is carrying freight or passengers for hire or not; and whether it is a vessel of the United States or a foreign vessel.

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

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–324, §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''.

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 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

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, §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, 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, §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, 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.

§ 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 under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14).

(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