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TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part A--General Provisions

CHAPTER 21--GENERAL

Sec. 2103. Superintendence of the merchant marine

The Secretary has general superintendence over the merchant marine of the United States and of merchant marine personnel insofar as the enforcement of this subtitle is concerned and insofar as those vessels and personnel are not subject, under other law, to the supervision of another official of the United States Government. In the interests of marine safety and seamen's welfare, the Secretary shall enforce this subtitle and shall carry out correctly and uniformly administer this subtitle. The Secretary may prescribe regulations to carry out the provisions of this subtitle.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 506; Pub. L. 99-307, Sec. 9, May 19, 1986, 100 Stat. 447.)

Historical and Revision Notes

Revised section	Source section (U.S. Code)
2103.....	46:2 46:372 46:689

Section 2103 provides the Secretary with the authority to superintend the merchant marine and those involved personnel insofar as the vessels and personnel are not subject, under other laws, to the supervision of another official. The Secretary has the duty to enforce the laws with respect to vessels and seamen and to carry out correctly and uniformly these laws and regulations. The term ``superintendence'' is used to indicate the Secretary's broad responsibility for overseeing maritime safety and seamen's welfare, including employment, shipping, navigation, and protection of the marine environment.

Amendments

1986--Pub. L. 99-307 substituted ``subtitle. The Secretary may prescribe regulations to carry out the provisions of this subtitle'' for ``subtitle and regulations prescribed under this subtitle''.

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TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 33--INSPECTION GENERALLY

Sec. 3306. Regulations

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

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

(2) lifesaving equipment and its use;

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

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

(3) of this subsection; and

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

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

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

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

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

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

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

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

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

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

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

of sailing school vessels and applicable safety regulations.

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

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

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

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

(h) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less than 300 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of section 2113(4) of this title.

(i) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of section 2113(5) of this title.

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

Historical and Revision Notes

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

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

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

#### Amendments

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

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

Subsec. (h). Pub. L. 104-324, Sec. 712(1), inserted ``as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'' after ``300 gross tons''.

Subsec. (i). Pub. L. 104-324, Sec. 712(2), inserted ``as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'' after ``500 gross tons''.

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

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

#### Regulations

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

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

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

#### Foreign Approvals

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

International Convention for Safety of Life at Sea

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

Section Referred to in Other Sections

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

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TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 37--CARRIAGE OF LIQUID BULK DANGEROUS CARGOES

Sec. 3703. Regulations

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

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

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

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

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

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

## Historical and Revision Notes

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

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

## Studies Addressing Various Sources of Oil Spill Risk

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Existing Tank Vessel Research

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

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

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

Oil Spill Prevention and Response Technology Test and Evaluation Program

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



provided that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

((1) overfill devices, and

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

## Tanker Navigation Safety Standards Study

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

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

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

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

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

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

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

## Section Referred to in Other Sections

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

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TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 43--RECREATIONAL VESSELS

Sec. 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 demonstrations 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

Revised section	Source section (U.S. Code)
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, Sec. 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.'')

#### Section Referred to in Other Sections

This section is referred to in sections 4303, 4306, 4310, 8905, 13110 of this title.

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TITLE 33--NAVIGATION AND NAVIGABLE WATERS

CHAPTER 26--WATER POLLUTION PREVENTION AND CONTROL

SUBCHAPTER III--STANDARDS AND ENFORCEMENT

Sec. 1322. Marine sanitation devices

(a) Definitions

For the purpose of this section, the term--

(1) ``new vessel'' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated after promulgation of standards and regulations under this section;

(2) ``existing vessel'' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated before promulgation of standards and regulations under this section;

(3) ``public vessel'' means a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

(4) ``United States'' includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

(5) ``marine sanitation device'' includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage;

(6) ``sewage'' means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes except that, with respect to commercial vessels on the Great Lakes, such term shall include graywater;

(7) ``manufacturer'' means any person engaged in the manufacturing, assembling, or importation of marine sanitation devices or of vessels subject to standards and regulations promulgated under this section;

(8) ``person'' means an individual, partnership, firm, corporation, association, or agency of the United States, but does not include an individual on board a public vessel;

(9) ``discharge'' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

(10) ``commercial vessels'' means those vessels used in the business of transporting property for compensation or hire, or in transporting property in the business of the owner, lessee, or operator of the vessel;

(11) ``graywater'' means galley, bath, and shower water;

(12) ``discharge incidental to the normal operation of a

vessel''--

(A) means a discharge, including--

(i) graywater, bilge water, cooling water, weather deck runoff, ballast water, oil water separator effluent, and any other pollutant discharge from the operation of a marine propulsion system, shipboard maneuvering system, crew habitability system, or installed major equipment, such as an aircraft carrier elevator or a catapult, or from a protective, preservative, or absorptive application to the hull of the vessel; and

(ii) a discharge in connection with the testing, maintenance, and repair of a system described in clause (i) whenever the vessel is waterborne; and

(B) does not include--

(i) a discharge of rubbish, trash, garbage, or other such material discharged overboard;

(ii) an air emission resulting from the operation of a vessel propulsion system, motor driven equipment, or incinerator; or

(iii) a discharge that is not covered by part 122.3 of title 40, Code of Federal Regulations (as in effect on February 10, 1996);

(13) ``marine pollution control device'' means any equipment or management practice, for installation or use on board a vessel of the Armed Forces, that is--

(A) designed to receive, retain, treat, control, or discharge a discharge incidental to the normal operation of a vessel; and

(B) determined by the Administrator and the Secretary of Defense to be the most effective equipment or management practice to reduce the environmental impacts of the discharge consistent with the considerations set forth in subsection (n) (2) (B) of this section; and

(14) ``vessel of the Armed Forces'' means--

(A) any vessel owned or operated by the Department of Defense, other than a time or voyage chartered vessel; and

(B) any vessel owned or operated by the Department of Transportation that is designated by the Secretary of the department in which the Coast Guard is operating as a vessel equivalent to a vessel described in subparagraph (A).

(b) Federal standards of performance

(1) As soon as possible, after October 18, 1972, and subject to the provisions of section 1254(j) of this title, the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as ``standards'') which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessels not equipped with installed toilet facilities. Such standards and standards established under subsection (c) (1) (B) of this section shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of

the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and subsection (c) of this section and with maritime safety and the marine and navigation laws and regulations governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

(2) Any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section, which device is in compliance with such initial standards and regulations, shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

(c) Initial standards; effective dates; revision; waiver

(1) (A) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

(B) The Administrator shall, with respect to commercial vessels on the Great Lakes, establish standards which require at a minimum the equivalent of secondary treatment as defined under section 1314(d) of this title. Such standards and regulations shall take effect for existing vessels after such time as the Administrator determines to be reasonable for the upgrading of marine sanitation devices to attain such standard.

(2) The Secretary of the department in which the Coast Guard is operating with regard to his regulatory authority established by this section, after consultation with the Administrator, may distinguish among classes, type, and sizes of vessels as well as between new and existing vessels, and may waive applicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessels (including existing vessels equipped with marine sanitation devices on the date of promulgation of the initial standards required by this section), and, upon application, for individual vessels.

(d) Vessels owned and operated by the United States

The provisions of this section and the standards and regulations promulgated hereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect to vessels owned and operated by the Department of Defense, regulations under the last sentence of subsection (b) (1) of this section and certifications under subsection (g) (2) of this section shall be promulgated and issued by the Secretary of Defense.

(e) Pre-promulgation consultation

Before the standards and regulations under this section are promulgated, the Administrator and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health and Human Services; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5.



(f) Regulation by States or political subdivisions thereof; complete prohibition upon discharge of sewage

(1)(A) Except as provided in subparagraph (B), after the effective date of the initial standards and regulations promulgated under this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section.

(B) A State may adopt and enforce a statute or regulation with respect to the design, manufacture, or installation or use of any marine sanitation device on a houseboat, if such statute or regulation is more stringent than the standards and regulations promulgated under this section. For purposes of this paragraph, the term "houseboat" means a vessel which, for a period of time determined by the State in which the vessel is located, is used primarily as a residence and is not used primarily as a means of transportation.

(2) If, after promulgation of the initial standards and regulations and prior to their effective date, a vessel is equipped with a marine sanitation device in compliance with such standards and regulations and the installation and operation of such device is in accordance with such standards and regulations, such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with respect to such vessel on the date of such compliance.

(3) After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply. Upon application of the State, the Administrator shall make such determination within 90 days of the date of such application.

(4)(A) If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

(B) Upon application by a State, the Administrator shall, by regulation, establish a drinking water intake zone in any waters within such State and prohibit the discharge of sewage from vessels within that zone.

(g) Sales limited to certified devices; certification of test device; recordkeeping; reports

(1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a

marine sanitation device if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Administrator as to standards of performance and for such other purposes as may be appropriate. If the Secretary of the department in which the Coast Guard is operating determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, he shall certify the device. Any device manufactured by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

(3) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Administrator or the Secretary of the department in which the Coast Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this section and regulations issued thereunder and shall, upon request of an officer or employee duly designated by the Administrator or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee at reasonable times to have access to and copy such records. All information reported to or otherwise obtained by the Administrator or the Secretary of the Department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section. This paragraph shall not apply in the case of the construction of a vessel by an individual for his own use.

(h) Sale and resale of properly equipped vessels; operability of certified marine sanitation devices

After the effective date of standards and regulations promulgated under this section, it shall be unlawful--

(1) for the manufacturer of any vessel subject to such standards and regulations to manufacture for sale, to sell or offer for sale, or to distribute for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

(4) for a vessel subject to such standards and regulations to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to this section.

(i) Jurisdiction to restrain violations; contempts

The district courts of the United States shall have jurisdictions to restrain violations of subsection (g) (1) of this section and subsections (h) (1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpoena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(j) Penalties

Any person who violates subsection (g) (1) of this section, clause (1) or (2) of subsection (h) of this section, or subsection (n) (8) of this section shall be liable to a civil penalty of not more than \$5,000 for each violation. Any person who violates clause (4) of subsection (h) of this section or any regulation issued pursuant to this section shall be liable to a civil penalty of not more than \$2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

(k) Enforcement authority

The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Administrator, other Federal agencies, or the States to carry out the provisions of this section. The provisions of this section may also be enforced by a State.

(l) Boarding and inspection of vessels; execution of warrants and other process

Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vessel upon the navigable waters of the United States and (2) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(m) Enforcement in United States possessions

In the case of Guam and the Trust Territory of the Pacific Islands, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the District Court for the District of the Canal Zone.

(n) Uniform national discharge standards for vessels of Armed Forces

(1) Applicability

This subsection shall apply to vessels of the Armed Forces and discharges, other than sewage, incidental to the normal operation of a vessel of the Armed Forces, unless the Secretary of Defense finds that compliance with this subsection would not be in the national security interests of the United States.

(2) Determination of discharges required to be controlled by marine pollution control devices

(A) In general

The Administrator and the Secretary of Defense, after consultation with the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and interested States, shall jointly determine the discharges incidental to the normal operation of a vessel of the Armed Forces for which it is reasonable and practicable to require use of a marine pollution control device to mitigate adverse impacts on the marine environment. Notwithstanding subsection (a)(1) of section 553 of title 5, the Administrator and the Secretary of Defense shall promulgate the determinations in accordance with such section. The Secretary of Defense shall require the use of a marine pollution control device on board a vessel of the Armed Forces in any case in which it is determined that the use of such a device is reasonable and practicable.

(B) Considerations

In making a determination under subparagraph (A), the Administrator and the Secretary of Defense shall take into consideration--

- (i) the nature of the discharge;
- (ii) the environmental effects of the discharge;
- (iii) the practicability of using the marine pollution control device;
- (iv) the effect that installation or use of the marine pollution control device would have on the operation or operational capability of the vessel;
- (v) applicable United States law;
- (vi) applicable international standards; and
- (vii) the economic costs of the installation and use of the marine pollution control device.

(3) Performance standards for marine pollution control devices

(A) In general

For each discharge for which a marine pollution control device is determined to be required under paragraph (2), the Administrator and the Secretary of Defense, in consultation with the Secretary of the department in which the Coast Guard is operating, the Secretary of State, the Secretary of Commerce, other interested Federal agencies, and interested States, shall jointly promulgate Federal standards of performance for each

marine pollution control device required with respect to the discharge. Notwithstanding subsection (a) (1) of section 553 of title 5, the Administrator and the Secretary of Defense shall promulgate the standards in accordance with such section.

(B) Considerations

In promulgating standards under this paragraph, the Administrator and the Secretary of Defense shall take into consideration the matters set forth in paragraph (2) (B).

(C) Classes, types, and sizes of vessels

The standards promulgated under this paragraph may--

- (i) distinguish among classes, types, and sizes of vessels;
- (ii) distinguish between new and existing vessels; and
- (iii) provide for a waiver of the applicability of the standards as necessary or appropriate to a particular class, type, age, or size of vessel.

(4) Regulations for use of marine pollution control devices

The Secretary of Defense, after consultation with the Administrator and the Secretary of the department in which the Coast Guard is operating, shall promulgate such regulations governing the design, construction, installation, and use of marine pollution control devices on board vessels of the Armed Forces as are necessary to achieve the standards promulgated under paragraph (3).

(5) Deadlines; effective date

(A) Determinations

The Administrator and the Secretary of Defense shall--

- (i) make the initial determinations under paragraph (2) not later than 2 years after February 10, 1996; and
- (ii) every 5 years--
  - (I) review the determinations; and
  - (II) if necessary, revise the determinations based on significant new information.

(B) Standards

The Administrator and the Secretary of Defense shall--

- (i) promulgate standards of performance for a marine pollution control device under paragraph (3) not later than 2 years after the date of a determination under paragraph (2) that the marine pollution control device is required; and
- (ii) every 5 years--
  - (I) review the standards; and
  - (II) if necessary, revise the standards, consistent with paragraph (3) (B) and based on significant new information.

(C) Regulations

The Secretary of Defense shall promulgate regulations with respect to a marine pollution control device under paragraph (4)

as soon as practicable after the Administrator and the Secretary of Defense promulgate standards with respect to the device under paragraph (3), but not later than 1 year after the Administrator and the Secretary of Defense promulgate the standards. The regulations promulgated by the Secretary of Defense under paragraph (4) shall become effective upon promulgation unless another effective date is specified in the regulations.

(D) Petition for review

The Governor of any State may submit a petition requesting that the Secretary of Defense and the Administrator review a determination under paragraph (2) or a standard under paragraph (3), if there is significant new information, not considered previously, that could reasonably result in a change to the particular determination or standard after consideration of the matters set forth in paragraph (2)(B). The petition shall be accompanied by the scientific and technical information on which the petition is based. The Administrator and the Secretary of Defense shall grant or deny the petition not later than 2 years after the date of receipt of the petition.

(6) Effect on other laws

(A) Prohibition on regulation by States or political subdivisions of States

Beginning on the effective date of--

(i) a determination under paragraph (2) that it is not reasonable and practicable to require use of a marine pollution control device regarding a particular discharge incidental to the normal operation of a vessel of the Armed Forces; or

(ii) regulations promulgated by the Secretary of Defense under paragraph (4);

except as provided in paragraph (7), neither a State nor a political subdivision of a State may adopt or enforce any statute or regulation of the State or political subdivision with respect to the discharge or the design, construction, installation, or use of any marine pollution control device required to control discharges from a vessel of the Armed Forces.

(B) Federal laws

This subsection shall not affect the application of section 1321 of this title to discharges incidental to the normal operation of a vessel.

(7) Establishment of State no-discharge zones

(A) State prohibition

(i) In general

After the effective date of--

(I) a determination under paragraph (2) that it is not reasonable and practicable to require use of a marine pollution control device regarding a particular

discharge incidental to the normal operation of a vessel of the Armed Forces; or

(II) regulations promulgated by the Secretary of Defense under paragraph (4);

if a State determines that the protection and enhancement of the quality of some or all of the waters within the State require greater environmental protection, the State may prohibit 1 or more discharges incidental to the normal operation of a vessel, whether treated or not treated, into the waters. No prohibition shall apply until the Administrator makes the determinations described in subclauses (II) and (III) of subparagraph (B)(i).  
(ii) Documentation

To the extent that a prohibition under this paragraph would apply to vessels of the Armed Forces and not to other types of vessels, the State shall document the technical or environmental basis for the distinction.

(B) Prohibition by the Administrator

(i) In general

Upon application of a State, the Administrator shall by regulation prohibit the discharge from a vessel of 1 or more discharges incidental to the normal operation of a vessel, whether treated or not treated, into the waters covered by the application if the Administrator determines that--

(I) the protection and enhancement of the quality of the specified waters within the State require a prohibition of the discharge into the waters;

(II) adequate facilities for the safe and sanitary removal of the discharge incidental to the normal operation of a vessel are reasonably available for the waters to which the prohibition would apply; and

(III) the prohibition will not have the effect of discriminating against a vessel of the Armed Forces by reason of the ownership or operation by the Federal Government, or the military function, of the vessel.

(ii) Approval or disapproval

The Administrator shall approve or disapprove an application submitted under clause (i) not later than 90 days after the date on which the application is submitted to the Administrator. Notwithstanding clause (i)(II), the Administrator shall not disapprove an application for the sole reason that there are not adequate facilities to remove any discharge incidental to the normal operation of a vessel from vessels of the Armed Forces.

(C) Applicability to foreign flagged vessels

A prohibition under this paragraph--

(i) shall not impose any design, construction, manning, or equipment standard on a foreign flagged vessel engaged in innocent passage unless the prohibition implements a generally accepted international rule or standard; and

(ii) that relates to the prevention, reduction, and control of pollution shall not apply to a foreign flagged

vessel engaged in transit passage unless the prohibition implements an applicable international regulation regarding the discharge of oil, oily waste, or any other noxious substance into the waters.

(8) Prohibition relating to vessels of the Armed Forces

After the effective date of the regulations promulgated by the Secretary of Defense under paragraph (4), it shall be unlawful for any vessel of the Armed Forces subject to the regulations to--

(A) operate in the navigable waters of the United States or the waters of the contiguous zone, if the vessel is not equipped with any required marine pollution control device meeting standards established under this subsection; or

(B) discharge overboard any discharge incidental to the normal operation of a vessel in waters with respect to which a prohibition on the discharge has been established under paragraph (7).

(9) Enforcement

This subsection shall be enforceable, as provided in subsections (j) and (k) of this section, against any agency of the United States responsible for vessels of the Armed Forces notwithstanding any immunity asserted by the agency.

(June 30, 1948, ch. 758, title III, Sec. 312, as added Pub. L. 92-500, Sec. 2, Oct. 18, 1972, 86 Stat. 871; amended Pub. L. 95-217, Sec. 59, Dec. 27, 1977, 91 Stat. 1596; Pub. L. 96-88, title V, Sec. 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 100-4, title III, Sec. 311, Feb. 4, 1987, 101 Stat. 42; Pub. L. 104-106, div. A, title III, Sec. 325(b)-(c) (2), Feb. 10, 1996, 110 Stat. 254-259.)

References in Text

For definition of Canal Zone, referred to in subsecs. (a) (4) and (m), see section 3602 (b) of Title 22, Foreign Relations and Intercourse.

Amendments

1996--Subsec. (a) (8). Pub. L. 104-106, Sec. 325(c) (1) (A), substituted ``corporation, association, or agency of the United States,' ' for ``corporation, or association,' '.

Subsec. (a) (12) to (14). Pub. L. 104-106, Sec. 325(c) (1) (B), (C), added pars. (12) to (14).

Subsec. (j). Pub. L. 104-106, Sec. 325(c) (2), substituted ``subsection (g) (1) of this section, clause (1) or (2) of subsection (h) of this section, or subsection (n) (8) of this section shall be liable'' for ``subsection (g) (1) of this section or clause (1) or (2) of subsection (h) of this section shall be liable''.

Subsec. (n). Pub. L. 104-106, Sec. 325(b), added subsec. (n).

1987--Subsec. (f) (1). Pub. L. 100-4, Sec. 311(a), designated existing provision as subpar. (A), substituted ``Except as provided in subparagraph (B), after'' for ``After'', and added subpar. (B).

Subsec. (k). Pub. L. 100-4, Sec. 311(b), inserted at end ``The provisions of this section may also be enforced by a State.''

1977--Subsec. (a) (6). Pub. L. 95-217, Sec. 59(a), inserted ``except that, with respect to commercial vessels on the Great Lakes, such term shall include graywater'' after ``receive or retain body wastes''.



Subsec. (a) (10), (11). Pub. L. 95-217, Sec. 59(b), added pars. (10) and (11).

Subsec. (b) (1). Pub. L. 95-217, Sec. 59(c), inserted references to standards established under subsec. (c) (1) (B) of this section and to standards promulgated under subsec. (c) of this section.

Subsec. (c) (1). Pub. L. 95-217, Sec. 59(d), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (f) (4). Pub. L. 95-217, Sec. 59(e), designated existing provisions as subpar. (A) and added subpar. (B).

#### Change of Name

``Secretary of Health and Human Services'' substituted for ``Secretary of Health, Education, and Welfare'' in subsec. (e) pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

#### Termination of Trust Territory of the Pacific Islands

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

#### Termination of United States District Court for the District of the Canal Zone

For termination of the United States District Court for the District of the Canal Zone at end of the ``transition period'', being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96-70, title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

#### Purpose of 1996 Amendment

Section 325(a) of Pub. L. 104-106 provided that: ``The purposes of this section [amending this section and section 1362 of this title and enacting provisions set out as a note below] are to--

- ``(1) enhance the operational flexibility of vessels of the Armed Forces domestically and internationally;
- ``(2) stimulate the development of innovative vessel pollution control technology; and
- ``(3) advance the development by the United States Navy of environmentally sound ships.''

#### Cooperation in National Discharge Standards Development

Section 325(d) of Pub. L. 104-106 provided that: ``The Administrator of the Environmental Protection Agency and the Secretary of Defense may, by mutual agreement, with or without reimbursement, provide for the use of information, reports, personnel, or other resources of the Environmental Protection Agency or the Department of Defense to carry out section 312(n) of the Federal Water Pollution Control Act [33 U.S.C. 1322(n)] (as added by subsection (b)), including the use of the resources--

- ``(1) to determine--
- ``(A) the nature and environmental effect of discharges

incidental to the normal operation of a vessel of the Armed Forces;

``(B) the practicability of using marine pollution control devices on vessels of the Armed Forces; and

``(C) the effect that installation or use of marine pollution control devices on vessels of the Armed Forces would have on the operation or operational capability of the vessels; and

``(2) to establish performance standards for marine pollution control devices on vessels of the Armed Forces.''

#### Clean Vessels

Pub. L. 102-587, title V, subtitle F, Nov. 4, 1992, 106 Stat. 5086, provided that:

``SEC. 5601. SHORT TITLE.

``This subtitle may be cited as the `Clean Vessel Act of 1992'.

``SEC. 5602. FINDINGS; PURPOSE.

``(a) Findings.--The Congress finds the following:

``(1) The discharge of untreated sewage by vessels is prohibited under Federal law in all areas within the navigable waters of the United States.

``(2) The discharge of treated sewage by vessels is prohibited under either Federal or State law in many of the United States bodies of water where recreational boaters operate.

``(3) There is currently an inadequate number of pumpout stations for type III marine sanitation devices where recreational vessels normally operate.

``(4) Sewage discharged by recreational vessels because of an inadequate number of pumpout stations is a substantial contributor to localized degradation of water quality in the United States.

``(b) Purpose.--The purpose of this subtitle is to provide funds to States for the construction, renovation, operation, and maintenance of pumpout stations and waste reception facilities.

``SEC. 5603. DETERMINATION AND PLAN REGARDING STATE MARINE SANITATION DEVICE PUMPOUT STATION NEEDS.

``(a) Survey.--Within 3 months after the notification under section 5605(b), each coastal State shall conduct a survey to determine--

``(1) the number and location of all operational pumpout stations and waste reception facilities at public and private marinas, mooring areas, docks, and other boating access facilities within the coastal zone of the State; and

``(2) the number of recreational vessels in the coastal waters of the State with type III marine sanitation devices or portable toilets, and the areas of those coastal waters where those vessels congregate.

``(b) Plan.--Within 6 months after the notification under section 5605(b), and based on the survey conducted under subsection (a), each coastal State shall--

``(1) develop and submit to the Secretary of the Interior a plan for any construction or renovation of pumpout stations and waste reception facilities that are necessary to ensure that, based on the guidance issued under section 5605(a), there are pumpout stations and waste reception facilities in the State that are adequate and reasonably available to meet the needs of recreational vessels using the coastal waters of the State; and

``(2) submit to the Secretary of the Interior with that plan a list of all stations and facilities in the coastal zone of the State which are operational on the date of submittal.

``(c) Plan Approval.--

``(1) In general.--Not later than 60 days after a plan is submitted by a State under subsection (b), the Secretary of the Interior shall approve or disapprove the plan, based on--

``(A) the adequacy of the survey conducted by the State under subsection (a); and

``(B) the ability of the plan, based on the guidance issued under section 5605(a), to meet the construction and renovation needs of the recreational vessels identified in the survey.

``(2) Notification of state; modification.--The Secretary of the Interior shall promptly notify the affected Governor of the approval or disapproval of a plan. If a plan is disapproved, the Secretary of the Interior shall recommend necessary modifications and return the plan to the affected Governor.

``(3) Resubmittal.--Not later than 60 days after receiving a plan returned by the Secretary of the Interior, the Governor shall make the appropriate changes and resubmit the plan.

``(d) Indication of Stations and Facilities on NOAA Charts.--

``(1) In general.--The Under Secretary of Commerce for Oceans and Atmosphere shall indicate, on charts published by the National Oceanic and Atmospheric Administration for the use of operators of recreational vessels, the locations of pumpout stations and waste reception facilities.

``(2) Notification of NOAA.--

``(A) Lists of stations and facilities.--The Secretary of the Interior shall transmit to the Under Secretary of Commerce for Oceans and Atmosphere each list of operational stations and facilities submitted by a State under subsection (b) (2), by not later than 30 days after the date of receipt of that list.

``(B) Completion of project.--The Director of the United States Fish and Wildlife Service shall notify the Under Secretary of the location of each station or facility at which a construction or renovation project is completed by a State with amounts made available under the Act of August 9, 1950 (16 U.S.C. 777a et seq. [16 U.S.C. 777 et seq.]), as amended by this subtitle, by not later than 30 days after the date of notification by a State of the completion of the project.

``SEC. 5604. FUNDING.

``(a) Transfer.--[Amended section 777c of Title 16, Conservation.]

``(b) Access Increase.--[Amended section 777g of Title 16, Conservation.]

``(c) Grant Program.--

``(1) Matching grants.--The Secretary of the Interior may obligate an amount not to exceed the amount made available under section 4(b) (2) of the Act of August 9, 1950 (16 U.S.C. 777c(b) (2), as amended by this Act), to make grants to--

``(A) coastal States to pay not more than 75 percent of the cost to a coastal State of--

``(i) conducting a survey under section 5603(a);

``(ii) developing and submitting a plan and accompanying list under section 5603(b);

``(iii) constructing and renovating pumpout stations and waste reception facilities; and

``(iv) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste reception facilities.

``(B) inland States, which can demonstrate to the Secretary of the Interior that there are an inadequate number of pumpout stations and waste reception facilities to meet the needs of

recreational vessels in the waters of that State, to pay 75 percent of the cost to that State of--

``(i) constructing and renovating pumpout stations and waste reception facilities in the inland State; and

``(ii) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste reception facilities.

``(2) Priority.--In awarding grants under this subsection, the Secretary of the Interior shall give priority consideration to grant applications that--

``(A) in coastal States, propose constructing and renovating pumpout stations and waste reception facilities in accordance with a coastal State's plan approved under section 5603(c);

``(B) provide for public/private partnership efforts to develop and operate pumpout stations and waste receptions [sic] facilities; and

``(C) propose innovative ways to increase the availability and use of pumpout stations and waste reception facilities.

``(d) Disclaimer.--Nothing in this subtitle shall be interpreted to preclude a State from carrying out the provisions of this subtitle with funds other than those described in this section.

``SEC. 5605. GUIDANCE AND NOTIFICATION.

``(a) Issuance of Guidance.--Not later than 3 months after the date of the enactment of this subtitle [Nov. 4, 1992], the Secretary of the Interior shall, after consulting with the Administrator of the Environmental Protection Agency, the Under Secretary of Commerce for Oceans and Atmosphere, and the Commandant of the Coast Guard, issue for public comment pumpout station and waste reception facility guidance. The Secretary of the Interior shall finalize the guidance not later than 6 months after the date of enactment of this subtitle. The guidance shall include--

``(1) guidance regarding the types of pumpout stations and waste reception facilities that may be appropriate for construction, renovation, operation, or maintenance with amounts available under the Act of August 9, 1950 (16 U.S.C. 777a et seq. [16 U.S.C. 777 et seq.]), as amended by this subtitle, and appropriate location of the stations and facilities within a marina or boatyard;

``(2) guidance defining what constitutes adequate and reasonably available pumpout stations and waste reception facilities in boating areas;

``(3) guidance on appropriate methods for disposal of vessel sewage from pumpout stations and waste reception facilities;

``(4) guidance on appropriate connector fittings to facilitate the sanitary and expeditious discharge of sewage from vessels;

``(5) guidance on the waters most likely to be affected by the discharge of sewage from vessels; and

``(6) other information that is considered necessary to promote the establishment of pumpout facilities to reduce sewage discharges from vessels and to protect United States waters.

``(b) Notification.--Not later than one month after the guidance issued under subsection (a) is finalized, the Secretary of the Interior shall provide notification in writing to the fish and wildlife, water pollution control, and coastal zone management authorities of each State, of--

``(1) the availability of amounts under the Act of August 9, 1950 (16 U.S.C. 777a et seq. [16 U.S.C. 777 et seq.]) to implement the Clean Vessel Act of 1992; and

``(2) the guidance developed under subsection (a).

``SEC. 5606. EFFECT ON STATE FUNDING ELIGIBILITY.

``This subtitle shall not be construed or applied to jeopardize any funds available to a coastal State under the Act of August 9, 1950 (16 U.S.C. 777a et seq. [16 U.S.C. 777 et seq.]), if the coastal State is, in good faith, pursuing a survey and plan designed to meet the purposes of this subtitle.

``SEC. 5607. APPLICABILITY.

``The requirements of section 5603 shall not apply to a coastal State if within six months after the date of enactment of this subtitle [Nov. 4, 1992] the Secretary of the Interior certifies that--

``(1) the State has developed and is implementing a plan that will ensure that there will be pumpout stations and waste reception facilities adequate to meet the needs of recreational vessels in the coastal waters of the State; or

``(2) existing pumpout stations and waste reception facilities in the coastal waters of the State are adequate to meet those needs.

``SEC. 5608. DEFINITIONS.

``For the purposes of this subtitle the term:

``(1) 'coastal State'--

``(A) means a State of the United States in, or bordering on the Atlantic, Pacific, or Arctic Ocean; the Gulf of Mexico; Long Island Sound; or one or more of the Great Lakes;

``(B) includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

``(C) does not include a State for which the ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of shoreline (as that term is defined in section 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), is less than one.

``(2) 'coastal waters' means--

``(A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes; and

``(B) in other areas, those waters, adjacent to the shorelines, which contain a measurable percentage of sea water, including sounds, bay, lagoons, bayous, ponds, and estuaries.

``(3) 'coastal zone' has the same meaning that term has in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1));

``(4) 'inland State' means a State which is not a coastal state;

``(5) 'type III marine sanitation device' means any equipment for installation on board a vessel which is specifically designed to receive, retain, and discharge human body wastes;

``(6) 'pumpout station' means a facility that pumps or receives human body wastes out of type III marine sanitation devices installed on board vessels;

``(7) 'recreational vessel' means a vessel--

``(A) manufactured for operation, or operated, primarily for pleasure; or

``(B) leased, rented, or chartered to another for the latter's pleasure; and

``(8) 'waste reception facility' means a facility specifically designed to receive wastes from portable toilets carried on vessels, and does not include lavatories.'

Contiguous Zone of United States

For extension of contiguous zone of United States, see Proc. No.

7219, set out as a note under section 1331 of Title 43, Public Lands.

Section Referred to in Other Sections

This section is referred to in sections 1254, 1362, 1402 of this title.