

(c) as (e) and (d), respectively, and, in introductory provisions of subsec. (d), substituted “subsection (c)” for “subsection (b)”.

Subsec. (d)(4). Pub. L. 111-281, §610(a)(5), inserted “that is not described in subsection (b) of this section” after “connecting waters”.

2004—Subsec. (a). Pub. L. 108-293 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “This chapter applies to the following vessels engaged on a foreign voyage:

“(1) Beginning July 1, 1998—

“(A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and

“(B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.

“(2) Beginning July 1, 2002, a freight vessel and a self-propelled mobile offshore drilling unit of at least 500 gross tons.”

§ 3203. Safety management system

(a) IN GENERAL.—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies (including, for purposes of this section, all covered small passenger vessels, as defined in section 3306(n)(5)), including—

(1) a safety and environmental protection policy;

(2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;

(3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;

(4) procedures for reporting accidents and nonconformities with this chapter;

(5) with respect to sexual harassment and sexual assault, procedures for, and annual training requirements for all responsible persons and vessels to which this chapter applies on—

- (A) prevention;
- (B) bystander intervention;
- (C) reporting;
- (D) response; and
- (E) investigation;

(6) the list required under section 3106(a)(2) and the log book required under section 3106(a)(3);

(7) procedures for preparing for and responding to emergency situations; and

(8) procedures for internal audits and management reviews of the system.

(b) PROCEDURES AND TRAINING REQUIREMENTS.—In prescribing regulations for the procedures and training requirements described in subsection (a)(5), such procedures and requirements shall be consistent with the requirements to report sexual harassment or sexual assault under section 10104.

(c) AUDITS.—

(1) CERTIFICATES.—

(A) SUSPENSION.—During an audit of a safety management system of a vessel required under section 10104(e), the Secretary may suspend the Safety Management Certificate issued for the vessel under section 3205 and issue a separate Safety Management Certificate for the vessel to be in effect

for a 3-month period beginning on the date of the issuance of such separate certificate.

(B) REVOCATION.—At the conclusion of an audit of a safety management system required under section 10104(e), the Secretary shall revoke the Safety Management Certificate issued for the vessel under section 3205 if the Secretary determines—

(i) that the holder of the Safety Management Certificate knowingly, or repeatedly, failed to comply with section 10104; or

(ii) other failure of the safety management system resulted in the failure to comply with such section.

(2) DOCUMENTS OF COMPLIANCE.—

(A) IN GENERAL.—Following an audit of the safety management system of a vessel required under section 10104(e), the Secretary may audit the safety management system of the responsible person for the vessel.

(B) SUSPENSION.—During an audit under subparagraph (A), the Secretary may suspend the Document of Compliance issued to the responsible person under section 3205 and issue a separate Document of Compliance to such person to be in effect for a 3-month period beginning on the date of the issuance of such separate document.

(C) REVOCATION.—At the conclusion of an assessment or an audit of a safety management system under subparagraph (A), the Secretary shall revoke the Document of Compliance issued to the responsible person if the Secretary determines—

(i) that the holder of the Document of Compliance knowingly, or repeatedly, failed to comply with section 10104; or

(ii) that other failure of the safety management system resulted in the failure to comply with such section.

(d) COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels to which this chapter applies under section 3202(a) of this title.

(e) In prescribing regulations for passenger vessels and small passenger vessels, the Secretary shall consider—

(1) the characteristics, methods of operation, and nature of the service of these vessels; and

(2) with respect to vessels that are ferries, the sizes of the ferry systems within which the vessels operate.

(Added Pub. L. 104-324, title VI, §602(a), Oct. 19, 1996, 110 Stat. 3928; amended Pub. L. 108-293, title IV, §405(b), Aug. 9, 2004, 118 Stat. 1043; Pub. L. 111-281, title VI, §610(b), Oct. 15, 2010, 124 Stat. 2969; Pub. L. 116-283, div. G, title LVXXXIV [LXXXIV], §8441(c), Jan. 1, 2021, 134 Stat. 4744; Pub. L. 117-263, div. K, title CXVI, §11610(a), Dec. 23, 2022, 136 Stat. 4154.)

Editorial Notes

AMENDMENTS

2022—Subsec. (a)(5) to (8). Pub. L. 117-263, §11610(a)(1), added pars. (5) and (6) and redesignated former pars. (5) and (6) as (7) and (8), respectively.

Subsecs. (b) to (e). Pub. L. 117-263, §11610(a)(2), (3), added subsecs. (b) and (c) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively.

2021—Subsec. (a). Pub. L. 116-283 inserted “(including, for purposes of this section, all covered small passenger vessels, as defined in section 3306(n)(5))” after “vessels to which this chapter applies” in introductory provisions.

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

2004—Subsec. (b). Pub. L. 108-293 substituted “vessels to which this chapter applies under section 3202(a) of this title” for “vessels engaged on a foreign voyage”.

Statutory Notes and Related Subsidiaries

FLAG-STATE GUIDANCE AND SUPPLEMENTS

Pub. L. 115-265, title II, §213, Oct. 11, 2018, 132 Stat. 3750, provided that:

“(a) FREIGHT VESSELS; DAMAGE CONTROL INFORMATION.—Within 1 year after the date of the enactment of this Act [Oct. 11, 2018], the Secretary shall issue flag-State guidance for all freight vessels documented under chapter 121 of title 46, United States Code, built before January 1, 1992, regarding the inclusion of comprehensive damage control information in safety management plans required under chapter 32 of title 46, United States Code.

“(b) RECOGNIZED ORGANIZATIONS; UNITED STATES SUPPLEMENT.—The Commandant [of the Coast Guard] shall—

“(1) work with recognized organizations to create a single United States Supplement to rules of such organizations for classification of vessels; and

“(2) by not later than 1 year after the date of the enactment of this Act, provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a briefing on whether it is necessary to revise part 8 of title 46, Code of Federal Regulations, to authorize only one United States Supplement to such rules.”

[For definitions of “Secretary” and “recognized organizations” as used in section 213 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.]

§ 3204. Implementation of safety management system

(a) SAFETY MANAGEMENT PLAN.—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

(b) APPROVAL.—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

(c) PROHIBITION ON VESSEL OPERATION.—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

(Added Pub. L. 104-324, title VI, §602(a), Oct. 19, 1996, 110 Stat. 3929.)

§ 3205. Certification

(a) ISSUANCE OF CERTIFICATE AND DOCUMENT.—After verifying that the responsible person for a vessel to which this chapter applies and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for

the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

(b) MAINTENANCE OF CERTIFICATE AND DOCUMENT.—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

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

(1) periodically, or upon discovery from other sources of information acquired by the Coast Guard, including a discovery made during an audit or systematic review conducted under section 10104(e) of a failure of a responsible person or vessel to comply with a requirement of a safety management system for which a Safety Management Certificate and a Document of compliance¹ has been issued under this section, including a failure to comply with regulations prescribed under section 3203(a)(7) and (8), review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

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

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

(Added Pub. L. 104-324, title VI, §602(a), Oct. 19, 1996, 110 Stat. 3929; amended Pub. L. 109-304, §15(10), Oct. 6, 2006, 120 Stat. 1703; Pub. L. 110-181, div. C, title XXXV, §3529(b)(1)(A), Jan. 28, 2008, 122 Stat. 603; Pub. L. 117-263, div. K, title CXVI, §11610(b), Dec. 23, 2022, 136 Stat. 4155.)

Editorial Notes

AMENDMENTS

2022—Subsec. (c)(1). Pub. L. 117-263 inserted “, or upon discovery from other sources of information acquired by the Coast Guard, including a discovery made during an audit or systematic review conducted under section 10104(e) of a failure of a responsible person or vessel to comply with a requirement of a safety management system for which a Safety Management Certificate and a Document of compliance has been issued under this section, including a failure to comply with regulations prescribed under section 3203(a)(7) and (8),” after “periodically”.

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

¹ So in original. Probably should be “Compliance”.