

§15(10), Oct. 6, 2006, 120 Stat. 1703; Pub. L. 110-181, div. C, title XXXV, §3529(b)(1)(A), Jan. 28, 2008, 122 Stat. 603.)

AMENDMENTS

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

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

EFFECTIVE DATE OF 2008 AMENDMENT

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

CHAPTER 33—INSPECTION GENERALLY

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HISTORICAL AND REVISION NOTES

Chapter 33 consolidates the laws governing the inspection and certification of vessels by the Coast Guard that have developed over a period in excess of 140 years. The original laws were directed to the safety of the relatively new and potentially dangerous steam vessel. The demand for Federal remedial legislation began during the early 1800's after frequent and disastrous explosions of steam boilers on passenger vessels. This directly led to the first maritime safety laws in 1838 that required periodic inspection and certification of vessels engaged in the transportation of passengers and freight on the waters of the United States. This was followed by a more extensive steamboat inspection law in 1852 which adopted for the first time the principle of licensing for river pilots and engineers. It also created a new Federal maritime safety inspection service called the Federal Inspection Service that eventually became the Bureau of Marine Inspection and Navigation, whose duties were temporarily assumed in 1941 and permanently assumed in 1946 by the United States Coast Guard.

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

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

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

AMENDMENTS

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

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

§ 3301. Vessels subject to inspection

The following categories of vessels are subject to inspection under this part:

- (1) freight vessels.
- (2) nautical school vessels.
- (3) offshore supply vessels.
- (4) passenger vessels.
- (5) sailing school vessels.
- (6) seagoing barges.
- (7) seagoing motor vessels.
- (8) small passenger vessels.
- (9) steam vessels.
- (10) tank vessels.
- (11) fish processing vessels.
- (12) fish tender vessels.
- (13) Great Lakes barges.
- (14) oil spill response vessels.
- (15) towing vessels.

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

HISTORICAL AND REVISION NOTES

Revised section	Source section (U.S. Code)
3301(1)	46:391 46:404
3301(2)	46:1295f(c)
3301(3)	46:404-1
3301(4)	46:390a 46:391
3301(5)	46:390a
3301(6)	46:395
3301(7)	46:367
3301(8)	46:390a
3301(9)	46:362 46:391 46:405

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3301(10)	46:391a

Section 3301 lists all classes of vessels that are subject to inspection and certification by the Coast Guard. This section represents one of the sought-after advantages of the bill to simplify access to the provisions of law governing the regulation of vessels. Under the present law, a vessel's inspection status must be determined by examining a table appearing at section 2.01-7A of title 46, Code of Federal Regulations that divides all vessels into more than 70 separate classes.

It is important to note that while the classes of vessels are now limited to ten, there is no prohibition against developing regulations to meet the special needs of various size vessels within any one category. For example, it is expected that the Coast Guard will continue the practice of establishing standards for freight vessels of not more than 100 gross tons and other standards for larger freight vessels.

It should also be noted that a particular vessel can, when engaged in various types of operations, be subject to varying inspection laws. For example, an offshore supply vessel could be classed as a small passenger vessel or a passenger vessel when it operates as a crew boat carrying individuals other than those defined in section 2101(21). If the offshore supply vessel is 500 gross tons and over it would then be subject to inspection as a seagoing motor vessel, a freight vessel, or a passenger vessel.

AMENDMENTS

- 2004—Par. (15). Pub. L. 108-293 added par. (15).
- 1996—Par. (14). Pub. L. 104-324 added par. (14).
- 1992—Par. (13). Pub. L. 102-587 added par. (13).
- 1984—Pars. (11), (12). Pub. L. 98-364 added pars. (11) and (12).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-587 effective Nov. 4, 1992, for Great Lakes barges placed in operation after Nov. 4, 1992, and effective one year after Nov. 4, 1992, for Great Lakes barges in operation on Nov. 4, 1992, with provision for interim safety requirements, see section 5208(c), (d) of Pub. L. 102-587, set out as a note under section 2101 of this title.

EFFECTIVE DATE

Chapter effective Apr. 15, 1984, see section 2(g)(1) of Pub. L. 98-89, set out as a note under section 3101 of this title.

PILOT PROGRAM

Pub. L. 105-383, title IV, §412(b), Nov. 13, 1998, 112 Stat. 3432, provided that:

“(1) IN GENERAL.—The Secretary may establish a pilot program to exempt a vessel of at least 300 gross tons as measured under chapter 143 or chapter 145 of title 46, United States Code, from the requirement to be inspected under section 3301(7) of title 46, United States Code, as a seagoing motor vessel, if—

“(A) the vessel does not carry any cargo or passengers for hire;

“(B) the vessel does not engage in commercial service, commercial fisheries, or oceanographic research; and

“(C) the vessel does not engage in towing.

“(2) EXPIRATION OF AUTHORITY.—The authority to grant the exemptions under this subsection expires 2 years after the date of the enactment of this Act [Nov. 13, 1998]. Any specific exemptions granted under this subsection shall nonetheless remain in effect.”

SMALL PASSENGER VESSEL PILOT INSPECTION PROGRAM WITH STATE OF MINNESOTA

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

“(a) IN GENERAL.—The Secretary may enter into an agreement with the State under which the State may inspect small passenger vessels operating in waters of that State designated by the Secretary, if—

“(1) the State plan for the inspection of small passenger vessels meets such requirements as the Secretary may require to ensure the safety and operation of such vessels in accordance with the standards that would apply if the Coast Guard were inspecting such vessels; and

“(2) the State will provide such information obtained through the inspection program to the Secretary annually in such form and in such detail as the Secretary may require.

“(b) FEES.—The Secretary may adjust or waive the user fee imposed under section 3317 of title 46, United States Code, for the inspection of small passenger vessels inspected under the State program.

“(c) TERMINATION.—The authority provided by subsection (a) terminates on December 31, 1999.

“(d) DEFINITIONS.—For purposes of this section—

“(1) SECRETARY.—The term ‘Secretary’ means the Secretary of the department in which the Coast Guard is operating.

“(2) STATE.—The term ‘State’ means the State of Minnesota.

“(3) SMALL PASSENGER VESSEL.—The term ‘small passenger vessel’ means a small passenger vessel (as defined in section 2101(35) of title 46, United States Code) of not more than 40 feet overall in length.”

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

§ 3302. Exemptions

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

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

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

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

(c)(1) Except as provided in paragraph (3) of this subsection, a fish processing vessel of not more than 5,000 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title is exempt from section 3301(1), (6), (7), (11), and (12) of this title.

(2) Except as provided in paragraphs (3) and (4) of this subsection, the following fish tender vessels are exempt from section 3301(1), (6), (7), (11), and (12) of this title:

(A) A vessel of not more than 500 gross tons as measured under section 14502 of this title or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.

(B) A vessel engaged in the Aleutian trade that is not more than 2,500 gross tons as measured under section 14302 of this title.

(3)(A) A fishing vessel or fish processing vessel is exempt from section 3301(1), (6), and (7) of this

ing, fish processing, or fish tender vessel, that is (1) not more than 500 gross tons and (2) in operation, or contracted for purchase to be used as a vessel of this type, before July 1, 1984, may transport cargo to or from a place in Alaska not receiving weekly transportation service from a port of the United States by an established water common carrier, except that the service limitation does not apply to transporting cargo of a type not accepted by that carrier.

“(b) A fish processing vessel entered into service before January 1, 1988, and more than 1,600 gross tons or entered into service after December 31, 1987, and having more than 16 individuals on board primarily employed in the preparation of fish or fish products is exempt from section 8702(b) of title 46, United States Code, until 18 months after the date of enactment of this Act [July 17, 1984].

“(c) As used in subsections (a) and (b) of this section, the terms ‘fishing vessel’, ‘fish processing vessel’ and ‘fish tender vessel’ shall have the meaning given to such terms in section 2101 of title 46, United States Code.”

OFFSHORE SUPPLY VESSELS; TRANSITION PERIOD FOR COMPLIANCE WITH VESSEL INSPECTION PROVISIONS

Pub. L. 98-89, §2(i), Aug. 26, 1983, 97 Stat. 599, provided that: “Each offshore supply vessel described in section 3302(g) of title 46 (as enacted by section 1 of this Act), that was registered with the Secretary of Transportation under section 4426a(7) of the Revised Statutes [former 46 U.S.C. 404-1(7)] but that has not been inspected by the Secretary shall be held to be in compliance with all applicable vessel inspection laws pending verification by actual inspection or until one year after the date of enactment of this Act [Aug. 26, 1983], whichever is earlier.”

§ 3303. Reciprocity for foreign vessels

Except as provided in chapter 37 and section 3505 of this title, a foreign vessel of a country having inspection laws and standards similar to those of the United States and that has an unexpired certificate of inspection issued by proper authority of its respective country, is subject to an inspection to ensure that the condition of the vessel is as stated in its current certificate of inspection. A foreign country is considered to have inspection laws and standards similar to those of the United States when it is a party to an International Convention for Safety of Life at Sea to which the United States Government is currently a party. A foreign certificate of inspection may be accepted as evidence of lawful inspection only when presented by a vessel of a country that has by its laws accorded to vessels of the United States visiting that country the same privileges accorded to vessels of that country visiting the United States.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 512; Pub. L. 102-587, title V, §5210(a), Nov. 4, 1992, 106 Stat. 5076; Pub. L. 104-324, title XI, §1111, Oct. 19, 1996, 110 Stat. 3970; Pub. L. 108-293, title IV, §411(b), Aug. 9, 2004, 118 Stat. 1046.)

HISTORICAL AND REVISION NOTES

Revised section	Source section (U.S. Code)
3303	46:362(a) 46:390c 46:391a(3)

Section 3303 acknowledges the international concept of comity with respect to recognizing inspection laws and standards for foreign flag vessels that are similar to those of the United States. If a foreign nation is signatory to the International Convention for Safety of

Life at Sea, it is presumed to have similar standards. However, reciprocity requirements for foreign flag tank vessels are included in chapter 37. Subsection (b) provides for a mutual waiver of fees for the inspection of foreign vessels carrying passengers from the United States.

AMENDMENTS

2004—Pub. L. 108-293 inserted “and section 3505” after “chapter 37”.

1996—Pub. L. 104-324 struck out subsec. (a) designation and subsec. (b) which read as follows: “The Secretary shall collect and pay to the Treasury the same fees for the inspection of foreign vessels carrying passengers from the United States that a foreign country charges vessels of the United States trading to the ports of that country. The Secretary may waive at any time the collection of the fees on notice of the proper authorities of any country concerned that the collection of fees for the inspection of vessels of the United States has been discontinued.”

1992—Subsec. (a). Pub. L. 102-587, in first sentence, struck out “only” after “is subject” and substituted “the condition of the vessel is” for “the condition of the vessel’s propulsion equipment and lifesaving equipment are”.

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.

§ 3304. Transporting individuals in addition to crew

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

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

AMENDMENTS

1986—Pub. L. 99-307, §1(5)(A)(i), substituted “Transporting” for “Carrying” in section catchline.

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

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

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

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

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

§ 3305. Scope and standards of inspection

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

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

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

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

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

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

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

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

(A) the size and type of vessel;

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

(C) the duration and routing of voyages; and

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

(b) If an inspection, or examination under section 3308 of this title, reveals that a life preserver, lifesaving device, or firehose is defective and incapable of being repaired, the owner or master shall destroy the life preserver, lifesaving device, or firehose in the presence of the official conducting the inspection or examination.

(c) A nautical school vessel operated by a civilian nautical school or by an educational institution under section 558 of title 40 shall be inspected like a small passenger vessel or a passenger vessel, depending on its tonnage.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 513; Pub. L. 99-36, §1(a)(1), May 15, 1985, 99 Stat. 67; Pub. L. 99-640, §13(e), Nov. 10, 1986, 100 Stat. 3551; Pub. L. 107-217, §3(m)(2), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 108-293, title IV, §416, Aug. 9, 2004, 118 Stat. 1047; Pub. L. 109-241, title IX, §901(f), July 11, 2006, 120 Stat. 564.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3305	46:369 46:390a 46:391 46:392 46:395 46:404-1 46:405 46:406 46:407 46:408 46:660a 46:881

Section 3305 consolidates, at one place, the basic scope of coverage of the inspection process. It is to be noted that the time difference in enactment of various statutes has resulted in some anomalies. Thus, for example, R.S. 4417 (46 U.S.C. 391) which had originally set periods of inspection and vested authority in “local inspectors” was expanded over the years to provide the base for inspection of certain classes of vessels as well as setting out the periods and scope. The distillation of inspection objectives and standards in later laws and the transfer of all functions of separately created bureaus and functionaries to the Coast Guard permit this consolidation. There are those who have a desire to see the scope and standards of inspection be more specific in law similar to those presently applicable to boilers and boiler plating that predate 1871. The Committee believes this serves no useful purpose since the specifics are either antiquated or too limiting and have, in fact, been superceded by the statutorily authorized adoption of various industrial specifications, standards, and codes by the Coast Guard. These include the American Bureau of Shipping (ABS), American Society of Mechanical Engineers (ASME), American National Standards Institute (ANSI), American Society for Testing and Materials (ASTM), American Welding Society (AWS), Underwriters Laboratories (UL), and many others. In addition, Coast Guard regulations must also implement and conform to the numerous international maritime safety treaties to which the United States is signatory. The Committee expects that the regulatory flexibility being provided will not reduce the present vessel inspection requirements that have been historically developed.

Section 3305(a) establishes the statutory scope of the Coast Guard’s vessel inspection authority and duty. The inspection process shall ensure that a vessel is of suitable structure, equipment, and accommodations, is maintained in an operating condition consistent with safety of life and property, and complies with applicable marine safety laws and regulations.

Subsection (b) requires that defective life preservers and firehose be destroyed in the presence of the inspecting official, normally a qualified Coast Guard marine inspector. The Committee believes that if this equipment is defective for use on an inspected vessel, it should be destroyed so that it cannot be used on an un-inspected or recreational vessel.

Subsection (c) provides flexibility in the inspection of various sizes of nautical school vessels.

AMENDMENTS

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

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

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

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

1986—Subsec. (c). Pub. L. 99-640 inserted “or by an educational institution under section 13 of the Coast Guard Authorization Act of 1986”.

1985—Subsec. (b). Pub. L. 99-36 substituted “lifesaving” and “life preserver, lifesaving device, or firehose” for “life-saving” and “life preserver or firehose”, respectively.

§ 3306. Regulations

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

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

(2) lifesaving equipment and its use;

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

(4) inspections and tests related to paragraphs (1), (2), and (3) of this subsection; and

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

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

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

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

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

(C) for lifesaving equipment, the foreign government—

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

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

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

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

(2) include requirements for notice to sailing school instructors and sailing school students about the specialized nature of sailing school vessels and applicable safety regulations.

(d) In prescribing regulations for nautical school vessels operated by the United States Merchant Marine Academy or by a State maritime academy (as defined in section 51102 of this title), the Secretary shall consider the function, purpose, and operation of the vessels, their routes, and the number of individuals who may be carried on the vessels.

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

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

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

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

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

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

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

tion from Ships, 1973, entitled “Oil Fuel Tank Protection”.

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

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

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

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3306	46:366
	46:369
	46:375
	46:390b
	46:392
	46:404
	46:408
	46:411
	46:412
	46:416
	46:420
	46:445
	46:459
	46:473
	46:477
	46:478
	46:479
	46:481
	46:482
	46:483
	46:489
	46:526p
	46:1295f(c)

Section 3306 contains broad authority to prescribe regulations for the proper inspection and certification of vessels. It provides regulatory flexibility for meeting technological changes. The section also permits flexibility in prescribing regulations for nautical school vessels operated by the United States Merchant Marine Academy or by a State maritime academy. The Secretary may suspend or grant exemptions to certain 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.

REFERENCES IN TEXT

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

AMENDMENTS

2010—Subsec. (k). Pub. L. 111–281 added subsec. (k).
 2006—Subsec. (d). Pub. L. 109–304 substituted “section 51102 of this title” for “section 1302(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295a(3))”.
 2004—Subsec. (j). Pub. L. 108–293 added subsec. (j).
 1996—Subsec. (a)(4). Pub. L. 104–324, § 604(c), substituted “paragraphs (1), (2), and (3)” for “clauses (1)–(3)”.
 Subsec. (b). Pub. L. 104–324, § 604(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Equipment subject to regulation under this

section may not be used on any vessel without prior approval as prescribed by regulation.”

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

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

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

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

REGULATIONS

Pub. L. 103–206, title V, § 512(b), (c), Dec. 20, 1993, 107 Stat. 2442, provided that:

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

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

TOWING VESSELS

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

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

FOREIGN APPROVALS

Pub. L. 104–324, title VI, § 604(b), Oct. 19, 1996, 110 Stat. 3931, provided that: “The Secretary of Transportation, in consultation with other interested Federal agencies, shall work with foreign governments to have those governments approve the use of the same equipment and materials on vessels documented under the laws of those countries that the Secretary requires on United States documented vessels.”

INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA

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

§ 3307. Frequency of inspection

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

AMENDMENTS

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

Pars. (2), (3). Pub. L. 104-324, § 605(a)(2), (3), redesignated par. (3) as (2), substituted “5 years” for “2 years”, and struck out former par. (2) which read as follows: “each small passenger vessel, freight vessel or offshore supply vessel of less than 100 gross tons, and sailing school vessel shall be inspected at least once every 3 years; and”.

§ 3308. Examinations

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

(1) each vessel subject to inspection at proper times to ensure compliance with law and regulations; and

(2) crewmember accommodations on each vessel subject to inspection at least once a month or when the vessel enters United States ports to ensure that the accommodations are—

(A) of the size required by law and regulations;

(B) properly ventilated and in a clean and sanitary condition; and

(C) equipped with proper plumbing and mechanical appliances required by law and regulations, and the appliances are in good working condition.

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

HISTORICAL AND REVISION NOTES

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

Section 3308 requires the Secretary to carry out additional inspections as might be necessary to ensure com-

pliance with applicable laws and regulations, and to ensure that accommodations are maintained in a sanitary condition and that all appliances are in good working order.

AMENDMENTS

1996—Pub. L. 104-324 inserted “or have examined” after “examine” in introductory provisions.

§ 3309. Certificate of inspection

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

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

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

(1) will be required to be inspected; or

(2) will not be operated so as to require an inspection.

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

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

HISTORICAL AND REVISION NOTES

Revised section	Source section (U.S. Code)
3309	46:390c 46:391a(8) 46:395(d) 46:399

Section 3309 provides for the issuance of a certificate of inspection that attests to the fact that the vessel has been found to be in compliance with the applicable maritime safety laws and regulations. Under this provision the Coast Guard can issue a temporary certificate of inspection upon compliance with the applicable laws or regulations to facilitate the preparation, processing, and forwarding of the regular certificate of inspection to the vessel. A temporary certificate does not imply less than satisfactory compliance.

AMENDMENTS

2010—Subsec. (d). Pub. L. 111-281 added subsec. (d).

1996—Subsec. (c). Pub. L. 104-324 struck out “(but not more than 60 days)” after “30 days” in introductory provisions.

1984—Subsec. (c). Pub. L. 98-498 added subsec. (c).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-498 effective 180 days after Oct. 19, 1984, see section 214 of Pub. L. 98-498, set out as an Effective Date note under section 2306 of this title.

§ 3310. Records of certification

The Secretary shall keep records of certificates of inspection of vessels and of all acts in