increase in the number of recreational boats and the Congressional recognition of the maritime safety problems that recreational boating has imposed upon our more than 25 million miles of waterways.

§ 4301. Application

(a) This chapter applies to a recreational vessel and associated equipment carried in the vessel on waters subject to the jurisdiction of the United States (including the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988) and, for a vessel owned in the United States, on the high seas.

(b) Except when expressly otherwise provided, this chapter does not apply to a foreign vessel temporarily operating on waters subject to the jurisdiction of the United States.

(c) Until there is a final judicial decision that they are navigable waters of the United States, the following waters lying entirely in New Hampshire are declared not to be waters subject to the jurisdiction of the United States within the meaning of this section: Lake Winnisquam, Lake Winnepesaukee, parts of the Merrimack River, and their tributary and connecting waters.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 529; Pub. L. 105-383, title III, §301(b)(4), Nov. 13, 1998, 112 Stat. 3417.)

HISTORICAL AND REVISION NOTES

Revised section	Source section (U.S. Code)
4301 .....	46:1453

Section 4301 provides that this chapter is applicable to a recreational vessel that operates on waters subject to the jurisdiction of the United States or that is owned in the United States and while operating on the high seas.

It also provides that a foreign recreational vessel that temporarily uses our waters is not subject to the requirements of this chapter. However, if the vessel remains permanently in the United States, it would be subject to the provisions of this chapter.

Section 4301(c) recognizes the ongoing controversy over the navigability of certain waters of New Hampshire. While a recreational vessel operating on these waters need not meet the requirements of this chapter, it would be prohibited from operating on any other waters subject to the jurisdiction of the United States if it does not comply with these requirements.

REFERENCES IN TEXT

Presidential Proclamation No. 5928, referred to in subsec. (a), is set out under section 1331 of Title 43, Public Lands.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-383 inserted "(including the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988)" after "of the United States".

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.

§ 4302. Regulations

(a) The Secretary may prescribe regulations—

(1) establishing minimum safety standards for recreational vessels and associated equipment, and establishing procedures and tests required to measure conformance with those standards, with each standard—

(A) meeting the need for recreational vessel safety; and

(B) being stated, insofar as practicable, in terms of performance;

(2) requiring the installation, carrying, or use of associated equipment (including fuel systems, ventilation systems, electrical systems, sound-producing devices, firefighting equipment, lifesaving devices, signaling devices, ground tackle, life- and grab-rails, and navigational equipment) on recreational vessels and classes of recreational vessels subject to this chapter, and prohibiting the installation, carrying, or use of associated equipment that does not conform with safety standards established under this section; and

(3) requiring or permitting the display of seals, labels, plates, insignia, or other devices for certifying or evidencing compliance with safety regulations and standards of the United States Government for recreational vessels and associated equipment.

(b) Each regulation prescribed under this section shall specify an effective date that is not earlier than 180 days from the date the regulation was published, unless the Secretary finds that there exists a recreational vessel safety hazard so critical as to require an earlier effective date. However, this period may not be more than 24 months for cases involving, in the discretion of the Secretary, major product design, retooling, or major changes in the manufacturing process.

(c) In prescribing regulations under this section, the Secretary shall, among other things—

(1) consider the need for and the extent to which the regulations will contribute to recreational vessel safety;

(2) consider relevant available recreational vessel safety standards, statistics, and data, including public and private research, development, testing, and evaluation;

(3) not compel substantial alteration of a recreational vessel or item of associated equipment that is in existence, or the construction or manufacture of which is begun before the effective date of the regulation, but subject to that limitation may require compliance or performance, to avoid a substantial risk of personal injury to the public, that the Secretary considers appropriate in relation to the degree of hazard that the compliance will correct; and

(4) consult with the National Boating Safety Advisory Council established under section 13110 of this title about the considerations referred to in clauses (1)–(3) of this subsection.

(d) Section 8903 of this title does not apply to a vessel being operated for bona fide dealer dem-

onstrations provided without fee to business invitees. However, if on the basis of substantial evidence, the Secretary decides under this section that requiring vessels so operated to be under the control of licensed individuals is necessary for boating safety, then the Secretary may prescribe regulations requiring the licensing of individuals controlling these vessels in the same manner as provided in chapter 89 of this title for individuals in control of vessels carrying passengers for hire.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 530.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
4302 .....	46:1454 46:1455 46:1456 46:1464(g) 46:1488

Section 4302 authorizes the Secretary to prescribe regulations to carry out the provisions of this chapter. In lieu of establishing specific statutory safety requirements, subsection (a) provides flexible regulatory authority to establish uniform standards for the design, construction, materials, and performance of the boats themselves and all associated equipment. It also provides for the display of seals and other devices for certifying or evidencing compliance with applicable safety regulations or standards.

Section 4302(b) requires a regulation prescribed under this section to have an effective date that is not earlier than 180 days from publication. However, in those instances where a safety hazard may be critical an earlier effective date is authorized.

Section 4302(c) requires the Secretary to consider certain objectives in developing regulatory controls and regulations or standards and that there must be an effective consultation process.

Section 4302(d) exempts dealer demonstration boats from the requirement of having to be named by a licensed individual when demonstrating boats to prospective purchasers or other business invitees when no fees are charged. The Secretary may require that boats so used be under control of a licensed individual.

AVAILABILITY AND USE OF EPIRBs FOR RECREATIONAL VESSELS

Pub. L. 105-383, title III, §309, Nov. 13, 1998, 112 Stat. 3422, provided that: "The Secretary of Transportation, through the Coast Guard and in consultation with the National Transportation Safety Board and recreational boating organizations, shall, within 24 months of the date of the enactment of this Act [Nov. 13, 1998], assess and report to Congress on the use of emergency position indicating beacons (EPIRBs) and similar devices by operators of recreational vessels on the Intracoastal Waterway and operators of recreational vessels beyond the Boundary Line. The assessment shall at a minimum—

"(1) evaluate the current availability and use of EPIRBs and similar devices by the operators of recreational vessels and the actual and potential contribution of such devices to recreational boating safety; and

"(2) provide recommendations on policies and programs to encourage the availability and use of EPIRBs [sic] and similar devices by the operators of recreational vessels."

§ 4303. Inspection and testing

(a) Subject to regulations, supervision, and reviews that the Secretary may prescribe, the Secretary may delegate to a person, private or public agency, or organization, or to an officer or

employee under the supervision of that person or agency, any work, business, or function related to the testing, inspection, and examination necessary for compliance enforcement and for the development of data to enable the Secretary to prescribe regulations under section 4302 of this title.

(b) The Secretary may—

(1) conduct research, testing, and development necessary to carry out this chapter, including the procurement by negotiation or otherwise of experimental and other recreational vessels or associated equipment for research and testing purposes; and

(2) subsequently sell those vessels.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 531.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
4303 .....	46:1457

Section 4303 authorizes the Secretary to delegate to certain persons or agencies or organizations any work, business, or function related to the testing, inspection, and examination necessary for compliance enforcement. The Secretary may also conduct research, testing, and development necessary to carry out this chapter, including procurement of vessels and equipment and their subsequent sale. The Committee wishes to make clear that the Secretary may sell anything that was purchased to test.

§ 4304. Importation of nonconforming vessels and equipment

The Secretary and the Secretary of the Treasury may authorize by joint regulations the importation of any nonconforming recreational vessel or associated equipment on conditions, including providing a bond, that will ensure that the recreational vessel or associated equipment will be brought into conformity with applicable safety regulations and standards of the Government before the vessel or equipment is operated on waters subject to the jurisdiction of the United States.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 531.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
4304 .....	46:1460

Section 4304 requires the regulation and control of the importation of nonconforming recreational vessels and associated equipment. This is to assure United States manufacturers that foreign imports comply with those regulations and standards in effect for United States products so that all manufacturers will be on this same competitive footing. This is being done in lieu of providing a specific prohibition against the importation of these vessels and equipment that might be considered an imposition of a non-tariff barrier to trade.

§ 4305. Exemptions

If the Secretary considers that recreational vessel safety will not be adversely affected, the Secretary may issue an exemption from this chapter or a regulation prescribed under this chapter.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 531.)

inspected fish processing vessel entered into service after Dec. 31, 1987, having more than 16 individuals on board primarily employed in preparation of fish on navigable waters of United States or owned in United States and operating on high seas, for provisions which related to uninspected fishing vessel, fish processing vessel, or fish tender vessel, and in subsec. (b) substituting "carriage of bulk" for "carriage of liquid bulk".

FOREIGN BUILT VESSELS, EQUIVALENT COMPLIANCE  
UNTIL JULY 28, 1990

Pub. L. 100-424, §7, Sept. 9, 1988, 102 Stat. 1592, provided that: "Until July 28, 1990, a foreign built fish processing vessel subject to chapter 45 of title 46, United States Code, is deemed to comply with the requirements of that chapter if—

"(1) it has an unexpired certificate of inspection issued by a foreign country that is a party to an International Convention for Safety of Life at Sea to which the United States Government is a party; and

"(2) it is in compliance with the safety requirements of that foreign country that apply to that vessel."

**§ 4502. Safety standards**

(a) The Secretary shall prescribe regulations which require that each vessel to which this chapter applies shall be equipped with—

(1) readily accessible fire extinguishers capable of promptly and effectively extinguishing a flammable or combustible liquid fuel fire;

(2) at least one readily accessible life preserver or other lifesaving device for each individual on board;

(3) an efficient flame arrestor, backfire trap, or other similar device on the carburetors of each inboard engine which uses gasoline as fuel;

(4) the means to properly and efficiently ventilate enclosed spaces, including engine and fuel tank compartments, so as to remove explosive or flammable gases;

(5) visual distress signals;

(6) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment; and

(7) a placard as required by regulations prescribed under section 10603(b) of this title.

(b)(1) In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations requiring the installation, maintenance, and use of the equipment in paragraph (2) of this subsection for vessels to which this chapter applies that—

(A) operate beyond 3 nautical miles from the baseline from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lakes;

(B) operate with more than 16 individuals on board; or

(C) in the case of a fish tender vessel, engage in the Aleutian trade.

(2) The equipment to be required is as follows:

(A) alerting and locating equipment, including emergency position indicating radio beacons;

(B) a survival craft that ensures that no part of an individual is immersed in water suffi-

cient to accommodate all individuals on board;

(C) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;

(D) marine radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;

(E) navigation equipment, including compasses, nautical charts, and publications;

(F) first aid equipment and medical supplies sufficient for the size and area of operation of the vessel; and

(G) ground tackle sufficient for the vessel.

(c)(1) In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing the standards in paragraph (2) of this subsection for vessels to which this chapter applies that—

(A)(i) were built after December 31, 1988, or undergo a major conversion completed after that date; and

(ii) operate with more than 16 individuals on board; or

(B) in the case of a fish tender vessel, engage in the Aleutian trade.

(2) The standards shall be minimum safety standards, including standards relating to—

(A) navigation equipment, including radars and fathometers;

(B) lifesaving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;

(C) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;

(D) use and installation of insulation material;

(E) storage methods for flammable or combustible material; and

(F) fuel, ventilation, and electrical systems.

(d)(1) The Secretary shall prescribe regulations for the operating stability of a vessel to which this chapter applies—

(A) that was built after December 31, 1989; or

(B) the physical characteristics of which are substantially altered after December 31, 1989, in a manner that affects the vessel's operating stability.

(2) The Secretary may accept, as evidence of compliance with this subsection, a certification of compliance issued by the person providing insurance for the vessel or by another qualified person approved by the Secretary.

(e) In prescribing regulations under this chapter, the Secretary—

(1) shall consider the specialized nature and economics of the operations and the character, design, and construction of the vessel; and

(2) may not require the alteration of a vessel or associated equipment that was constructed or manufactured before the effective date of the regulation.

(f) To ensure compliance with the requirements of this chapter, the Secretary—

(1) shall require the individual in charge of a vessel described in subsection (b) to keep a

record of equipment maintenance, and required instruction and drills; and

(2) shall examine at dockside a vessel described in subsection (b) at least once every 2 years, and shall issue a certificate of compliance to a vessel meeting the requirements of this chapter.

(g)(1) The individual in charge of a vessel described in subsection (b) must pass a training program approved by the Secretary that meets the requirements in paragraph (2) of this subsection and hold a valid certificate issued under that program.

(2) The training program shall—

(A) be based on professional knowledge and skill obtained through sea service and hands-on training, including training in seamanship, stability, collision prevention, navigation, fire fighting and prevention, damage control, personal survival, emergency medical care, emergency drills, and weather;

(B) require an individual to demonstrate ability to communicate in an emergency situation and understand information found in navigation publications;

(C) recognize and give credit for recent past experience in fishing vessel operation; and

(D) provide for issuance of a certificate to an individual that has successfully completed the program.

(3) The Secretary shall prescribe regulations implementing this subsection. The regulations shall require that individuals who are issued a certificate under paragraph (2)(D) must complete refresher training at least once every 5 years as a condition of maintaining the validity of the certificate.

(4) The Secretary shall establish a publicly accessible electronic database listing the names of individuals who have participated in and received a certificate confirming successful completion of a training program approved by the Secretary under this section.

(h) A vessel to which this chapter applies shall be constructed in a manner that provides a level of safety equivalent to the minimum safety standards the Secretary may establish for recreational vessels under section 4302, if—

(1) subsection (b) of this section applies to the vessel;

(2) the vessel is less than 50 feet overall in length; and

(3) the vessel is built after January 1, 2010.

(i)(1) The Secretary shall establish a Fishing Safety Training Grants Program to provide funding to municipalities, port authorities, other appropriate public entities, not-for-profit organizations, and other qualified persons that provide commercial fishing safety training—

(A) to conduct fishing vessel safety training for vessel operators and crewmembers that—

(i) in the case of vessel operators, meets the requirements of subsection (g); and

(ii) in the case of crewmembers, meets the requirements of subsection (g)(2)(A), such requirements of subsection (g)(2)(B) as are appropriate for crewmembers, and the requirements of subsections (g)(2)(D), (g)(3), and (g)(4); and

(B) for purchase of safety equipment and training aids for use in those fishing vessel safety training programs.

(2) The Secretary shall award grants under this subsection on a competitive basis.

(3) The Federal share of the cost of any activity carried out with a grant under this subsection shall not exceed 75 percent.

(4) There is authorized to be appropriated \$3,000,000 for each of fiscal years 2010 through 2014 for grants under this subsection.

(j)(1) The Secretary shall establish a Fishing Safety Research Grant Program to provide funding to individuals in academia, members of non-profit organizations and businesses involved in fishing and maritime matters, and other persons with expertise in fishing safety, to conduct research on methods of improving the safety of the commercial fishing industry, including vessel design, emergency and survival equipment, enhancement of vessel monitoring systems, communications devices, de-icing technology, and severe weather detection.

(2) The Secretary shall award grants under this subsection on a competitive basis.

(3) The Federal share of the cost of any activity carried out with a grant under this subsection shall not exceed 75 percent.

(4) There is authorized to be appropriated \$3,000,000 for each fiscal years 2010 through 2014 for activities under this subsection.

(Added Pub. L. 98-364, title IV, §402(7)(C), July 17, 1984, 98 Stat. 447; amended Pub. L. 98-557, §33(a), Oct. 30, 1984, 98 Stat. 2876; Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1585; Pub. L. 101-595, title VI, §602(c), Nov. 16, 1990, 104 Stat. 2990; Pub. L. 104-324, title III, §307, Oct. 19, 1996, 110 Stat. 3918; Pub. L. 105-383, title III, §301(b)(5), Nov. 13, 1998, 112 Stat. 3417; Pub. L. 111-281, title VI, §604(a), Oct. 15, 2010, 124 Stat. 2962.)

#### AMENDMENTS

2010—Subsec. (a)(6). Pub. L. 111-281, §604(a)(1)(A), added par. (6) and struck out former par. (6) which read as follows: “a buoyant apparatus, if the vessel is of a type required by regulations prescribed by the Secretary to be equipped with that apparatus;”.

Subsec. (a)(7), (8). Pub. L. 111-281, §604(a)(1), redesignated par. (8) as (7) and struck out former par. (7) which read as follows: “alerting and locating equipment, including emergency position indicating radio beacons, on vessels that operate beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured, and which are owned in the United States or beyond 3 nautical miles from the coastline of the Great Lakes; and”.

Subsec. (b)(1). Pub. L. 111-281, §604(a)(2)(A), struck out “documented” before “vessels”.

Subsec. (b)(1)(A). Pub. L. 111-281, §604(a)(2)(B), substituted “3 nautical miles from the baseline from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lakes” for “the Boundary Line”.

Subsec. (b)(2)(B). Pub. L. 111-281, §604(a)(2)(C), substituted “a survival craft that ensures that no part of an individual is immersed in water” for “lifeboats or liferafts”.

Subsec. (b)(2)(D). Pub. L. 111-281, §604(a)(2)(D), inserted “marine” before “radio communications”.

Subsec. (b)(2)(E). Pub. L. 111-281, §604(a)(2)(E), substituted “nautical charts, and publications” for “radar reflectors, nautical charts, and anchors”.

Subsec. (b)(2)(F). Pub. L. 111-281, §604(a)(2)(F), substituted “and medical supplies sufficient for the size

and area of operation of the vessel” for “, including medicine chests”.

Subsec. (b)(2)(G), Pub. L. 111-281, §604(a)(2)(G), amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: “other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.”

Subsec. (f), Pub. L. 111-281, §604(a)(3), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “To ensure compliance with the requirements of this chapter, at least once every 2 years the Secretary shall examine—

“(1) a fish processing vessel; and

“(2) a fish tender vessel engaged in the Aleutian trade.”

Subsecs. (g) to (j), Pub. L. 111-281, §604(a)(4), added subsecs. (g) to (j).

1998—Subsec. (a)(7), Pub. L. 105-383 substituted “beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured, and which are owned in the United States” for “on the high seas”.

1996—Subsec. (a)(7), Pub. L. 104-324 inserted “or beyond 3 nautical miles from the coastline of the Great Lakes” after “high seas”.

1990—Subsec. (b), Pub. L. 101-595, §602(c)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations for documented vessels to which this chapter applies that operate beyond the Boundary Line or that operate with more than 16 individuals on board, for the installation, maintenance, and use of—

“(1) alerting and locating equipment, including emergency position indicating radio beacons;

“(2) lifeboats or liferafts sufficient to accommodate all individuals on board;

“(3) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;

“(4) radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;

“(5) navigation equipment, including compasses, radar reflectors, nautical charts, and anchors;

“(6) first aid equipment, including medicine chests; and

“(7) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.”

Subsec. (c), Pub. L. 101-595, §602(c)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing minimum safety standards for vessels to which this chapter applies that were built after December 31, 1988, or that undergo a major conversion completed after that date, and that operate with more than 16 individuals on board, including standards relating to—

“(1) navigation equipment, including radars and fathometers;

“(2) life saving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;

“(3) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;

“(4) use and installation of insulation material;

“(5) storage methods for flammable or combustible material; and

“(6) fuel, ventilation, and electrical systems.”

Subsec. (f), Pub. L. 101-595, §602(c)(2), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “The Secretary shall examine a fish process-

ing vessel at least once every two years to ensure that the vessel complies with the requirements of this chapter.”

1988—Pub. L. 100-424 amended section generally, substituting “Safety standards” for “Regulations” in section catchline, adding subsecs. (a) and (b), redesignating former subsec. (a) as (c) and establishing list of standards as minimum safety standards, in addition to requirements of subsecs. (a) and (b), for vessels built after Dec. 31, 1988, or that undergo major conversion completed after that date, that operate with more than 16 individuals on board, adding subsec. (d), redesignating former subsec. (b) as (e) and striking out provisions which required Secretary to consult with representatives of private sector, experienced in operation of these vessels, to ensure practicability of regulations, and adding subsec. (f).

1984—Subsec. (b)(3), Pub. L. 98-557 substituted “this chapter” for “the exemption”.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-595, title VI, §602(f), Nov. 16, 1990, 104 Stat. 2992, provided that: “This section [amending this section and sections 2102, 3302, 5102, 8104, and 8702 of this title, and enacting provisions set out as a note under section 7306 of this title] is effective on the date of enactment of this section [Nov. 16, 1990] except as follows:

“(1) The requirements imposed by section 3302(c)(4)(B) and (C) of title 46, United States Code, (as enacted by subsection (b) of this section) is effective 6 months after the date of enactment of this Act.

“(2) Before January 1, 1993, section 4502(c) (as amended by subsection (c) of this section) does not apply to a fish tender vessel engaged in the Aleutian trade, if the vessel—

“(A)(i) before September 8, 1990, operated in that trade; or

“(ii) before September 8, 1990, was purchased to be used in that trade and, before June 1, 1992, entered into service in that trade; and

“(B) does not undergo a major conversion.

“(3) Before January 1, 2003, a fish tender vessel is exempt from chapter 51 of title 46, United States Code, (as amended by subsection (d) of this section) when engaged in the Aleutian trade, if the vessel—

“(A)(i) before September 8, 1990, operated in that trade; or

“(ii) before September 8, 1990, was purchased to be used in this trade and, before June 1, 1992, entered into service in that trade;

“(B) does not undergo a major conversion; and

“(C) did not have a load line assigned at any time before the date of enactment of this Act.

“(4) The requirements imposed by section 8702(b)(2) of title 46, United States Code, (as amended by subsection (e)(2)(B) of this section) are effective 1 year after the date of enactment of this Act.”

#### STUDIES REGARDING SAFETY OF FISHING VESSELS

Pub. L. 100-424, §5(a), Sept. 9, 1988, 102 Stat. 1591, directed Secretary of Transportation, utilizing National Academy of Engineering and in consultation with National Transportation Safety Board, Commercial Fishing Industry Vessel Advisory Committee, and fishing industry, to conduct a study of safety problems on fishing industry vessels, and to make recommendations regarding whether a vessel inspection program could be implemented for fishing vessels, fish tender vessels, and fish processing vessels, including recommendations on nature and scope of that inspection, and further provided for submission of the study and recommendations to Congress before Jan. 1, 1990.

Pub. L. 100-424, §5(b), Sept. 9, 1988, 102 Stat. 1591, directed Secretary of department in which Coast Guard is operating, in consultation with Commercial Fishing Industry Vessel Advisory Committee established under section 4508 of this title, and with representatives of persons operating fish processing vessels to conduct a study of fish processing vessels that are not surveyed

and classed by an organization approved by Secretary, and to make recommendations regarding what hull and machinery requirements could apply to such vessels to ensure that those vessels are operated and maintained in a condition in which they are safe to operate at sea, and further provided for submission of such study and recommendations to Congress before July 28, 1991.

#### TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

### § 4503. Fishing, fish tender, and fish processing vessel certification

(a) A vessel to which this section applies may not be operated unless the vessel—

(1) meets all survey and classification requirements prescribed by the American Bureau of Shipping or another similarly qualified organization approved by the Secretary; and

(2) has on board a certificate issued by the American Bureau of Shipping or that other organization evidencing compliance with this subsection.

(b) This section applies to a fish processing vessel to which this chapter applies that—

(1) is built after July 27, 1990; or

(2) undergoes a major conversion completed after that date.

(c) This section applies to a vessel to which section 4502(b) of this title applies that is at least 50 feet overall in length and is built after July 1, 2012.

(d)(1) After January 1, 2020, a fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies shall comply with an alternate safety compliance program that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary, if the vessel—

(A) is at least 50 feet overall in length;

(B) is built before July 1, 2012; and

(C) is 25 years of age or older.

(2) A fishing vessel, fish processing vessel, or fish tender vessel built before July 1, 2012, that undergoes a substantial change to the dimension of or type of vessel completed after the later of July 1, 2012, or the date the Secretary establishes standards for an alternate safety compliance program, shall comply with such an alternate safety compliance program that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary.

(3) Alternative safety compliance programs may be developed for purposes of paragraph (1) for specific regions and fisheries.

(4) Notwithstanding paragraph (1), vessels owned by a person that owns more than 30 vessels subject to that paragraph are not required to meet the alternate safety compliance requirements of that paragraph until January 1, 2030, if that owner enters into a compliance agreement with the Secretary that provides for a fixed schedule for all of the vessels owned by that person to meet requirements of that paragraph by that date and the vessel owner is meeting that schedule.

(5) A fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this

title applies that was classed before July 1, 2012, shall—

(A) remain subject to the requirements of a classification society approved by the Secretary; and

(B) have on board a certificate from that society.

(Added Pub. L. 98-364, title IV, §402(7)(C), July 17, 1984, 98 Stat. 447; amended Pub. L. 98-557, §33(b), Oct. 30, 1984, 98 Stat. 2876; Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1587; Pub. L. 111-281, title VI, §604(e)(1), Oct. 15, 2010, 124 Stat. 2966.)

#### AMENDMENTS

2010—Pub. L. 111-281, §604(e)(1)(A), substituted “Fishing, fish tender, and fish processing vessel certification” for “Fish processing vessel certification” in section catchline.

Subsec. (a). Pub. L. 111-281, §604(e)(1)(B), struck out “fish processing” before “vessel to which this section applies” in introductory provisions.

Subsecs. (c), (d). Pub. L. 111-281, §604(e)(1)(C), added subsecs. (c) and (d).

1988—Pub. L. 100-424 amended section generally, substituting “Fish processing vessel certification” for “Equivalency” in section catchline, and provisions which require certification issued by American Bureau of Shipping or similar organization for fish processing vessel built after July 27, 1990, or undergoes major conversion completed after that date, for provisions which deemed compliance with this chapter if vessel has unexpired certificate of inspection issued by foreign country that is party to International Convention for Safety of Life at Sea to which United States is party.

1984—Pub. L. 98-557 substituted “is deemed” for “shall be deemed”.

#### ALTERNATIVE SAFETY COMPLIANCE PROGRAM

Pub. L. 111-281, title VI, §604(f), Oct. 15, 2010, 124 Stat. 2967, provided that: “No later than January 1, 2017, the Secretary of the department in which the Coast Guard is operating shall prescribe an alternative safety compliance program referred to in section 4503(d)(1) of the title 46, United States Code, as amended by this section.”

### § 4504. Prohibited acts

A person may not operate a vessel in violation of this chapter or a regulation prescribed under this chapter.

(Added Pub. L. 98-364, title IV, §402(7)(C), July 17, 1984, 98 Stat. 447; amended Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1587.)

#### AMENDMENTS

1988—Pub. L. 100-424 amended section generally, substituting “Prohibited acts” for “Penalties” in section catchline, and provisions prohibiting operation of vessel in violation of this chapter, for provisions which imposed civil penalty not more than \$1,000 for operation of vessel in violation of chapter, and liability in rem for penalty.

### § 4505. Termination of unsafe operations

An official authorized to enforce this chapter—

(1) may direct the individual in charge of a vessel to which this chapter applies to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the official observes the vessel being operated in an unsafe condition that the official believes creates an especially hazardous condition, in-