

the interests of the people of Canada, Mexico, and the United States are adequately met.

The President shall report to the Congress the actions taken, the progress achieved, the areas of disagreement, and the matters about which more information is needed, together with his recommendations for further action.

(Pub. L. 93-627, § 22, Jan. 3, 1975, 88 Stat. 2147.)

§ 1522. Limitations on export provisions of section 185(u) of title 30 unaffected

Nothing in this chapter shall be construed to amend, restrict, or otherwise limit the application of section 185(u) of title 30.

(Pub. L. 93-627, § 23, Jan. 3, 1975, 88 Stat. 2147.)

§ 1523. General procedures; issuance and enforcement of orders; scope of authority; evidentiary matters

The Secretary or his delegate shall have the authority to issue and enforce orders during proceedings brought under this chapter. Such authority shall include the authority to issue subpoenas, administer oaths, compel the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, to take depositions before any designated individual competent to administer oaths, and to examine witnesses.

(Pub. L. 93-627, § 24, Jan. 3, 1975, 88 Stat. 2147.)

§ 1524. Authorization of appropriations

There is authorized to be appropriated for administration of this chapter, not to exceed \$2,500,000 per fiscal year for the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980.

(Pub. L. 93-627, § 25, Jan. 3, 1975, 88 Stat. 2147; Pub. L. 95-36, June 1, 1977, 91 Stat. 177.)

AMENDMENTS

1977—Pub. L. 95-36 authorized appropriations of not to exceed \$2,500,000 per fiscal year for fiscal years ending Sept. 30, 1977, Sept. 30, 1978, Sept. 30, 1979, and Sept. 30, 1980.

CHAPTER 30—INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA

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§ 1601. Definitions

For the purposes of this chapter—

(1) “vessel” means every description of watercraft, including nondisplacement craft and sea-

planes, used or capable of being used as a means of transportation on water; and

(2) “high seas” means all parts of the sea that are not included in the territorial sea or in the internal waters of any nation.

(Pub. L. 95-75, § 2, July 27, 1977, 91 Stat. 308.)

REFERENCES IN TEXT

This chapter, referred to in opening par., was in the original “this Act”, meaning Pub. L. 95-75, July 27, 1977, 91 Stat. 308, known as the “International Navigational Rules Act of 1977”, which enacted this chapter, repealed sections 1051 to 1094 of this title, enacted provisions set out as notes under this section, and repealed provision set out as a note under section 1051 of this title.

EFFECTIVE DATE OF INTERNATIONAL REGULATIONS;
REPEAL OF FORMER REGULATIONS

Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311, provided in part that Pub. L. 88-131, enacting sections 1051 to 1094 of this title and a provision set out as a note under section 1051 of this title which sections included the former International Regulations for Preventing Collisions at Sea, was repealed effective on the date on which the International Regulations [promulgated pursuant to this chapter] entered into force for the United States [July 15, 1977]. See Proclamation dated Jan. 19, 1977, set out as a note under section 1602 of this title.

REFERENCES TO FORMER REGULATIONS

Pub. L. 95-75, § 10, July 27, 1977, 91 Stat. 311, provided in part that: “The reference in any other law to Public Law 88-131 [enacting sections 1051 to 1094 of this title and enacting a provision set out as a note under section 1051 of this title], or to the regulations set forth in section 4 of that Act [sections 1061 to 1094 of this title], shall be considered a reference, respectively, to this Act [this chapter], or to the International Regulations proclaimed hereunder [set out as a note under section 1602 of this title].”

SHORT TITLE

Pub. L. 95-75, § 1, July 27, 1977, 91 Stat. 308, provided: “That this Act [enacting this chapter, repealing sections 1051 to 1094 of this title, enacting provisions set out as notes under this section, and repealing provisions set out as a note under section 1051 of this title] may be cited as the ‘International Navigational Rules Act of 1977.’”

§ 1602. International Regulations

(a) Proclamation by President; effective date

The President is authorized to proclaim the International Regulations for Preventing Collisions at Sea, 1972 (hereinafter referred to as the “International Regulations”). The effective date of the International Regulations for the United States shall be specified in the proclamation and shall be the date as near as possible to, but no earlier than, the date on which the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (hereinafter referred to as the “Convention”), signed at London, England, under date of October 20, 1972, enters into force for the United States. The International Regulations proclaimed shall consist of the rules and other annexes attached to the Convention.

(b) Publication of proclamation in Federal Register

The proclamation shall include the International Regulations and shall be published in the Federal Register. On the date specified in the proclamation, the International Regulations shall enter

into force for the United States and shall have effect as if enacted by statute.

(c) Amendment of International Regulations

Subject to the provisions of subsection (d) of this section, the President is also authorized to proclaim any amendment to the International Regulations hereafter adopted in accordance with the provisions of article VI of the Convention, and to which the United States does not object. The effective date of the amendment shall be specified in the proclamation and shall be in accordance with the provisions of the said article VI. The proclamation shall include the adopted amendment and shall be published in the Federal Register. On the date specified in the proclamation, the amendment shall enter into force for the United States as a constituent part of the International Regulations, as amended, and shall have effect as if enacted by statute.

(d) Notification to Congress of proposed amendments; Congressional resolution of disapproval

(1) Upon receiving a proposed amendment to the International Regulations, communicated to the United States pursuant to clause 3 of article VI of the Convention, the President shall promptly notify the Congress of the proposed amendment. If, within sixty days after receipt of such notification by the Congress, or ten days prior to the date under clause 4 of article VI for registering an objection, whichever comes first, the Congress adopts a resolution of disapproval, such resolution shall be transmitted to the President and shall constitute an objection by the United States to the proposed amendment. If, upon receiving notification of the resolution of disapproval, the President has not already notified the Inter-Governmental Maritime Consultative Organization of an objection to the United States to the proposed amendment, he shall promptly do so.

(2) For the purposes of this subsection, “resolution of disapproval” means a concurrent resolution initiated by either House of the Congress, the matter after the resolving clause of which is to read as follows: “That the (the concurring) does not favor the proposed amendment to the International Regulations for Preventing Collisions at Sea, 1972, relating to , and forwarded to the Congress by the President on .”, the first blank space therein to be filled with the name of the resolving House, the second blank space therein to be filled with the name of the concurring House, the third blank space therein to be filled with the subject matter of the proposed amendment, and the fourth blank space therein to be filled with the day, month, and year.

(3) Any proposed amendment transmitted to the Congress by the President and any resolution of disapproval pertaining thereto shall be referred, in the House of Representatives, to the Committee on Transportation and Infrastructure, and shall be referred, in the Senate, to the Committee on Commerce, Science, and Transportation.

(Pub. L. 95–75, § 3, July 27, 1977, 91 Stat. 308; Pub. L. 107–295, title IV, § 408(b)(1), Nov. 25, 2002, 116 Stat. 2117.)

PRIOR PROVISIONS

The original rules for the prevention of collisions on the water were contained in R.S. § 4233, which consisted of 26 rules, R.S. § 4412, which authorized the board of supervising inspectors to establish such regulations to be observed by all steam vessels in passing each other, as they should from time to time deem necessary for safety, and provided that copies of such regulations should be furnished to all of such vessels, to be kept posted up in conspicuous places in such vessels, and R.S. § 4413, which prescribed a penalty for neglecting or willfully refusing to observe the regulations established pursuant to said section 4412.

The rules prescribed by R.S. § 4233 were superseded as to navigation on the high seas and in all coast waters of the United States, except such as were otherwise provided for, by the adoption of the “Revised International Regulations” by act March 3, 1885, ch. 354, 23 Stat. 438, which rules were superseded by the passage and adoption of act Aug. 19, 1890, ch. 802, 26 Stat. 322, section 1 of which enacted a set of regulations for preventing collisions at sea to be followed by all public and private vessels of the United States upon the high seas and in all waters connected therewith, navigable by seagoing vessels.

Act Aug. 19, 1890, ch. 802, § 1, consisted of 31 articles. Section 2 of act Aug. 19, 1890, ch. 802, repealed all laws and parts of laws inconsistent with the regulations for preventing collisions at sea for the navigation of all public and private vessels of the United States upon the high seas, and in all waters connected therewith navigable by seagoing vessels, prescribed by section 1 of that act.

The rules prescribed by R.S. § 4233, were further superseded as to navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal by act Feb. 8, 1895, ch. 64, 28 Stat. 645, section 1 of which enacted rules for preventing collisions to be followed in the navigation of all public and private vessels of the United States upon the Great Lakes and their connecting and tributary waters as far east as Montreal. Section 1 contained 28 articles. Section 2 of the act Feb. 8, 1895, ch. 64, prescribed a fine for violations of the act. Section 3 of the act Feb. 8, 1895, ch. 64, gave the Secretary of the Treasury authority to establish all necessary regulations not inconsistent with the act, necessary to carry the act into effect, and gave the Board of Supervising Inspectors of the United States authority to establish such regulations to be observed by all steam vessels in passing each other, not inconsistent with the act, as they should from time to time deem necessary, and provided that the regulations so adopted, when approved by the Secretary of the Treasury, should have the force of law. Section 4 of the act Feb. 8, 1895, ch. 64, repealed all laws or parts of laws, so far as applicable to the navigation of the Great Lakes and their connecting and tributary waters as far east as Montreal, inconsistent with the rules promulgated by the act.

The rules prescribed by R.S. § 4233, and by R.S. §§ 4412, 4414, and the regulations pursuant thereto, were required to be followed on the harbors, rivers, and inland waters of the United States, and the provisions of said sections were made special rules, duly made by local authority, relative to the navigation of harbors, rivers, and inland waters, as provided for by article 30 of the act Aug. 19, 1890, ch. 802, § 1, by act Feb. 19, 1895, ch. 102, § 1, 28 Stat. 672. Section 2 of the act Feb. 19, 1895, ch. 102, authorized the Secretary of the Treasury to designate and define by the suitable bearing or range with light houses, light vessels, buoys, or coast objects, the lines dividing the high seas from rivers, harbors, and inland waters. Section 3 of the act Feb. 19, 1895, ch. 102, required collectors or other chief officers of the customs to require sail vessels to be furnished with proper signal lights, and prescribed a penalty to be assessed against vessels navigated without complying with the statutes of the United States, or the regulations lawfully made thereunder. Section 4 of the act Feb. 19, 1895, ch. 102, provided that the words “inland waters” should not be held to include the Great Lakes and their connecting and tributary waters as far east as Montreal, and provided that the act should not modify or affect the provisions of act Feb. 8, 1895, ch.

64, which was the act prescribing rules for preventing collisions to be followed in the navigation of all public and private vessels upon the Great Lakes and their connecting and tributary waters as far east as Montreal.

The rules prescribed by R.S. § 4233, were further superseded as to the navigation of all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, by act June 7, 1897, ch. 4, 30 Stat. 96, section 1 of which enacted a set of regulations for preventing collisions, to be followed by all vessels navigating all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries. Said section 1 consisted of 31 articles. Section 2 of the act June 7, 1897, ch. 4, authorized the supervising inspectors of steam-vessels and the Supervising Inspector-General to establish rules to be observed by steam vessels in passing each other and as to the lights to be carried by ferry-boats and by barges and canal-boats, when in tow of steam-vessels, not inconsistent with the provisions of the act, such rules, when approved by the Secretary of the Treasury, to be special rules duly made by local authority, as provided for by article 30 of the act Aug. 19, 1890, ch. 802, § 1 which article provided that nothing in the rules contained in that act should interfere with the operation of special rules, duly made by local authority, relative to the navigation of any harbor, river, or inland waters. Section 3 of the act June 7, 1897, ch. 4, prescribed a penalty for violations of the provisions of the act or the regulations established pursuant to section 2. Section 4 of the act June 7, 1897, ch. 4, also prescribed a penalty to be assessed against vessels navigated without compliance with the provisions of the act. Section 5 of the act June 7, 1897, ch. 4, repealed R.S. §§ 4233, 4412 (with the regulations made in pursuance thereof, except the rules and regulations for the government of pilots of steamers navigating the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, and except the rules for the Great Lakes and their connecting and tributary waters as far east as Montreal), § 4413, act March 3, 1893, ch. 202, 27 Stat. 557, which amended R.S. § 4233, act Feb. 19, 1895, ch. 102, §§ 1, 3, and act March 3, 1897, ch. 389, §§ 5, 12, 13, 29 Stat. 689, 690, and all amendments thereto insofar as the harbors, rivers, and inland waters of the United States (except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico, and their tributaries) were concerned.

This legislation resulted in the following situation: Navigation on the high seas was governed by act Aug. 19, 1890, ch. 802, with its amendatory and supplementary acts, which was superseded by act Oct. 11, 1951, ch. 495, formerly set forth in chapter 2 of this title; navigation on all harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal and the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, was governed by act June 7, 1897, ch. 4, as amended, formerly set forth in chapter 3 of this title; navigation on the Great Lakes and their connecting and tributary waters as far east as Montreal was governed by act Feb. 8, 1895, ch. 64, formerly set forth in section 301 et seq. of this title; and navigation on the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries was governed by R.S. § 4233, as amended and supplemented, formerly set forth in section 301 et seq. of this title.

See also Codification notes to sections 154, 241, and 301 of this title.

Regulations for Preventing Collisions at Sea, 1948, approved by the International Conference on Safety of Life at Sea, 1948, covering substantially the same subject matter included under these rules, were set out as sections 143 to 147d of this title.

Regulations for Preventing Collisions at Sea, 1960, approved by the International Conference on the Safety of Life at Sea, 1960, covering substantially the same subject matter included under these rules, were set out as sections 1051 to 1094 of this title.

AMENDMENTS

2002—Subsec. (d)(3). Pub. L. 107-295 substituted “Transportation and Infrastructure” for “Merchant Marine and Fisheries”.

INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA, 1948

The convention, known as the International Convention for Safety of Life at Sea, was signed at London on June 10, 1948, and was ratified by the United States on April 20, 1949 (see Senate Report No. 838, Sept. 26, 1951, to accompany H.R. 5013, 82nd Cong.). The “International Regulations for Preventing Collisions at Sea, 1948”, approved by the 1948 London conference, were adopted by section 6 of act Oct. 11, 1951, and were classified to section 144 et seq. of this title.

INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

The convention, known as the International Convention for the Safety of Life at Sea, was signed at London on June 17, 1960, and was ratified by the United States on May 26, 1965 (see Senate Report No. 477, Aug. 30, 1963, to accompany H.R. 6012, 88th Cong.). The “Regulations for Preventing Collisions at Sea, 1960”, approved by the 1960 London conference, were adopted by section 4 of Pub. L. 88-131, Sept. 24, 1963, 77 Stat. 194, and were classified to section 1051 et seq. of this title.

INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

The Convention on the International Regulations for Preventing Collisions at Sea, 1972, was proclaimed by the President on Jan. 19, 1977. The President's proclamation provided that the Convention enter into force for the United States on July 15, 1977. The proclamation and the International Regulations were published in the Federal Register on Mar. 31, 1977, 42 F.R. 17112, with corrections to the International Regulations published on Apr. 7, 1977, 42 F.R. 18401 and on Apr. 21, 1977, 42 F.R. 20625. See the United States Coast Guard publication Navigation Rules and Regulations Handbook (August 2014 edition), available online from the website of the Government Publishing Office.

EX. ORD. NO. 11964. IMPLEMENTATION OF CONVENTION ON THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Ex. Ord. No. 11964, Jan. 19, 1977, 42 F.R. 4327, provided: By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Section 301 of Title 3 of the United States Code, and as President of the United States of America and Commander-in-Chief of the Armed Forces, in order to provide for the coming into force on July 15, 1977, of the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Senate Executive W, 93d Cong., 1st Sess.), it is hereby ordered as follows:

SECTION 1. (a) With respect to vessels of special construction or purpose, the Secretary of the Navy, for vessels of the Navy, and the Secretary of the Department in which the Coast Guard is operating, for all other vessels, shall determine and certify, in accord with Rule I of the International Regulations for Preventing Collisions at Sea, 1972, hereinafter referred to as the International Regulations, as to which such vessels cannot comply fully with the provisions of any of the International Regulations with respect to the number, positions, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances, without interfering with the special function of the vessel.

(b) With respect to vessels for which a certification is issued, the Secretary issuing the certification shall certify as to such other provisions which are the closest possible compliance by that vessel with the International Regulations.

(c) Notice of any certification issued shall be published in the FEDERAL REGISTER.

SEC. 2. The Secretary of the Navy is authorized to promulgate special rules with respect to additional station or signal lights or whistle signals for ships of war or vessels proceeding under convoy, and the Secretary of the Department in which the Coast Guard is operating is authorized, to the extent permitted by law, including the provisions of Title 14 of the United States Code, to promulgate special rules with respect to additional station or signal lights for fishing vessels engaged in fishing as a fleet. In accord with Rule I of the International Regulations, the additional station or signal lights or whistle signals contained in the special rules shall be, as far as possible, such as they cannot be mistaken for any light or signal authorized by the International Regulations. Notice of such special rules for fishing vessels shall be published in the FEDERAL REGISTER.

SEC. 3. The Secretary of the Navy, for vessels of the Navy, and the Secretary of the Department in which the Coast Guard is operating, for all other vessels, are authorized to exempt, in accord with Rule 38 of the International Regulations, any vessel or class of vessels, the keel of which is laid, or which is at a corresponding stage of construction, before July 15, 1977, from full compliance with the International Regulations, provided that such vessel or class of vessels complies with the requirements of the International Regulations for Preventing Collisions at Sea, 1960. Notice of any exemption granted shall be published in the FEDERAL REGISTER.

SEC. 4. The Secretary of the Department in which the Coast Guard is operating is authorized, to the extent permitted by law, to promulgate such rules and regulations that are necessary to implement the provisions of the Convention and International Regulations. He shall cause to be published in the FEDERAL REGISTER any implementing regulations or interpretive rulings promulgated pursuant to this Order, and shall promptly publish in the FEDERAL REGISTER the full text of the International Regulations.

GERALD R. FORD.

EX. ORD. NO. 12234. ENFORCEMENT OF CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974

Ex. Ord. No. 12234, Sept. 3, 1980, 45 F.R. 58801, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to implement the International Convention for the Safety of Life at Sea, 1974, it is hereby ordered as follows:

1-101. The International Convention for the Safety of Life at Sea, 1974, signed at London on November 1, 1974, and proclaimed by the President of the United States on January 28, 1980 (TIAS 9700), entered into force for the United States on May 25, 1980.

1-102. The Secretary of State, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, and the Federal Communications Commission shall (a) perform those functions prescribed in the Convention that are within their respective areas of responsibility, and (b) cooperate and assist each other in carrying out those functions.

1-103. (a) The Secretary of the Department in which the Coast Guard is operating, or the head of any other Executive agency authorized by law, shall be responsible for the issuance of certificates as required by the Convention.

(b) If a certificate is to include matter that pertains to functions vested by law in another Executive agency, the issuing agency shall first ascertain from the other Executive agency the decision regarding that matter. The decision of that agency shall be final and binding on the issuing agency.

1-104. The Secretary of the Department in which the Coast Guard is operating may use the services of the American Bureau of Shipping as long as that Bureau is operated in compliance with Section 25 of the Act of June 5, 1920, as amended (46 U.S.C. 881), to perform the functions under the Convention. The Secretary may also use the services of the National Cargo Bureau to perform functions under Chapter VI (Carriage of Grain) of the Convention.

1-105. The Secretary of the Department in which the Coast Guard is operating shall promulgate regulations necessary to implement the provisions of the Convention.

1-106. To the extent that the International Convention for the Safety of Life at Sea, 1974, replaces and abrogates the International Convention for the Safety of Life at Sea, 1960 (TIAS 5780), this Order supersedes Executive Order No. 11239 of July 31, 1965, entitled "Enforcement of the Convention for the Safety of Life at Sea, 1960."

1-107. Executive Order No. 10402 of October 30, 1952, entitled "Enforcement of the Convention for the Safety of Life at Sea, 1948," is revoked.

JIMMY CARTER.

§ 1603. Vessels subject to International Regulations

Except as provided in section 1604 of this title and subject to the provisions of section 1605 of this title, the International Regulations, as proclaimed under section 1602 of this title, shall be applicable to, and shall be complied with by—

(1) all vessels, public and private, subject to the jurisdiction of the United States, while upon the high seas or in waters connected therewith navigable by seagoing vessels, and

(2) all other vessels when on waters subject to the jurisdiction of the United States.

(Pub. L. 95-75, § 4, July 27, 1977, 91 Stat. 309.)

§ 1604. Vessels not subject to International Regulations

(a) The International Regulations do not apply to vessels while in the waters of the United States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States.

(b) Whenever a vessel subject to the jurisdiction of the United States is in the territorial waters of a foreign state the International Regulations shall be applicable to, and shall be complied with by, that vessel to the extent that the laws and regulations of the foreign state are not in conflict therewith.

(Pub. L. 95-75, § 5, July 27, 1977, 91 Stat. 309; Pub. L. 96-591, § 6(1), Dec. 24, 1980, 94 Stat. 3434.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-591 substituted provision providing that the International Regulations do not apply to vessels while in the waters of the United States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States for provisions that had made specific reference to harbors, rivers, and other inland waters of the United States, as defined in section 154 of this title, to the Great Lakes of North America and their connecting and tributary waters, as defined in section 241 of this title, and to the Red River of the North and rivers emptying into the Gulf of Mexico and their tributaries, as defined in section 301 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-591, § 7, Dec. 24, 1980, 94 Stat. 3435, provided that: "Sections 2, 4, 6(1), and 8(a) [enacting section 2072

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 uninspected or recreational vessel.

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

REFERENCES IN TEXT

The date of enactment of the Coast Guard Authorization Act of 2017, referred to in subsec. (d)(3)(B), probably means the date of enactment of the Frank LoBiondo Coast Guard Authorization Act of 2018, Pub. L. 115-282, which enacted subsec. (d) of this section and chapter 700 of this title and was approved Dec. 4, 2018. No act with the title “Coast Guard Authorization Act of 2017” has been enacted.

AMENDMENTS

- 2018—Subsec. (d). Pub. L. 115-282 added subsec. (d).
- 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 “lifesaving” and “life preserver or firehose”, respectively.

EFFECTIVE DATE

Section 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.

§ 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, de-

sign, 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(4) of this title.

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

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

(2) The Secretary may prescribe regulations to apply the requirements described in Regulation

12A to vessels described in paragraph (1) that are not otherwise subject to that convention. Any such regulation shall be considered to be an interpretive rule for the purposes of section 553 of title 5.

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

(l)(1) The Secretary shall require that a freight vessel inspected under this chapter be outfitted with distress signaling and location technology for the higher of—

(A) the minimum complement of officers and crew specified on the certificate of inspection for such vessel; or

(B) the number of persons onboard the vessel; and

(2) the requirement described in paragraph (1) shall not apply to vessels operating within the baseline from which the territorial sea of the United States is measured.

(m)(1) The Secretary shall promulgate regulations requiring companies to maintain records of all incremental weight changes made to freight vessels inspected under this chapter, and to track weight changes over time to facilitate rapid determination of the aggregate total.

(2) Records maintained under paragraph (1) shall be stored, in paper or electronic form, onboard such vessels for not less than 3 years and shore-side for the life of the vessel.

(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; Pub. L. 115–232, div. C, title XXXV, § 3542(b), Aug. 13, 2018, 132 Stat. 2324; Pub. L. 115–265, title II, § 206(a)(1), Oct. 11, 2018, 132 Stat. 3746.)

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

2018—Subsec. (i). Pub. L. 115–232 substituted “section 2113(4)” for “section 2113(5)”.

Subsecs. (l), (m). Pub. L. 115–265 added subsecs. (l) and (m).

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).

EFFECTIVE DATE

Section 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.

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.”

DEADLINES FOR IMPLEMENTATION OF DISTRESS SIGNALING AND LOCATION TECHNOLOGY REQUIREMENT AND PROMULGATION OF INCREMENTAL WEIGHT CHANGE RECORDS REGULATIONS

Pub. L. 115–265, title II, § 206(a)(2), Oct. 11, 2018, 132 Stat. 3746, provided that: “The Secretary shall—

“(A) begin implementing the requirement under section 3306(l) of title 46, United States Code, as amended by this subsection, by not later than 1 year after the date of the enactment of this Act [Oct. 11, 2018]; and

“(B) promulgate the regulations required under section 3306(m) of title 46, United States Code, as amended

by this subsection, by not later than 1 year after the date of the enactment of this Act.”

[For definition of “Secretary” as used in section 206(a)(2) of Pub. L. 115–265, set out above, see section 203 of Pub. L. 115–265, set out as a note under section 2101 of this title.]

NEGOTIATIONS TO AMEND INTERNATIONAL REGULATIONS RELATED TO VESSEL EQUIPMENT

Pub. L. 115–265, title II, § 206(b), Oct. 11, 2018, 132 Stat. 3746, provided that: “Not later than 1 year after the date of the enactment of this Act [Oct. 11, 2018], the Commandant [of the Coast Guard] shall seek to enter into negotiations through the International Maritime Organization to amend regulation 25 of chapter II–1 of the International Convention for the Safety of Life at Sea to require a high-water alarm sensor in each cargo hold of a freight vessel (as that term is defined in section 2101 of title 46, United States Code), that connects with audible and visual alarms on the navigation bridge of the vessel.”

Pub. L. 115–265, title II, § 208(a)(1), Oct. 11, 2018, 132 Stat. 3747, provided that: “Not later than 1 year after the date of the enactment of this Act [Oct. 11, 2018], the Commandant [of the Coast Guard] shall seek to enter into negotiations through the International Maritime Organization to amend regulation 20 of chapter V of the International Convention for the Safety of Life at Sea to require that all voyage data recorders are installed in a float-free arrangement and contain an integrated emergency position indicating radio beacon.”

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.

110–244, title III, §302(a), June 6, 2008, 122 Stat. 1618.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5102(1)	49 App.:1802(1)–(3), (13).	Jan. 3, 1975, Pub. L. 93–633, §103, 88 Stat. 2156; restated Nov. 16, 1990, Pub. L. 101–615, §3(a), 104 Stat. 3245; Oct. 24, 1992, Pub. L. 102–508, §§ 501, 502, 106 Stat. 3311.
5102(2)	49 App.:1802(4).	
5102(3)	49 App.:1802(5).	
5102(4)	49 App.:1802(6).	
5102(5)	49 App.:1802(7).	
5102(6)	49 App.:1802(8).	
5102(7)	49 App.:1802(9).	
5102(8)	49 App.:1802(10).	
5102(9)	49 App.:1802(11).	
5102(10)	49 App.:1802(12).	
5102(11)	49 App.:1802(14).	
5102(12)	49 App.:1802(15).	
5102(13)	49 App.:1802(16).	

In this chapter, the words “or shipped” are omitted as being included in “transported”.

In clause (1), before subclause (A), the text of 49 App.:1802(1), (3), and (13) is omitted because the complete names of the Administrator of the Environmental Protection Agency, Director of the Federal Emergency Management Agency, and Secretary of Transportation are used the first time the terms appear in a section. The words “traffic, commerce” are omitted as surplus. In subclause (B), the words “between a place in a State and a place outside of the State” are substituted for “described in clause (A)” for clarity.

In clauses (3)(C) and (10)(B), the words “at a minimum” are omitted as surplus.

In clause (5), the words “administrative hearing or other” are omitted as surplus.

In clause (9), before subclause (A), the words “including any trustee, receiver, assignee, or similar representative thereof” are omitted as surplus.

In clause (12), the words “by any mode” are omitted as surplus.

REFERENCES IN TEXT

Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), referred to in par. (6), is section 4 of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2204, which was classified to section 450b of Title 25, Indians, prior to editorial reclassification as section 5304 of Title 25.

AMENDMENTS

2008—Par. (3). Pub. L. 110–244 amended Pub. L. 109–59, §7102(2). See 2005 Amendment notes below.

2005—Par. (1)(C). Pub. L. 109–59, §7102(1), added subpar. (C).

Par. (2). Pub. L. 109–59, §7126, substituted “Secretary” for “Secretary of Transportation”.

Par. (3)(A)(i). Pub. L. 109–59, §7102(2)(A), as amended by Pub. L. 110–244, §302(a)(1), (2), added cl. (i) and struck out former cl. (i) which read as follows: “employed by a hazmat employer; and”.

Par. (3)(A)(ii). Pub. L. 109–59, §7102(2)(B), as amended by Pub. L. 110–244, §302(a)(1), (3), substituted “course of such full time, part time, or temporary employment, or such self employment,” for “course of employment” and inserted “and” at end.

Par. (3)(B). Pub. L. 109–59, §7102(2)(D)(i), as amended by Pub. L. 110–244, §302(a)(1), substituted “employed on a full time, part time, or temporary basis by a hazmat employer, or self employed,” for “employed by a hazmat employer,” in introductory provisions.

Pub. L. 109–59, §7102(2)(C), as amended by Pub. L. 110–244, §302(a)(1), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “includes an owner-operator of a motor vehicle transporting hazardous material in commerce; and”.

Par. (3)(B)(ii). Pub. L. 109–59, §7102(2)(D)(ii), as amended by Pub. L. 110–244, §302(a)(1), added cl. (ii) and struck out former cl. (ii) which read as follows: “manufactures, reconditions, or tests containers, drums, and packagings represented as qualified for use in transporting hazardous material;”.

Par. (3)(C). Pub. L. 109–59, §7102(2)(C), as amended by Pub. L. 110–244, §302(a)(1), redesignated subpar. (C) as (B).

Par. (4). Pub. L. 109–59, §7102(3), amended par. (4) generally. Prior to amendment, par. (4) consisted of subpars. (A) to (C), which included within definition of “hazmat employer” a person using at least one employee in connection with transporting or containers for transporting hazardous material, an owner-operator of a motor vehicle transporting hazardous material in commerce, and a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out certain described activities.

Par. (5). Pub. L. 109–59, §7102(4), inserted “relating to hazardous material” after “of a condition”.

Par. (7). Pub. L. 109–59, §7102(5), amended par. (7) generally. Prior to amendment, par. (7) read as follows: “‘motor carrier’ means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102 of this title.”

Par. (8). Pub. L. 109–59, §7102(6), substituted “National Response Team” for “national response team” in two places and “National Contingency Plan” for “national contingency plan”.

Par. (9)(A). Pub. L. 109–59, §7102(7), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “includes a government, Indian tribe, or authority of a government or tribe offering hazardous material for transportation in commerce or transporting hazardous material to further a commercial enterprise; but”.

Pars. (11) to (14). Pub. L. 109–59, §7102(8), added par. (11) and redesignated former pars. (11) to (13) as (12) to (14), respectively.

1995—Par. (7). Pub. L. 104–88 substituted “motor carrier, motor private” for “motor common carrier, motor contract carrier, motor private” and “section 13102” for “section 10102”.

1994—Pars. (3)(C)(ii), (4)(A)(iii). Pub. L. 103–311 substituted “packagings” for “packages”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of Title 23, Highways.

§ 5103. General regulatory authority

(a) DESIGNATING MATERIAL AS HAZARDOUS.—The Secretary shall designate material (including an explosive, radioactive material, infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material, and compressed gas) or a group or class of material as hazardous when the Secretary determines that transporting the material in commerce in a particular amount and form may pose an unreasonable risk to health and safety or property.

(b) REGULATIONS FOR SAFE TRANSPORTATION.—(1) The Secretary shall prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. The regulations—

(A) apply to a person who—

(i) transports hazardous material in commerce;

- (ii) causes hazardous material to be transported in commerce;
- (iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;
- (iv) prepares or accepts hazardous material for transportation in commerce;
- (v) is responsible for the safety of transporting hazardous material in commerce;
- (vi) certifies compliance with any requirement under this chapter; or
- (vii) misrepresents whether such person is engaged in any activity under clause (i) through (vi); and

(B) shall govern safety aspects, including security, of the transportation of hazardous material the Secretary considers appropriate.

(2) A proceeding to prescribe the regulations must be conducted under section 553 of title 5, including an opportunity for informal oral presentation.

(c) **FEDERALLY DECLARED DISASTERS AND EMERGENCIES.**—

(1) **IN GENERAL.**—The Secretary may by order waive compliance with any part of an applicable standard prescribed under this chapter without prior notice and comment and on terms the Secretary considers appropriate if the Secretary determines that—

- (A) it is in the public interest to grant the waiver;
- (B) the waiver is not inconsistent with the safety of transporting hazardous materials; and
- (C) the waiver is necessary to facilitate the safe movement of hazardous materials into, from, and within an area of a major disaster or emergency that has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) **PERIOD OF WAIVER.**—A waiver under this subsection may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this chapter.

(3) **STATEMENT OF REASONS.**—The Secretary shall include in any order issued under this section the reasons for granting the waiver.

(d) **CONSULTATION.**—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary of Transportation.

(e) **BIENNIAL REPORT.**—The Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Senate Committee on Commerce, Science, and Transportation a biennial report providing information on whether the Secretary has designated as hazardous materials for purposes of chapter 51 of such title all by-prod-

ucts of the methamphetamine-production process that are known by the Secretary to pose an unreasonable risk to health and safety or property when transported in commerce in a particular amount and form.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 761; Pub. L. 103-311, title I, §117(a)(2), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 103-429, §6(3), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 107-296, title XVII, §1711(a), Nov. 25, 2002, 116 Stat. 2319; Pub. L. 109-59, title VII, §§7103, 7126, Aug. 10, 2005, 119 Stat. 1893, 1909; Pub. L. 109-177, title VII, §741, Mar. 9, 2006, 120 Stat. 272; Pub. L. 114-94, div. A, title VII, §7201, Dec. 4, 2015, 129 Stat. 1589.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5103(a)	49 App.:1803.	Jan. 3, 1975, Pub. L. 93-633, §104, 88 Stat. 2156.
5103(b)	49 App.:1804(a) (1)-(3).	Jan. 3, 1975, Pub. L. 93-633, §105(a)(1)-(3), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101-615, §4, 104 Stat. 3247.

In subsection (a), the words “such quantity and form of material” and “in his discretion” are omitted as surplus.

In subsection (b)(1), before clause (A), the words “in accordance with section 553 of title 5” are omitted because 5:553 applies unless otherwise stated. In clause (A)(i), the words “hazardous material in commerce”, and in clause (A)(ii), the words “hazardous material . . . in commerce”, are added for consistency in this chapter.

PUB. L. 103-429

This amends 49:5103(b)(2) to clarify the restatement of 49 App.:1804(a)(2) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 761).

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (c)(1)(C), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2015—Subsecs. (c) to (e). Pub. L. 114-94 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

2006—Subsec. (d). Pub. L. 109-177 added subsec. (d).

2005—Subsec. (a). Pub. L. 109-59, §7126, substituted “Secretary shall designate” for “Secretary of Transportation shall designate”.

Pub. L. 109-59, §7103(a), substituted “infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material,” for “etiologic agent, flammable or combustible liquid or solid, poison, oxidizing or corrosive material,” and “determines” for “decides”.

Subsec. (b)(1)(A). Pub. L. 109-59, §7103(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “apply to a person—

- “(i) transporting hazardous material in commerce;
- “(ii) causing hazardous material to be transported in commerce; or
- “(iii) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing a packaging or a container that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce; and”.

Subsec. (b)(1)(C). Pub. L. 109-59, §7103(c)(1), struck out heading and text of subpar. (C). Text read as follows: “When prescribing a security regulation or issuing a se-

curity order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.”

Subsec. (c). Pub. L. 109-59, § 7103(c)(2), added subsec. (c).
2002—Subsec. (b)(1). Pub. L. 107-296, § 1711(a)(1), substituted “transportation, including security,” for “transportation” in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 107-296, § 1711(a)(2), substituted “aspects, including security,” for “aspects”.

Subsec. (b)(1)(C). Pub. L. 107-296, § 1711(a)(3), added subpar. (C).

1994—Subsec. (b)(1)(A)(iii). Pub. L. 103-311 substituted “a packaging or a” for “a package or”.

Subsec. (b)(2). Pub. L. 103-429 substituted “be conducted under section 553 of title 5, including” for “include” and “presentation” for “presentations”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

GAO STUDY ON ACCEPTANCE OF CLASSIFICATION EXAMINATIONS

Pub. L. 114-94, div. A, title VII, § 7207, Dec. 4, 2015, 129 Stat. 1592, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Dec. 4, 2015], the Comptroller General of the United States shall evaluate and transmit to the Secretary [of Transportation], the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, a report on the standards, metrics, and protocols that the Secretary uses to regulate the performance of persons approved to recommend hazard classifications pursuant to section 173.56(b) of title 49, Code of Federal Regulations (commonly referred to as ‘third-party labs’).

“(b) EVALUATION.—The evaluation required under subsection (a) shall—

“(1) identify what standards and protocols are used to approve such persons, assess the adequacy of such standards and protocols to ensure that persons seeking approval are qualified and capable of performing classifications, and make recommendations to address any deficiencies identified;

“(2) assess the adequacy of the Secretary’s oversight of persons approved to perform the classifications, including the qualification of individuals engaged in the oversight of approved persons, and make recommendations to enhance oversight sufficiently to ensure that classifications are issued as required;

“(3) identify what standards and protocols exist to rescind, suspend, or deny approval of persons who perform such classifications, assess the adequacy of such standards and protocols, and make recommendations to enhance such standards and protocols if necessary; and

“(4) include annual data for fiscal years 2005 through 2015 on the number of applications received for new classifications pursuant to section 173.56(b) of title 49, Code of Federal Regulations, of those applications how many classifications recommended by persons approved by the Secretary were changed to another classification and the reasons for the change, and how many hazardous materials incidents have been attributed to

a classification recommended by such approved persons in the United States.

“(c) ACTION PLAN.—Not later than 180 days after receiving the report required under subsection (a), the Secretary shall make available to the public a plan describing any actions the Secretary will take to establish standards, metrics, and protocols based on the findings and recommendations in the report to ensure that persons approved to perform classification examinations required under section 173.56(b) of title 49, Code of Federal Regulations, can sufficiently perform such examinations in a manner that meets the hazardous materials regulations.

“(d) REGULATIONS.—If the report required under subsection (a) recommends new regulations in order for the Secretary to have confidence in the accuracy of classification recommendations rendered by persons approved to perform classification examinations required under section 173.56(b) of title 49, Code of Federal Regulations, the Secretary shall consider such recommendations, and if determined appropriate, issue regulations to address the recommendations not later than 18 months after the date of the publication of the plan under subsection (c).”

RAILROAD CARRIER EMPLOYEE EXPOSURE TO RADIATION STUDY

Pub. L. 110-432, div. A, title IV, § 411, Oct. 16, 2008, 122 Stat. 4888, provided that:

“(a) STUDY.—The Secretary of Transportation shall, in consultation with the Secretary of Energy, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and the Chairman of the Nuclear Regulatory Commission, as appropriate, conduct a study of the potential hazards to which employees of railroad carriers and railroad contractors or subcontractors are exposed during the transportation of high-level radioactive waste and spent nuclear fuel (as defined in section 5101(a) [probably means section 5105(a)] of title 49, United States Code), supplementing the report submitted under section 5101(b) [probably means section 5105(b)] of that title, which may include—

“(1) an analysis of the potential application of ‘as low as reasonably achievable’ principles for exposure to radiation to such employees with an emphasis on the need for special protection from radiation exposure for such employees during the first trimester of pregnancy or who are undergoing or have recently undergone radiation therapy;

“(2) the feasibility of requiring real-time dosimetry monitoring for such employees;

“(3) the feasibility of requiring routine radiation exposure monitoring in fixed railroad locations, such as yards and repair facilities; and

“(4) a review of the effectiveness of the Department’s packaging requirements for radioactive materials.

“(b) REPORT.—Not later than 18 months after the date of enactment of this Act [Oct. 16, 2008], the Secretary of Transportation shall transmit a report on the results of the study required by subsection (a) and any recommendations to further protect employees of a railroad carrier or of a contractor or subcontractor to a railroad carrier from unsafe exposure to radiation during the transportation of high-level radioactive waste and spent nuclear fuel to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

“(c) REGULATORY AUTHORITY.—The Secretary of Transportation may issue regulations that the Secretary determines appropriate, pursuant to the report required by subsection (b), to protect railroad employees from unsafe exposure to radiation during the transportation of radioactive materials.”

[For definitions of “railroad carrier”, “Department”, “railroad”, and “Secretary”, as used in section 411 of Pub. L. 110-432, set out above, see section 2(a) of Pub. L. 110-432, set out as a note under section 20102 of this title.]

SAFE PLACEMENT OF TRAIN CARS

Pub. L. 103-311, title I, § 111, Aug. 26, 1994, 108 Stat. 1676, provided that: “The Secretary of Transportation shall

conduct a study of existing practices regarding the placement of cars on trains, with particular attention to the placement of cars that carry hazardous materials. In conducting the study, the Secretary shall consider whether such placement practices increase the risk of derailment, hazardous materials spills, or tank ruptures or have any other adverse effect on safety. The results of the study shall be submitted to Congress within 1 year after the date of enactment of this Act [Aug. 26, 1994].”

FIBER DRUM PACKAGING

Pub. L. 104-88, title IV, § 406, Dec. 29, 1995, 109 Stat. 957, provided that:

“(a) IN GENERAL.—In the administration of chapter 51 of title 49, United States Code, the Secretary of Transportation shall issue a final rule within 60 days after the date of the enactment of this Act [Dec. 29, 1995] authorizing the continued use of fiber drum packaging with a removable head for the transportation of liquid hazardous materials with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991, if—

“(1) the packaging is in compliance with regulations of the Secretary under the Hazardous Materials Transportation Act [former 49 U.S.C. 1801 et seq.] as in effect on September 30, 1991; and

“(2) the packaging will not be used for the transportation of hazardous materials that include materials which are poisonous by inhalation or materials in Packing Groups I and II.

“(b) EXPIRATION.—The regulation referred to in subsection (a) shall expire on the later of September 30, 1997, or the date on which funds are authorized to be appropriated to carry out chapter 51 of title 49, United States Code (relating to transportation of hazardous materials), for fiscal years beginning after September 30, 1997.

“(c) STUDY.—

“(1) IN GENERAL.—Within 90 days after the date of the enactment of this Act [Dec. 29, 1995], the Secretary shall contract with the National Academy of Sciences to conduct a study—

“(A) to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation), as they pertain to fiber drum packaging with a removable head can be met for the transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards (including fiber drum industry standards set forth in a June 8, 1992, exemption application submitted to the Department of Transportation), other than the performance-oriented packaging standards adopted under docket number HM-181 contained in part 178 of title 49, Code of Federal Regulations; and

“(B) to determine whether a packaging standard (including such fiber drum industry standards), other than such performance-oriented packaging standards, will provide an equal or greater level of safety for the transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect.

“(2) COMPLETION.—The study shall be completed before March 1, 1997 and shall be transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Transportation and Infrastructure Committee of the House of Representatives.

“(d) SECRETARIAL ACTION.—By September 30, 1997, the Secretary shall issue final regulations to determine what standards should apply to fiber drum packaging with a removable head for transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) after September 30, 1997. In issuing such regulations, the Secretary shall give full and substantial consideration to the results of the study conducted in subsection (c).”

Pub. L. 103-311, title I, § 122, Aug. 26, 1994, 108 Stat. 1681, provided that:

“(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than the 60th day following the date of enactment of this Act [Aug. 26, 1994], the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation), as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented packaging standards adopted under docket number HM-181 contained in part 178 of title 49, Code of Federal Regulations.

“(b) ISSUANCE OF STANDARDS.—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance-oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996.

“(c) COMPLETION OF RULEMAKING PROCEEDING.—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

“(d) LIMITATIONS.—

“(1) The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under chapter 51 of title 49, United States Code.

“(2) Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials.”

§ 5103a. Limitation on issuance of hazmat licenses

(a) LIMITATION.—

(1) ISSUANCE OF LICENSES.—A State may not issue to any individual a license to operate a motor vehicle transporting in commerce a hazardous material unless—

(A) “the Secretary of Homeland Security”¹ has first determined, upon receipt of a notification under subsection (d)(1)(B), that the individual does not pose a security risk warranting denial of the license; or

(B) the individual holds a valid transportation security card issued under section 70105 of title 46.

(2) RENEWALS INCLUDED.—For the purposes of this section, the term “issue”, with respect to a license, includes renewal of the license.

(b) HAZARDOUS MATERIALS DESCRIBED.—The limitation in subsection (a) shall apply with respect to any material defined as hazardous material by the Secretary of Transportation for which the Secretary of Transportation requires placarding of a commercial motor vehicle transporting that material in commerce.

(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Secretary of Health and Human Services shall recommend to the Secretary of Transportation any chemical or biological material or agent for regulation as a hazardous material under section 5103(a) if the Secre-

¹ So in original. The quotation marks and semicolon probably should not appear.