

ment of the Cruise Vessel Safety and Security Act of 2010 and shall remain in effect until superseded by the requirements of subsection (c).

(e) CIVIL PENALTY.—Any person that violates this section or a regulation under this section shall be liable for a civil penalty of not more than \$50,000.

(f) DENIAL OF ENTRY.—The Secretary may deny entry into the United States to a vessel to which this section applies if the owner of the vessel—

- (1) commits an act or omission for which a penalty may be imposed under subsection (e); or
- (2) fails to pay a penalty imposed on the owner under subsection (e).

(Added Pub. L. 111-207, §3(a), July 27, 2010, 124 Stat. 2250.)

REFERENCES IN TEXT

The date of enactment of the Cruise Vessel Security and Safety Act of 2010, referred to in subsecs. (a) and (d), is the date of enactment of Pub. L. 111-207, which was approved July 27, 2010.

CHAPTER 37—CARRIAGE OF LIQUID BULK DANGEROUS CARGOES

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AMENDMENTS

2006—Pub. L. 109-304, §15(14), Oct. 6, 2006, 120 Stat. 1703, inserted “single hull” before “non-self-propelled” in item 3719.

1996—Pub. L. 104-324, title IX, §901(c), Oct. 19, 1996, 110 Stat. 3947, added item 3719.

1990—Pub. L. 101-380, title IV, §4115(c), Aug. 18, 1990, 104 Stat. 520, added item 3703a.

HISTORICAL AND REVISION NOTES

Chapter 37 consolidates the laws that are applicable to vessels that transport oil or hazardous material in bulk as cargo or cargo residue.

The history of Federal authority to carry out a tank vessel safety program begins with the enactment of the so-called Tank Vessel Act of 1936 which, as amended, is presently codified in section 391a of title 46, United States Code. The 1936 Act remained essentially the same until it was amended by the Ports and Waterways Safety Act of 1972. The 1972 amendment contained more specific standards for the protection of a tank vessel and its crew and added vessel standards to improve the quality of the marine environment. After a rash of

tank vessel accidents during the latter part of 1976 and early 1977 within our territorial seas and in nearby coastal waters, there was an outpouring of public attention to the need to protect United States ports and waterways, for the safety of tank vessels, and for the protection of the marine environment. This led to the enactment of the Port and Tanker Safety Act of 1978, which provided broader and more extensive regulatory authority over areas already regulated and over many areas not previously regulated. It provided for improvements in the supervision and control of vessels of all types operating in the navigable waters of the United States, and in the safety of all tank vessels, foreign or domestic, that transport or transfer oil or hazardous cargoes in ports or places subject to the jurisdiction of the United States. The 1978 amendments also reflect, in part, certain tank vessel standards and requirements that have been accepted internationally, in particular those developed by the International Conference on Tanker Safety and Pollution Prevention held in London in February, 1978.

§ 3701. Definitions

In this chapter—

(1) “existing”, when referring to a type of vessel to which this chapter applies, means a vessel that is not a new vessel.

[(2) Repealed. Pub. L. 100-424, §8(c)(2), Sept. 9, 1988, 102 Stat. 1593.]

(3) “new”, when referring to a type of vessel to which this chapter applies, means a vessel—

(A) for which the building contract is placed after June 1, 1979;

(B) in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction, after January 1, 1980;

(C) the delivery of which is after June 1, 1982; or

(D) that has undergone a major conversion under a contract made after June 1, 1979, or construction work that began after January 1, 1980, or was completed after June 1, 1982.

(4) “person” means an individual (even if not a citizen or national of the United States), a corporation, partnership, association, or other entity (even if not organized or existing under the laws of a State), the United States Government, a State or local government, a government of a foreign country, or an entity of one of those governments.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 521; Pub. L. 99-509, title V, §5102(b)(5), Oct. 21, 1986, 100 Stat. 1927; Pub. L. 100-424, §8(c)(2), Sept. 9, 1988, 102 Stat. 1593.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3701(1)	46:391a(2)(R)
3701(2)	46:391a(2)(P)
3701(3)	46:391a(2)(Q)
3701(4)	46:391a(2)(F)
3701(5)	46:391a(2)(J)
3701(6)	46:391a(2)(K)

Section 3701 contains definitions that are of a special nature with limited applicability to this chapter.

AMENDMENTS

1988—Par. (2). Pub. L. 100-424 struck out par. (2) which read as follows: “‘major conversion’ means a conversion of an existing vessel that substantially changes the dimensions or carrying capacity of the vessel or changes the type of vessel or substantially prolongs its

life or that otherwise so changes the vessel that it is essentially a new vessel, as decided by the Secretary.”

1986—Pars. (5), (6). Pub. L. 99-509 struck out par. (5) defining “State” as including Trust Territory of the Pacific Islands in addition to its meaning under section 2101(36) of this title, and struck out par. (6) defining “United States” as including the Trust Territory of the Pacific Islands in addition to its meaning under section 2101(44) 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.

§ 3702. Application

(a) Subject to subsections (b)–(e) of this section, this chapter applies to a tank vessel.

(b) This chapter does not apply to a documented vessel that would be subject to this chapter only because of the transfer of fuel from the fuel supply tanks of the vessel to offshore drilling or production facilities in the oil industry if the vessel is—

- (1) not a tanker; and
- (2) in the service of oil exploitation.

(c) This chapter does not apply to a fishing or fish tender 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 when engaged only in the fishing industry.

(d) This chapter does not apply to 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. However, the vessel is subject to regulation by the Secretary when carrying flammable or combustible liquid cargo in bulk.

(e) This chapter does not apply to a foreign vessel on innocent passage on the navigable waters of the United States.

(f) This chapter does not apply to an oil spill response vessel if—

- (1) the vessel is used only in response-related activities; or
- (2) the vessel is—

- (A) 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) designated in its certificate of inspection as an oil spill response vessel; and
- (C) engaged in response-related activities.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 521; Pub. L. 98-364, title IV, § 402(6), July 17, 1984, 98 Stat. 446; Pub. L. 104-324, title VII, § 714, title XI, § 1104(b), Oct. 19, 1996, 110 Stat. 3936, 3966; Pub. L. 111-281, title VI, § 617(a)(2), Oct. 15, 2010, 124 Stat. 2973.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3702	46:391a

Section 3702, with certain exceptions, makes this chapter applicable to any tank vessel operating in the navigable waters of the United States or transferring

oil or hazardous materials in any port or place subject to the jurisdiction of the United States, and which carries oil or any hazardous materials in bulk as cargo or in residue, regardless of tonnage, size or manner of propulsion; whether it is self-propelled or not; whether it is carrying freight or passengers for hire or not; and whether it is a vessel of the United States or a foreign vessel.

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

AMENDMENTS

2010—Subsec. (b)(1) to (3). Pub. L. 111-281 redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1), which read as follows: “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;”.

1996—Subsec. (b)(1). Pub. L. 104-324, § 714(1), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “500 gross tons”.

Subsec. (c). Pub. L. 104-324, § 714(2), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “500 gross tons”.

Subsec. (d). Pub. L. 104-324, § 714(3), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “5,000 gross tons”.

Subsec. (f). Pub. L. 104-324, § 1104(b), added subsec. (f).

1984—Subsec. (c). Pub. L. 98-364, § 402(6)(A), substituted “This chapter does not apply to a fishing or fish tender vessel of not more than 500 gross tons when engaged only in the fishing industry” for “This chapter does not apply to a cannery tender, fishing tender, or fishing vessel of not more than 500 gross tons, used in the salmon or crab fisheries of Alaska, Oregon, or Washington, when engaged only in the fishing industry”.

Subsec. (d). Pub. L. 98-364, § 402(6)(B), substituted “This chapter does not apply to a fish processing vessel of not more than 5,000 gross tons” for “This chapter does not apply to a vessel of not more than 5,000 gross tons used in processing and assembling fishery products of the fisheries of Alaska, Oregon, and Washington”.

§ 3703. Regulations

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

under this subsection shall include requirements about—

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

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

OIL FUEL TANK PROTECTION

Pub. L. 111-281, title VI, §617(e), Oct. 15, 2010, 124 Stat. 2973, provided that:

“(1) APPLICATION.—An offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of title 46, United States Code, that is constructed under

a contract entered into after the date of enactment of this Act [Oct. 15, 2010], or that is delivered after August 1, 2010, 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, regardless of whether such vessel is engaged in the coastwise trade or on an international voyage.

“(2) DEFINITION.—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.”

REGULATIONS FOR OFFSHORE SUPPLY VESSELS OF AT LEAST 6,000 GROSS TONS

Pub. L. 111-281, title VI, §617(f), Oct. 15, 2010, 124 Stat. 2974, as amended by Pub. L. 111-330, §1(8), Dec. 22, 2010, 124 Stat. 3569, provided that:

“(1) IN GENERAL.—Not later than January 1, 2012, the Secretary of the department in which the Coast Guard is operating shall promulgate regulations to implement the amendments and authorities enacted by this section [amending sections 2101, 3702, 7312, and 8104 of this title, enacting provisions set out as a note under this section, and amending provisions set out as a note under section 2101 of this title] for offshore supply vessels of at least 6,000 gross tons as measured under section 14302 of title 46, United States Code, and to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on such vessels. The final rule issued pursuant to such rulemaking may supersede the interim final rule promulgated under paragraph (2) of this subsection. In promulgating regulations under this subsection, the Secretary shall take into consideration the characteristics of offshore supply vessels, their methods of operation, and their service in support of exploration, exploitation, or production of offshore mineral or energy resources.

“(2) INTERIM FINAL RULE AUTHORITY.—As soon as is practicable and without regard to the provisions of chapters 5 and 6 of title 5, United States Code, the Secretary shall issue an interim final rule as a temporary regulation implementing this section (including the amendments made by this section) for offshore supply vessels of at least 6,000 gross tons as measured under section 14302 of title 46, United States Code, and to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on such vessels.

“(3) INTERIM PERIOD.—After the effective date of this Act [Oct. 15, 2010], prior to the effective date of the regulations prescribed by paragraph (2) of this subsection, and without regard to the provisions of chapters 5 and 6 of title 5, United States Code, and the offshore supply vessel tonnage limits of applicable regulations and policy guidance promulgated prior to the date of enactment of this Act [Oct. 15, 2010], the Secretary of the department in which the Coast Guard is operating may—

“(A) issue a certificate of inspection under section 3309 of title 46, United States Code, to an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of that title if the Secretary determines that such vessel’s arrangements and equipment meet the current Coast Guard requirements for certification as a cargo and miscellaneous vessel;

“(B) authorize a master, mate, or engineer who possesses an ocean or near coastal license and endorsement under part 11 of subchapter B of title 46, Code of Federal Regulations, (or any successor regulation) that qualifies the licensed officer for service on offshore supply vessels of at least 3,000 gross tons but less than 6,000 gross tons, as measured under section 14302 of title 46, United States Code, to operate offshore supply vessels of at least 6,000 gross tons, as measured under such section; and

“(C) authorize any such master, mate, or engineer who also possesses an ocean or near coastal license and endorsement under such part that qualifies the licensed officer for service on non trade-restricted

vessels of at least 1,600 gross tons but less than 3,000 gross tons, as measured under such section, to increase the tonnage limitation of such license and endorsement under section 11.402(c) of such part, using service on vessels certificated under both subchapters I and L of such title and measured only under such section, except that such tonnage limitation shall not exceed 10,000 gross tons as measured under such section.”

OIL TRANSFERS FROM VESSELS

Pub. L. 111-281, title VII, §702, Oct. 15, 2010, 124 Stat. 2980, as amended by Pub. L. 111-330, §1(10), Dec. 22, 2010, 124 Stat. 3570, provided that:

“(a) REGULATIONS.—Within 1 year after the date of enactment of this Act [Oct. 15, 2010], the Secretary of the department in which the Coast Guard is operating shall promulgate regulations to reduce the risks of oil spills in operations involving the transfer of oil from or to a tank vessel. The regulations—

“(1) shall focus on operations that have the highest risks of discharge, including operations at night and in inclement weather;

“(2) shall consider—

“(A) requirements for the use of equipment, such as putting booms in place for transfers, safety, and environmental impacts;

“(B) operational procedures such as manning standards, communications protocols, and restrictions on operations in high-risk areas; or

“(C) both such requirements and operational procedures; and

“(3) shall take into account the safety of personnel and effectiveness of available procedures and equipment for preventing or mitigating transfer spills.

“(b) APPLICATION WITH STATE LAWS.—The regulations promulgated under subsection (a) do not preclude the enforcement of any State law or regulation the requirements of which are at least as stringent as requirements under the regulations (as determined by the Secretary) that—

“(1) applies in State waters; and

“(2) does not conflict with, or interfere with the enforcement of, requirements and operational procedures under the regulations.”

IMPROVEMENTS TO REDUCE HUMAN ERROR AND NEAR MISS INCIDENTS

Pub. L. 111-281, title VII, §703, Oct. 15, 2010, 124 Stat. 2981, as amended by Pub. L. 111-330, §1(11), Dec. 22, 2010, 124 Stat. 3570, provided that:

“(a) REPORT.—Within 1 year after the date of enactment of this Act [Oct. 15, 2010], the Secretary of the department in which the Coast Guard is operating shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure that, using available data—

“(1) identifies the types of human errors that, combined, could cause oil spills, with particular attention to human error caused by fatigue, in the past 10 years;

“(2) in consultation with representatives of industry and labor and experts in the fields of marine casualties and human factors, identifies the most frequent types of near-miss oil spill incidents involving vessels such as collisions, allisions, groundings, and loss of propulsion in the past 10 years;

“(3) describes the extent to which there are gaps in the data required under paragraphs (1) and (2), including gaps in the ability to define and identify fatigue, and explains the reason for those gaps; and

“(4) includes recommendations by the Secretary and representatives of industry and labor and experts in the fields of marine casualties and human factors to address the identified types of errors and any such gaps in the data.

“(b) MEASURES.—Based on the findings contained in the report required by subsection (a), the Secretary

shall take appropriate action to reduce the risk of oil spills caused by human error.

“(c) CONFIDENTIALITY OF VOLUNTARILY SUBMITTED INFORMATION.—The identity of a person making a voluntary disclosure under this section, and any information obtained from any such voluntary disclosure, shall be treated as confidential.

“(d) DISCOVERY OF VOLUNTARILY SUBMITTED INFORMATION.—

“(1) IN GENERAL.—Except as provided in this subsection, a party in a judicial proceeding may not use discovery to obtain information or data collected or received by the Secretary for use in the report required in subsection (a).

“(2) EXCEPTION.—

“(A) Notwithstanding paragraph (1), a court may allow discovery by a party in a judicial proceeding of data described in paragraph (1) if, after an in camera review of the information or data, the court decides that there is a compelling reason to allow the discovery.

“(B) When a court allows discovery in a judicial proceeding as permitted under this paragraph, the court shall issue a protective order—

“(i) to limit the use of the data to the judicial proceeding; and

“(ii) to prohibit dissemination of the data to any person who does not need access to the data for the proceeding.

“(C) A court may allow data it has decided is discoverable under this paragraph to be admitted into evidence in a judicial proceeding only if the court places the data under seal to prevent the use of the data for a purpose other than for the proceeding.

“(3) APPLICATION.—Paragraph (1) shall not apply to—

“(A) any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading; or

“(B) any disclosure made with reckless disregard as to the truth or falsity of that disclosure.

“(e) RESTRICTION ON USE OF DATA.—Data that is voluntarily submitted for the purpose of the study required under subsection (a) shall not be used in an administrative action under chapter 77 of title 46, United States Code.”

[Pub. L. 111-330, §1(11), Dec. 22, 2010, 124 Stat. 3570, which directed amendment of section 703(a) of Pub. L. 111-281, set out above, by inserting “of the department in which the Coast Guard is operating” after “Secretary”, was executed by making the insertion after “Secretary” the first place appearing, to reflect the probable intent of Congress.]

PRESERVATION OF STATE AUTHORITY

Pub. L. 111-281, title VII, §711(c), Oct. 15, 2010, 124 Stat. 2987, provided that: “Nothing in this Act [see Tables for classification] or in any other provision of Federal law related to the regulation of maritime transportation of oil shall affect, or be construed or interpreted as preempting, the authority of any State or political subdivision thereof which require the escort by one or more tugs of laden oil tankers in the areas which are specified in section 4116(c) of the Oil Pollution Act of 1990 [Pub. L. 101-380] (46 U.S.C. 3703 note).”

STUDIES ADDRESSING VARIOUS SOURCES OF OIL SPILL RISK

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

“(a) STUDY OF GROUP-5 FUEL OIL SPILLS.—

“(1) DEFINITION.—In this subsection, the term ‘group-5 fuel oil’ means a petroleum-based oil that has a specific gravity of greater than 1.0.

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

“(3) MATTERS TO BE INCLUDED.—The study under this subsection shall include a review and analysis of—

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

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

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

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

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

“(b) STUDY OF AUTOMATIC FUELING SHUTOFF EQUIPMENT.—

“(1) COORDINATION OF STUDY.—The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council to conduct a study of the unintentional or accidental discharge of fuel oil during lightering or fuel loading or off-loading activity.

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

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

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

“(c) LIGHTERING STUDY.—The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council on a study into the actual incidence and risk of oil spills from lightering operations off the coast of the United States. Among other things, the study shall address the manner in which existing regulations are serving to reduce oil spill risks. The study shall take into account current or proposed international rules and standards and also include recommendations on measures that would be likely to further reduce the risks of oil spills from lightering oper-

ations. Not later than 18 months after the date of enactment of this Act [Oct. 19, 1996], the Secretary shall submit a report on the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.”

EXISTING TANK VESSEL RESEARCH

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

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

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

OIL SPILL PREVENTION AND RESPONSE TECHNOLOGY TEST AND EVALUATION PROGRAM

Pub. L. 103-206, title III, §310, Dec. 20, 1993, 107 Stat. 2425, provided that:

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

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

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

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

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

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

REGULATIONS REQUIRING PERIODIC GAUGING OF PLATING THICKNESS FOR OIL CARRYING COMMERCIAL VESSELS

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

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

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

REGULATIONS REQUIRING USE OF OVERFILL AND TANK LEVEL OR MONITORING DEVICES ON OIL CARRYING COMMERCIAL VESSELS

Pub. L. 101-380, title IV, §4110, Aug. 18, 1990, 104 Stat. 515, as amended by Pub. L. 108-293, title VII, §702(a), Aug. 9, 2004, 118 Stat. 1068, provided that:

“(a) STANDARDS.—The Secretary may establish, by regulation, minimum standards for devices for warning persons of overfills and tank levels of oil in cargo tanks and devices for monitoring the pressure of oil cargo tanks.

“(b) USE.—No sooner than 1 year after the Secretary prescribes regulations under subsection (a), the Secretary may issue regulations establishing, consistent with generally recognized principles of international law, requirements concerning the use of—

“(1) overfill devices, and

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

TANKER NAVIGATION SAFETY STANDARDS STUDY

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

RULES GOVERNING OPERATION OF VESSELS ON AUTO-PILOT OR WITH UNATTENDED ENGINE ROOM

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

REGULATIONS REQUIRING ESCORTS FOR CERTAIN TANKERS; “TANKER” DEFINED

Pub. L. 101-380, title IV, §4116(c), (d), Aug. 18, 1990, 104 Stat. 523, as amended by Pub. L. 111-281, title VII, §711(b)(1), Oct. 15, 2010, 124 Stat. 2987, provided that:

“(c) ESCORTS FOR CERTAIN TANKERS.—

“(1) IN GENERAL.—The Secretary shall initiate issuance of regulations under section 3703(a)(3) of title 46, United States Code, to define those areas, including Prince William Sound, Alaska, and Rosario Strait and Puget Sound, Washington (including those portions of the Strait of Juan de Fuca east of Port Angeles, Haro Strait, and the Strait of Georgia subject to United States jurisdiction), on which single hulled tankers over 5,000 gross tons transporting oil in bulk shall be escorted by at least two towing vessels (as defined under section 2101 of title 46, United States Code) or other vessels considered appropriate by the Secretary.

“(2) PRINCE WILLIAM SOUND, ALASKA.—

“(A) IN GENERAL.—The requirement in paragraph (1) relating to single hulled tankers in Prince William Sound, Alaska, described in that paragraph being escorted by at least 2 towing vessels or other

vessels considered to be appropriate by the Secretary (including regulations promulgated in accordance with section 3703(a)(3) of title 46, United States Code, as set forth in part 168 of title 33, Code of Federal Regulations (as in effect on March 1, 2009) implementing this subsection with respect to those tankers) shall apply to double hulled tankers over 5,000 gross tons transporting oil in bulk in Prince William Sound, Alaska.

“(B) IMPLEMENTATION OF REQUIREMENTS.—The Secretary of the department in which the Coast Guard is operating shall prescribe interim final regulations to carry out subparagraph (A) as soon as practicable without notice and hearing pursuant to section 553 of title 5 of the United States Code.”

“(d) TANKER DEFINED.—In this section [amending section 8502 of this title] the term ‘tanker’ has the same meaning the term has in section 2101 of title 46, United States Code.”

[Pub. L. 111-281, title VII, §711(b)(2), Oct. 15, 2010, 124 Stat. 2987, provided that: “The amendments made by subsection (b) [amending section 4116(c) of Pub. L. 101-380, set out above] take effect on the date that is 90 days after the date of enactment of this Act [Oct. 15, 2010].”]

§ 3703a. Tank vessel construction standards

(a) Except as otherwise provided in this section, a vessel to which this chapter applies shall be equipped with a double hull—

(1) if it is constructed or adapted to carry, or carries, oil in bulk as cargo or cargo residue; and

(2) when operating on the waters subject to the jurisdiction of the United States, including the Exclusive Economic Zone.

(b) This section does not apply to—

(1) a vessel used only to respond to a discharge of oil or a hazardous substance;

(2) a vessel of less than 5,000 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title equipped with a double containment system determined by the Secretary to be as effective as a double hull for the prevention of a discharge of oil;

(3) before January 1, 2015—

(A) a vessel unloading oil in bulk at a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); or

(B) a delivering vessel that is offloading in lightering activities—

(i) within a lightering zone established under section 3715(b)(5) of this title; and

(ii) more than 60 miles from the baseline from which the territorial sea of the United States is measured;

(4) a vessel documented under chapter 121 of this title that was equipped with a double hull before August 12, 1992;

(5) a barge of less than 1,500 gross tons (as measured under chapter 145 of this title) carrying refined petroleum product in bulk as cargo in or adjacent to waters of the Bering Sea, Chukchi Sea, and Arctic Ocean and waters tributary thereto and in the waters of the Aleutian Islands and the Alaskan Peninsula west of 155 degrees west longitude; or

(6) a vessel in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).

(c)(1) In this subsection, the age of a vessel is determined from the later of the date on which the vessel—

- (A) is delivered after original construction;
- (B) is delivered after completion of a major conversion; or
- (C) had its appraised salvage value determined by the Coast Guard and is qualified for documentation as a wrecked vessel under section 12112 of this title.

(2) A vessel of less than 5,000 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title for which a building contract or contract for major conversion was placed before June 30, 1990, and that is delivered under that contract before January 1, 1994, and a vessel of less than 5,000 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title that had its appraised salvage value determined by the Coast Guard before June 30, 1990, and that qualifies for documentation as a wrecked vessel under section 12112 of this title before January 1, 1994, may not operate in the navigable waters or the Exclusive Economic Zone of the United States after January 1, 2015, unless the vessel is equipped with a double hull or with a double containment system determined by the Secretary to be as effective as a double hull for the prevention of a discharge of oil.

(3) A vessel for which a building contract or contract for major conversion was placed before June 30, 1990, and that is delivered under that contract before January 1, 1994, and a vessel that had its appraised salvage value determined by the Coast Guard before June 30, 1990, and that qualifies for documentation as a wrecked vessel under section 12112 of this title before January 1, 1994, may not operate in the navigable waters or Exclusive Economic Zone of the United States unless equipped with a double hull—

(A) in the case of a vessel of at least 5,000 gross tons but less than 15,000 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—

- (i) after January 1, 1995, if the vessel is 40 years old or older and has a single hull, or is 45 years old or older and has a double bottom or double sides;
- (ii) after January 1, 1996, if the vessel is 39 years old or older and has a single hull, or is 44 years old or older and has a double bottom or double sides;
- (iii) after January 1, 1997, if the vessel is 38 years old or older and has a single hull, or is 43 years old or older and has a double bottom or double sides;
- (iv) after January 1, 1998, if the vessel is 37 years old or older and has a single hull, or is 42 years old or older and has a double bottom or double sides;
- (v) after January 1, 1999, if the vessel is 36 years old or older and has a single hull, or is 41 years old or older and has a double bottom or double sides;

(vi) after January 1, 2000, if the vessel is 35 years old or older and has a single hull, or is 40 years old or older and has a double bottom or double sides; and

(vii) after January 1, 2005, if the vessel is 25 years old or older and has a single hull, or is 30 years old or older and has a double bottom or double sides;

(B) in the case of a vessel of at least 15,000 gross tons but less than 30,000 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—

(i) after January 1, 1995, if the vessel is 40 years old or older and has a single hull, or is 45 years old or older and has a double bottom or double sides;

(ii) after January 1, 1996, if the vessel is 38 years old or older and has a single hull, or is 43 years old or older and has a double bottom or double sides;

(iii) after January 1, 1997, if the vessel is 36 years old or older and has a single hull, or is 41 years old or older and has a double bottom or double sides;

(iv) after January 1, 1998, if the vessel is 34 years old or older and has a single hull, or is 39 years old or older and has a double bottom or double sides;

(v) after January 1, 1999, if the vessel is 32 years old or older and has a single hull, or 37 years old or older and has a double bottom or double sides;

(vi) after January 1, 2000, if the vessel is 30 years old or older and has a single hull, or is 35 years old or older and has a double bottom or double sides;

(vii) after January 1, 2001, if the vessel is 29 years old or older and has a single hull, or is 34 years old or older and has a double bottom or double sides;

(viii) after January 1, 2002, if the vessel is 28 years old or older and has a single hull, or is 33 years old or older and has a double bottom or double sides;

(ix) after January 1, 2003, if the vessel is 27 years old or older and has a single hull, or is 32 years old or older and has a double bottom or double sides;

(x) after January 1, 2004, if the vessel is 26 years old or older and has a single hull, or is 31 years old or older and has a double bottom or double sides; and

(xi) after January 1, 2005, if the vessel is 25 years old or older and has a single hull, or is 30 years old or older and has a double bottom or double sides; and

(C) in the case of a vessel of at least 30,000 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—

(i) after January 1, 1995, if the vessel is 28 years old or older and has a single hull, or 33 years old or older and has a double bottom or double sides;

(ii) after January 1, 1996, if the vessel is 27 years old or older and has a single hull, or is

32 years old or older and has a double bottom or double sides;

(iii) after January 1, 1997, if the vessel is 26 years old or older and has a single hull, or is 31 years old or older and has a double bottom or double sides;

(iv) after January 1, 1998, if the vessel is 25 years old or older and has a single hull, or is 30 years old or older and has a double bottom or double sides;

(v) after January 1, 1999, if the vessel is 24 years old or older and has a single hull, or 29 years old or older and has a double bottom or double sides; and

(vi) after January 1, 2000, if the vessel is 23 years old or older and has a single hull, or is 28 years old or older and has a double bottom or double sides.

(4) Except as provided in subsection (b) of this section—

(A) a vessel that has a single hull may not operate after January 1, 2010; and

(B) a vessel that has a double bottom or double sides may not operate after January 1, 2015.

(d) The operation of barges described in subsection (b)(5) outside waters described in that subsection shall be on any conditions as the Secretary may require.

(e)(1) For the purposes of this section and except as otherwise provided in paragraphs (2) and (3) of this subsection, the gross tonnage of a vessel shall be the gross tonnage that would have been recognized by the Secretary on July 1, 1997, as the tonnage measured under section 14502 of this title, or as an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.

(2)(A) The Secretary may waive the application of paragraph (1) to a tank vessel if—

(i) the owner of the tank vessel applies to the Secretary for the waiver before January 1, 1998;

(ii) the Secretary determines that—

(I) the owner of the tank vessel has entered into a binding agreement to alter the tank vessel in a shipyard in the United States to reduce the gross tonnage of the tank vessel by converting a portion of the cargo tanks of the tank vessel into protectively located segregated ballast tanks; and

(II) that conversion will result in a significant reduction in the risk of a discharge of oil;

(iii) at least 60 days before the date of the issuance of the waiver, the Secretary—

(I) publishes notice that the Secretary has received the application and made the determinations required by clause (ii), including a description of the agreement entered into pursuant to clause (ii)(I); and

(II) provides an opportunity for submission of comments regarding the application; and

(iv) the alterations referred to in clause (ii)(I) are completed before the later of—

(I) the date by which the first special survey of the tank vessel is required to be completed after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998; or

(II) July 1, 1999.

(B) A waiver under subparagraph (A) shall not be effective after the expiration of the 3-year period beginning on the first date on which the tank vessel would have been prohibited by subsection (c) from operating if the alterations referred to in subparagraph (A)(ii)(I) were not made.

(3) This subsection does not apply to a tank vessel that, before July 1, 1997, had undergone, or was the subject of a contract for, alterations that reduce the gross tonnage of the tank vessel, as shown by reliable evidence acceptable to the Secretary.

(Added Pub. L. 101-380, title IV, §4115(a), Aug. 18, 1990, 104 Stat. 517; amended Pub. L. 104-324, title VII, §715, title XI, §1103, Oct. 19, 1996, 110 Stat. 3937, 3966; Pub. L. 105-85, div. C, title XXXVI, §3606, Nov. 18, 1997, 111 Stat. 2077; Pub. L. 109-304, §15(15), Oct. 6, 2006, 120 Stat. 1703.)

REFERENCES IN TEXT

The Deepwater Port Act of 1974, referred to in subsection (b)(3)(A), is Pub. L. 93-627, Jan. 3, 1975, 88 Stat. 2126, as amended, which is classified generally to chapter 29 (§1501 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 33 and Tables.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 1998, referred to in subsection (e)(2)(A)(iv)(I), is the date of enactment of Pub. L. 105-85, which was approved Nov. 18, 1997.

AMENDMENTS

2006—Subsec. (c)(1)(C), (2), (3). Pub. L. 109-304 substituted “documentation as a wrecked vessel under section 12112 of this title” for “documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14)”.

1997—Subsec. (e). Pub. L. 105-85 added subsec. (e).

1996—Subsec. (b)(2). Pub. L. 104-324, §715(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 “5,000 gross tons”.

Subsec. (b)(4) to (6). Pub. L. 104-324, §1103(1), added pars. (4) to (6).

Subsec. (c)(2). Pub. L. 104-324, §715(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 “5,000 gross tons” in two places.

Subsec. (c)(3)(A). Pub. L. 104-324, §715(3), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “15,000 gross tons”.

Subsec. (c)(3)(B). Pub. L. 104-324, §715(4), 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 “30,000 gross tons”.

Subsec. (c)(3)(C). Pub. L. 104-324, §715(5), 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 “30,000 gross tons”.

Subsec. (d). Pub. L. 104-324, §1103(2), added subsec. (d).

EFFECTIVE DATE

Section applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as a note under section 2701 of Title 33, Navigation and Navigable Waters.

TRANSFER OF FUNCTIONS

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.

TANK VESSELS OVER 5,000 GROSS TONS TO COMPLY UNTIL JANUARY 1, 2015, WITH ENVIRONMENTALLY PROTECTIVE STRUCTURAL AND OPERATIONAL REQUIREMENTS

Pub. L. 101-380, title IV, §4115(b), Aug. 18, 1990, 104 Stat. 520, provided that: "The Secretary shall, within 12 months after the date of the enactment of this Act [Aug. 18, 1990], complete a rulemaking proceeding and issue a final rule to require that tank vessels over 5,000 gross tons affected by section 3703a of title 46, United States Code, as added by this section, comply until January 1, 2015, with structural and operational requirements that the Secretary determines will provide as substantial protection to the environment as is economically and technologically feasible."

STUDY ON OTHER STRUCTURAL AND OPERATIONAL TANK VESSEL REQUIREMENTS

Pub. L. 101-380, title IV, §4115(e), Aug. 18, 1990, 104 Stat. 520, as amended by Pub. L. 105-383, title IV, §423, Nov. 13, 1998, 112 Stat. 3440; Pub. L. 108-293, title VII, §705, Aug. 9, 2004, 118 Stat. 1075; Pub. L. 109-241, title IX, §901(n), July 11, 2006, 120 Stat. 565, provided that:

"(1) OTHER REQUIREMENTS.—Not later than 6 months after the date of enactment of this Act [Aug. 18, 1990], the Secretary shall determine, based on recommendations from the National Academy of Sciences or other qualified organizations, whether other structural and operational tank vessel requirements will provide protection to the marine environment equal to or greater than that provided by double hulls, and shall report to the Congress that determination and recommendations for legislative action.

"(2) REVIEW AND ASSESSMENT.—The Secretary shall— "(A) periodically review recommendations from the National Academy of Sciences and other qualified organizations on methods for further increasing the environmental and operational safety of tank vessels;

"(B) not later than 5 years after the date of enactment of this Act [Aug. 18, 1990], assess the impact of this section on the safety of the marine environment and the economic viability and operational makeup of the maritime oil transportation industry; and

"(C) report the results of the review and assessment to the Congress with recommendations for legislative or other action.

"(3) No later than one year after the date of enactment of the Coast Guard and Maritime Transportation Act of 2004 [Aug. 9, 2004], the Secretary shall, taking into account the recommendations contained in the report by the Marine Board of the National Research Council entitled 'Environmental Performance of Tanker Design in Collision and Grounding' and dated 2001, establish and publish an environmental equivalency evaluation index (including the methodology to develop that index) to assess overall outflow performance due to collisions and groundings for double hull tank vessels and alternative designs."

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 3704. Coastwise trade vessels

A segregated ballast tank, a crude oil washing system, or an inert gas system, required by this

chapter or a regulation prescribed under this chapter, on a vessel entitled to engage in the coastwise trade under chapter 551 of this title shall be installed in the United States (except the trust territories). A vessel failing to comply with this section may not engage in the coastwise trade.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 522; Pub. L. 109-304, §15(16), Oct. 6, 2006, 120 Stat. 1703.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 3704 46:391a(7)

Section 3704 requires any tank vessel that is entitled to engage in the coastwise trade to install certain equipment in the United States under the penalty of losing coastwise trading privileges if the installation work is done in a foreign country.

AMENDMENTS

2006—Pub. L. 109-304 substituted "chapter 551 of this title" for "section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883)."

§ 3705. Crude oil tanker minimum standards

(a) A new crude oil tanker of at least 20,000 deadweight tons shall be equipped with—

- (1) protectively located segregated ballast tanks;
(2) a crude oil washing system; and
(3) a cargo tank protection system consisting of a fixed deck froth system and a fixed inert gas system.

(b)(1) An existing crude oil tanker of at least 40,000 deadweight tons shall be equipped with—

- (A) segregated ballast tanks; or
(B) a crude oil washing system.

(2) Compliance with paragraph (1) of this subsection may be delayed until June 1, 1985, for any tanker of less than 70,000 deadweight tons that has dedicated clean ballast tanks.

(c) An existing crude oil tanker of at least 20,000 deadweight tons but less than 40,000 deadweight tons, and at least 15 years of age, shall be equipped with segregated ballast tanks or a crude oil washing system before January 2, 1986, or the date on which the tanker reaches 15 years of age, whichever is later.

(d) An existing crude oil tanker of at least 20,000 deadweight tons shall be equipped with an inert gas system. However, for a crude oil tanker of less than 40,000 deadweight tons not fitted with high capacity tank washing machines, the Secretary may grant an exemption if the vessel's owner can show clearly that compliance would be unreasonable and impracticable due to the vessel's design characteristics.

(e) A crude oil tanker engaged in transferring oil from an offshore oil exploitation or production facility on the Outer Continental Shelf of the United States shall be equipped with segregated ballast tanks, or may operate with dedicated clean ballast tanks or special ballast arrangements. However, the tanker shall comply with other applicable minimum standards of this section.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 523.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3705(a)	46:391a(7)(A)
3705(b)	46:391a(7)(D)
3705(c)	46:391a(7)(E)
3705(d)	46:391a(7)(F)
3705(e)	46:391a(7)(M)

Section 3705 requires compliance with certain minimum standards by a crude oil tanker, which is self-propelled. In general, the minimum required standards are consistent with those international standards that have been adopted as Protocols to the 1974 Safety of Life at Sea Convention and the 1973 Marine Pollution Convention.

Section 3705(a) requires new crude oil tankers of 20,000 deadweight tons or above to have protectively located segregated ballast tanks, a crude oil washing system, and a specified cargo tank protection system.

Section 3705(b) requires existing crude oil tankers of 40,000 deadweight tons or above to have segregated ballast tanks or a crude oil washing system. Compliance may be delayed until June 1, 1985 for smaller tankers that have dedicated clean ballast tanks.

Section 3705(c) requires existing crude oil tankers of 20,000 deadweight tons or above, but less than 40,000 deadweight tons, that are 15 years or older, to have segregated ballast tanks or a crude oil washing system by January 1, 1985 or if less than 15 years old, by the date on which it reaches 15 years of age.

Section 3705(d) requires existing crude oil tankers of 20,000 deadweight tons or above, to install an inert gas system. An exemption for crude oil tankers of less than 40,000 deadweight tons not fitted with high-capacity tank washing machines may be granted by the Secretary, only if it is demonstrated that compliance would be unreasonable and impracticable due to the vessel's design characteristics.

Section 3705(e) requires existing crude oil tankers of 20,000 deadweight tons or above, engaged in the transfer of oil from Outer Continental Shelf oil exploitation or production facilities, to have segregated ballast tanks or be operated with dedicated clean ballast tanks or special ballast arrangements.

§ 3706. Product carrier minimum standards

(a) A new product carrier of at least 30,000 deadweight tons shall be equipped with protectively located segregated ballast tanks.

(b) A new product carrier of at least 20,000 deadweight tons shall be equipped with a cargo tank protection system consisting of a fixed deck froth system and a fixed inert gas system or, if the product carrier carries dedicated products incompatible with the cargo tank protection system, an alternate protection system authorized by the Secretary.

(c) An existing product carrier of at least 40,000 deadweight tons shall be equipped with segregated ballast tanks or may operate with dedicated clean ballast tanks.

(d) An existing product carrier of at least 20,000 deadweight tons but less than 40,000 deadweight tons, and at least 15 years of age, shall be equipped with segregated ballast tanks or may operate with dedicated clean ballast tanks before January 2, 1986, or the date on which it reaches 15 years of age, whichever is later.

(e) An existing product carrier of at least 40,000 deadweight tons, or an existing product carrier of at least 20,000 deadweight tons but less than 40,000 deadweight tons that is fitted with high-capacity tank washing machines, shall be equipped with an inert gas system.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 523.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3706(a)	46:391a(7)(B)
3706(b)	46:391a(7)(C)
3706(c)	46:391a(7)(G)
3706(d)	46:391a(7)(H)
3706(e)	46:391a(7)(I)

Section 3706 requires compliance with certain minimum standards by a product carrier, which is a self-propelled tank vessel.

Section 3706(a) requires new product carriers of 30,000 deadweight tons or above, to have protectively located segregated ballast tanks.

Section 3706(b) requires new product carriers of 20,000 deadweight tons or above, to have a cargo tank protection system consisting of a fixed deck froth system or a fixed inert gas system. If the products carried are incompatible with the cargo tank protection system, then an alternative protection system may be authorized.

Section 3706(c) requires existing product carriers of 40,000 deadweight tons or above, to have segregated ballast tanks or to operate with dedicated clean ballast tanks.

Section 3706(d) requires existing product carriers of 20,000 deadweight tons or above, but less than 40,000 deadweight tons, that are 15 years or older, to have segregated ballast tanks by January 1, 1985, or on the date on which it reaches 15 years of age or, in the alternative, that the vessel operate with dedicated clean ballast tanks.

Section 3706(e) requires existing product carriers of 40,000 deadweight tons or above, or to existing product carriers, fitted with high-capacity tank washing machines, of 20,000 deadweight tons but less than 40,000 deadweight tons, to install an inert gas system.

§ 3707. Tanker minimum standards

(a) A new tanker of at least 10,000 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 shall be equipped with—

- (1) 2 remote steering gear control systems operable separately from the navigating bridge;
- (2) the main steering gear control in the steering gear compartment;
- (3) means of communications and rudder angle indicators on the navigating bridge, a remote steering gear control station, and the steering gear compartment;
- (4) at least 2 identical and adequate power units for the main steering gear;
- (5) an alternative and adequate power supply, either from an emergency source of electrical power or from another independent source of power located in the steering gear compartment; and
- (6) means of automatic starting and stopping of power units with attendant alarms at all steering stations.

(b) An existing tanker of at least 10,000 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 shall be equipped with—

- (1) 2 remote steering gear control systems operable separately from the navigating bridge;
- (2) the main steering gear control in the steering gear compartment; and

(3) means of communications and rudder angle indicators on the navigating bridge, a remote steering gear control station, and the steering gear compartment.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 524; Pub. L. 104–324, title VII, §716, Oct. 19, 1996, 110 Stat. 3937.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3707(a)	46:391a(7)(K)
3707(b)	46:391a(7)(L)

Section 3707 requires compliance with certain minimum standards by a tanker, which is a self-propelled tank vessel.

Section 3707(a) requires new tankers of 10,000 gross tons or above, to have two remote steering gear control systems, a main steering gear control in the steering gear compartment, a means of communications and rudder angle indicators at specified locations, two or more specified power units for the main steering gear, an alternative and adequate power supply of specified characteristics, and a means of automatic operation of power units, with attendant alarms at all steering stations.

Section 3707(b) requires existing tankers of 10,000 gross tons or above, to have two remote steering gear control systems, a main steering gear control in the steering gear compartment, and a means of communication and rudder angle indicators at specified locations.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–324, §716(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 “10,000 gross tons” in introductory provisions.

Subsec. (b). Pub. L. 104–324, §716(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 “10,000 gross tons”.

§ 3708. Self-propelled tank vessel minimum standards

A self-propelled tank vessel of at least 10,000 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 shall be equipped with—

- (1) a dual radar system with short-range and long-range capabilities, each with true-north features;
- (2) an electronic relative motion analyzer that is at least functionally equivalent to equipment complying with specifications established by the Secretary of Transportation;
- (3) an electronic position-fixing device;
- (4) adequate communications equipment;
- (5) a sonic depth finder;
- (6) a gyrocompass; and
- (7) up-to-date charts.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 524; Pub. L. 104–324, title VII, §717, Oct. 19, 1996, 110 Stat. 3937.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3708	46:391a(7)(J)

Section 3708 requires compliance with certain minimum standards by a self-propelled tank vessel. These requirements apply to any tank vessel of 10,000 gross tons or above with no distinction being made as to whether or not the vessel is “primarily” constructed or adapted to carry oil or hazardous material in bulk in the cargo spaces. These vessels are required to be equipped with a dual radar system, a computerized relative motion analyzer, an electronic position fixing device, adequate communications equipment, a sonic depth finder, a gyrocompass, and up-to-date charts.

AMENDMENTS

1996—Pub. L. 104–324 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 “10,000 gross tons”.

§ 3709. Exemptions

The Secretary may exempt a vessel from the minimum requirements established by sections 3704–3706 of this title for segregated ballast, crude oil washing, and dedicated clean ballast if the Secretary decides that shore-based reception facilities are a preferred method of handling ballast and that adequate facilities are readily available.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 524.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3709	46:391a(7)(N)

Section 3709 provides the Secretary with the authority to exempt certain minimum tanker requirements of sections 3704, 3705, and 3706 when shorebased reception facilities are a better way of handling ballast and when the facilities are adequate and readily available.

§ 3710. Evidence of compliance by vessels of the United States

(a) A vessel of the United States to which this chapter applies that has on board oil or hazardous material in bulk as cargo or cargo residue must have a certificate of inspection issued under this part, endorsed to indicate that the vessel complies with regulations prescribed under this chapter.

(b) Each certificate endorsed under this section is valid for not more than 5 years and may be renewed as specified by the Secretary. In appropriate circumstances, the Secretary may issue a temporary certificate valid for not more than 30 days. A certificate shall be suspended or revoked if the Secretary finds that the vessel does not comply with the conditions under which the certificate was issued.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 524; Pub. L. 104–324, title VI, §605(b), Oct. 19, 1996, 110 Stat. 3931.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3710	46:391a(8)(A) 46:391a(8)(E)

Section 3710 prohibits any vessels of the United States subject to this chapter from having on board oil or hazardous material in bulk as cargo or in residue, unless it has a required Certificate of Inspection endorsed to indicate vessel compliance with applicable

regulations. Certificates shall be valid for a period not to exceed two years and may be renewed as specified by the Secretary. The Secretary may issue temporary certificates of not more than thirty days duration and may revoke or suspend any certificate under designated circumstances.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-324 substituted “5 years” for “24 months”.

§ 3711. Evidence of compliance by foreign vessels

(a) A foreign vessel to which this chapter applies may operate on the navigable waters of the United States, or transfer oil or hazardous material in a port or place under the jurisdiction of the United States, only if the vessel has been issued a certificate of compliance by the Secretary. The Secretary may issue the certificate only after the vessel has been examined and found to be in compliance with this chapter and regulations prescribed under this chapter. The Secretary may accept any part of a certificate, endorsement, or document, issued by the government of a foreign country under a treaty, convention, or other international agreement to which the United States is a party, as a basis for issuing a certificate of compliance.

(b) A certificate issued under this section is valid for not more than 24 months and may be renewed as specified by the Secretary. In appropriate circumstances, the Secretary may issue a temporary certificate valid for not more than 30 days.

(c) A certificate shall be suspended or revoked if the Secretary finds that the vessel does not comply with the conditions under which the certificate was issued.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 525.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 3711, 46:391a(8)(B), 46:391a(8)(C), 46:391a(8)(E)

Section 3711 prohibits any foreign vessel from operating on the navigable waters of the United States or from transferring oil or hazardous material in any port or place under the jurisdiction of the United States, unless it has a certificate of compliance issued by the Secretary indicating that the vessel has been examined and found to be in compliance with the provisions of the applicable regulations. It also authorizes the Secretary to accept, in whole or in part, an appropriate foreign certificate issued pursuant to any international agreement to which the United States is a party, as a basis for issuing the certificate of compliance. This means that the Secretary does not have to accept foreign certificates as evidence of compliance, but may take additional action to assure compliance with applicable domestic laws and regulations and international treaty provisions.

§ 3712. Notification of noncompliance

The Secretary shall notify the owner, charterer, managing operator, agent, master, or individual in charge of a vessel found not to be in compliance with a regulation prescribed under this part and state how compliance may be achieved.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 525.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 3712, 46:391a(8)(A), 46:391a(8)(B)

Section 3712 requires the Secretary to notify appropriate parties when a vessel is found not to be in compliance with applicable requirements, standards, or regulations and what remedial steps must be taken in order to comply with them.

§ 3713. Prohibited acts

(a) A person may not—

(1) violate this chapter or a regulation prescribed under this chapter;

(2) refuse to permit any official, authorized by the Secretary to enforce this chapter, to board a vessel or to enter a shore area, place, or premises, under a person’s control to make an inspection under this chapter; or

(3) refuse to obey a lawful directive issued under this chapter.

(b) A vessel to which this chapter applies may not—

(1) operate on the navigable waters of the United States or use a port or place subject to the jurisdiction of the United States when not in compliance with this chapter or a regulation prescribed under this chapter;

(2) fail to comply with a lawful directive issued under this chapter; or

(3) carry a type or grade of oil or hazardous material in bulk as cargo or cargo residue unless its certificate is endorsed to allow that carriage.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 525.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 3713, 46:391a(13)

Section 3713(a) prohibits any person from violating any provision of this chapter or a regulation prescribed under its authority. It prohibits the refusal to permit authorized officials to board a vessel or to enter a shore area for the purposes of inspection of the vessel or premises. It also prohibits the refusal to obey any lawful directive issued under this chapter.

Section 3713(b) prohibits any vessel, subject to the provisions of this chapter from operating on the navigable waters of the United States, or from using any port or place subject to the jurisdiction of the United States while not in compliance with any provision of applicable law or regulation. It further prohibits any vessel from failing to comply with a lawful directive issued pursuant to the authority of this chapter. It also prohibits the vessel from carrying oil or hazardous material as cargo or cargo residue unless its certificate is so endorsed to permit its carriage.

§ 3714. Inspection and examination

(a)(1) The Secretary shall have each vessel to which this chapter applies inspected or examined at least once each year.

(2) Each of those vessels that is more than 10 years of age shall undergo a special and detailed inspection of structural strength and hull integrity as specified by the Secretary.

(3) The Secretary may make contracts for conducting inspections or examinations in the United States and in foreign countries. An in-

spector conducting an inspection or examination under contract may not issue a certificate of inspection or a certificate of compliance, but the inspector may issue a temporary certificate.

(4) The Secretary shall prescribe by regulation reasonable fees for an inspection or examination conducted under this section outside the United States, or which, when involving a foreign vessel, is conducted under a contract authorized by paragraph (3) of this subsection. The owner, charterer, or managing operator of a vessel inspected or examined by the Secretary is liable for the fees. Amounts received as fees shall be deposited in the Treasury.

(5) The Secretary may allow provisional entry of a vessel to conduct an inspection or examination under this chapter.

(b) Each vessel to which this chapter applies shall have on board those documents the Secretary considers necessary for inspection and enforcement, including documents listing—

- (1) the type, grade, and approximate quantities of cargo on board;
- (2) the shipper and consignee of the cargo;
- (3) the places of origin and destination of the vessel; and
- (4) the name of an agent in the United States authorized to accept service of legal process.

(c) Each vessel to which this chapter applies that operates in the United States shall have a person designated as authorized to accept service of legal process for the vessel.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 526; Pub. L. 99-307, §1(8), May 19, 1986, 100 Stat. 445.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3714	46:391a(15)

Section 3714(a) requires the Secretary to establish a program for the inspection of tank vessels, foreign or domestic, at least once each year. The Committee contemplates that United States vessels will be issued a 2 year certificate of inspection with a mid-period examination. The Committee also contemplates that foreign-flag vessels will continue to be tracked and boarded at least once a year or when they first arrive in the United States. The Secretary may examine the foreign-flag tank vessel but may accept, as a basis for the issuance of a certificate of compliance, in whole or in part a foreign-issued certificate.

Each vessel over 10 years of age must undergo a special and detailed inspection of structural strength and hull integrity, as specified by the Secretary. An inspection or examination may be conducted by any officer authorized by the Secretary. The Committee expects that, whenever possible, a qualified marine inspector will be used wherever the vessel undergoes these 10-year inspections. The Secretary may also contract for inspections or examinations in the United States and in foreign countries.

The primary reason for including a provision that permits the contracting for the conduct of inspections and examinations is to provide flexibility in foreign areas where Coast Guard marine inspectors are not normally available.

A contract inspector may be authorized to act on behalf of the Secretary, but may not issue a certificate of inspection or compliance. The inspector may, however, issue a temporary certificate.

The Committee understands that the 10-year inspections of United States-flag and foreign-flag vessels may occur at the time the vessel is scheduled for shipyard availability to complete the periodic classification society survey.

The Secretary is also authorized and directed to prescribe by regulation reasonable fees for certain inspections or examinations conducted pursuant to this section based on the cost incurred. The owner of any vessel inspected or examined by the Secretary or his designee shall be liable for the fee. Amounts received as fees under this section are to be deposited in the Treasury.

Section 3714(b) requires each vessel subject to this chapter to have on board those documents the Secretary declares are necessary for inspection or enforcement, including, but not limited to documents indicating the kind, grade, and approximate quantities of any cargo on board; the shipper and consignee of the cargo; the points of origin and destination of the vessel; and the name of an agent in the United States authorized to accept legal process.

Section 3714(c) requires each vessel subject to this chapter to have a person authorized to accept service of legal process for the vessel.

AMENDMENTS

1986—Subsec. (a)(4). Pub. L. 99-307 substituted “charterer” for “charter”.

§ 3715. Lightering

(a) A vessel may transfer oil or hazardous material in a port or place subject to the jurisdiction of the United States, when the cargo has been transferred from another vessel on the navigable waters of the United States or in the marine environment, only if—

- (1) the transfer was conducted consistent with regulations prescribed by the Secretary;
- (2) both the delivering and receiving vessels had on board, at the time of transfer, a certificate of inspection or a certificate of compliance, as would have been required under section 3710 or 3711 of this title, had the transfer taken place in a port or place subject to the jurisdiction of the United States; and¹
- (3) the delivering and the receiving vessel had on board at the time of transfer, a certificate of financial responsibility as would have been required under section 1016 of the Oil Pollution Act of 1990, had the transfer taken place in a place subject to the jurisdiction of the United States;
- (4) the delivering and the receiving vessel had on board at the time of transfer, evidence that each vessel is operating in compliance with section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)); and
- (5) the delivering and the receiving vessel are operating in compliance with section 3703a of this title.

(b) The Secretary shall prescribe regulations to carry out subsection (a) of this section. The regulations shall include provisions on—

- (1) minimum safe operating conditions, including sea state, wave height, weather, proximity to channels or shipping lanes, and other similar factors;
- (2) the prevention of spills;
- (3) equipment for responding to a spill;
- (4) the prevention of any unreasonable interference with navigation or other reasonable uses of the high seas, as those uses are defined by treaty, convention, or customary international law;
- (5) the establishment of lightering zones; and

¹ So in original. The word “and” probably should not appear.

(6) requirements for communication and pre-arrival messages.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 526; Pub. L. 101-380, title IV, § 4115(d), Aug. 18, 1990, 104 Stat. 520.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3715	46:391a(17)

Section 3715 requires the Secretary to control lightering operations; that is, the transferring of cargoes at sea from large deep-draft vessels to shallow-draft vessels for subsequent transfer to shoreside terminals due to the inability of the larger tank vessels to enter shallow ports. It prohibits a tank vessel from unloading any cargo of oil or hazardous material at any port or terminal under the jurisdiction of the United States, unless the cargo has been transferred in accordance with lightering regulations. It also prohibits the shore-side transfer unless both the delivering and receiving vessels involved in the prior lightering had on board at the time of the offshore transfer, the certificates that would have been required had the transfer taken place in a port or place subject to the jurisdiction of the United States.

The regulations to be prescribed by the Secretary shall include a number of specific considerations but may include any related matters deemed necessary to promote navigation and vessel safety and protection of the marine environment. The Secretary must consider standards for minimum safe operating conditions, including sea state, wave height, weather, vessel traffic, the prevention of oil spills, and oil spill response equipment. In regulating this operation, there must not be any unreasonable interference with international navigation or reasonable uses of the high seas, and there must be established lightering zones with attendant communications and prearrival message requirements.

REFERENCES IN TEXT

Section 1016 of the Oil Pollution Act of 1990, referred to in subsec. (a)(3), is classified to section 2716 of Title 33, Navigation and Navigable Waters.

AMENDMENTS

1990—Subsec. (a)(3) to (5). Pub. L. 101-380 added pars. (3) to (5).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE

Pub. L. 98-89, §2(g)(2), Aug. 26, 1983, 97 Stat. 599, provided that: "Section 3715(a) of title 46 (as enacted by section 1 of this Act) is effective on the day after the effective date of the regulations prescribed by the Secretary under section 3715(b) of title 46." [Regulations effective Apr. 26, 1984, see 49 F.R. 11170, Mar. 26, 1984.]

§ 3716. Tank washings

(a) A vessel may not transfer cargo in a port or place subject to the jurisdiction of the United States if, before arriving, the vessel has discharged tank washings containing oil or hazardous material in preparation for loading at that port or place in violation of the laws of the United States or in a manner or quantities inconsistent with a treaty to which the United States is a party.

(b) The Secretary shall establish effective control and supervisory measures to carry out this section.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 527.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3716	46:391a(18)

Section 3716 requires the Secretary to establish effective control and supervisory measures to prohibit the discharge of tank washings by dumping at sea. The section also prohibits the dumping vessel from subsequently loading any cargo at a port or terminal subject to the jurisdiction of the United States. This section is intended to prohibit the practice of discharging a cargo of oil or hazardous substance, then going to sea to clean tanks by pumping tank washing mixtures overboard, and then returning to a port or terminal subject to the jurisdiction of the United States for the purpose of loading a cargo that was incompatible with the prior cargo.

§ 3717. Marine safety information system

(a) The Secretary shall establish a marine safety information system that shall contain information about each vessel to which this chapter applies that operates on the navigable waters of the United States, or that transfers oil or hazardous material in a port or place under the jurisdiction of the United States. In acquiring this information, the Secretary shall make full use of publicly available information. The Secretary may by regulation require the vessel to provide information that the Secretary considers necessary to carry out this subsection, including—

- (1) the name of each person with an ownership interest in the vessel;
- (2) details of compliance with the financial responsibility requirements of applicable laws or regulations;
- (3) registration information, including all changes in the name of the vessel;
- (4) the history of marine casualties and serious repair problems of the vessel; and
- (5) a record of all inspections and examinations of a vessel conducted under section 3714 of this title.

(b) On written request from the Secretary, the head of each department, agency, or instrumentality of the United States Government shall provide available information that the Secretary considers necessary to confirm the information received under subsection (a) of this section.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 527.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3717	46:391a(16)

Section 3717 requires the Secretary to establish a marine safety information system which is to contain selected information on any tank vessel, foreign or domestic, that comes within the jurisdiction of the United States. This information must be recorded and maintained up-to-date and is available from a number of sources. In some instances, this information is required as a condition of entry. This information shall include certain ownership interests, financial responsibility information, all registered names that the vessel has had since it was built, the present and prior countries of registry, history of accidents or serious repair problems, record of the various inspections or ex-

aminations required, and any other data the Secretary deems appropriate to carry out the intent of the section. The section also provides for interagency cooperation and the furnishing of available data and information.

§ 3718. Penalties

(a)(1) A person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than \$25,000. Each day of a continuing violation is a separate violation.

(2) Each vessel to which this chapter applies that is operated in violation of this chapter or a regulation prescribed under this chapter is liable in rem for a civil penalty under this subsection.

(b) A person willfully and knowingly violating this chapter or a regulation prescribed under this chapter commits a class D felony.

(c) Instead of the penalties provided by subsection (b) of this section, a person willfully and knowingly violating this chapter or a regulation prescribed under this chapter, and using a dangerous weapon, or engaging in conduct that causes bodily injury or fear of imminent bodily injury to an official authorized to enforce this chapter or a regulation prescribed under this chapter, commits a class C felony.

(d) The district courts of the United States have jurisdiction to restrain a violation of this chapter or a regulation prescribed under this chapter.

(e)(1) If any owner, operator, or individual in charge of a vessel is liable for any penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to any penalty or fine under this section, the Secretary of Homeland Security, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 60105 of this title.

(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 527; Pub. L. 101-380, title IV, § 4302(c), Aug. 18, 1990, 104 Stat. 538; Pub. L. 104-324, title III, § 312(d), Oct. 19, 1996, 110 Stat. 3921; Pub. L. 109-304, § 15(17), Oct. 6, 2006, 120 Stat. 1703.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
3718	46:391a(14)

Section 3718 provides the authority to assess civil penalties for violation of the chapter or regulations. Each violation subjects the violator to a penalty not to exceed \$25,000 for each violation and, in the case of a continuing violation, each day shall constitute a separate violation and the vessel is liable in rem. The procedures for assessing penalties are found in section 2107 of part A.

With respect to criminal penalties, a willful or knowing violation of the section or a regulation subjects the offender, upon conviction, to a criminal fine of not more than \$50,000 for each violation or imprisonment for not more than 1 year, or both. If the willful and knowing violation involves the use of a dangerous weapon or constitutes an assault or battery, the of-

fender is subjected to a fine of not more than \$100,000 or imprisonment of not more than 10 years, or both.

In addition, where the owner or operator of the vessel is subject to any of the penalties prescribed, the Secretary of the Treasury is directed to withhold required Customs clearance, at the request of the Secretary. Clearance may be granted upon the filing of a bond or other surety satisfactory to the Secretary.

AMENDMENTS

2006—Subsec. (e)(1). Pub. L. 109-304 substituted “Secretary of Homeland Security” and “section 60105 of this title” for “Secretary of the Treasury” and “section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)”, respectively.

1996—Subsec. (e). Pub. L. 104-324 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) of a vessel the owner or operator of which is subject to a penalty under this section. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.”

1990—Subsec. (b). Pub. L. 101-380, § 4302(c)(1), substituted “commits a class D felony” for “shall be fined not more than \$50,000, imprisoned for not more than 5 years, or both”.

Subsec. (c). Pub. L. 101-380, § 4302(c)(2), substituted “commits a class C felony” for “shall be fined not more than \$100,000, imprisoned for not more than 10 years, or both”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

§ 3719. Reduction of oil spills from single hull non-self-propelled tank vessels

The Secretary shall, in consultation with the Towing Safety Advisory Committee and taking into consideration the characteristics, methods of operation, and the size and nature of service of single hull non-self-propelled tank vessels and towing vessels, prescribe regulations requiring a single hull non-self-propelled tank vessel that operates in the open ocean or coastal waters, or the vessel towing it, to have at least one of the following:

(1) A crew member and an operable anchor on board the tank vessel that together are capable of arresting the tank vessel without additional assistance under reasonably foreseeable sea conditions.

(2) An emergency system on the tank vessel or towing vessel that without additional assistance under reasonably foreseeable sea conditions will allow the tank vessel to be retrieved by the towing vessel if the tow line ruptures.

(3) Any other measure or combination of measures that the Secretary determines will provide protection against grounding of the tank vessel comparable to that provided by the measures described in paragraph (1) or (2).

(Added Pub. L. 104-324, title IX, § 901(a), Oct. 19, 1996, 110 Stat. 3946.)

REGULATIONS

Pub. L. 104-324, title IX, § 901(b), Oct. 19, 1996, 110 Stat. 3946, provided that: “The Secretary of the department in which the Coast Guard is operating shall issue regu-

lations required under section 3719 of title 46, United States Code, as added by subsection (a), by not later than October 1, 1997.”

[CHAPTER 39—REPEALED]

[[§§ 3901, 3902. Repealed. Pub. L. 107-171, title X, § 10418(a)(20), May 13, 2002, 116 Stat. 508]

Section 3901, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 528, related to regulations for accommodations for export animals.

Section 3902, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 528, related to penalties.

CHAPTER 41—UNINSPECTED VESSELS GENERALLY

- Sec. 4101. Application. 4102. Safety equipment. 4103. Exemptions. [4104. Repealed.] 4105. Uninspected passenger vessels. 4106. Penalties.

HISTORICAL AND REVISION NOTES

Chapter 41 applies to vessels that are not subject to inspection and certification under chapter 33.

The Federal authority to regulate uninspected vessels originated with the Motorboat Act of 1910 (Public Law 61-201, 36 Stat. 462) when Congress established standards with respect to navigation lights, machinery requirements, life preservers, and for the licensing of operators on small vessels carrying passengers. This was an extension of Federal regulatory authority over certain non-steam-propelled vessels, that is, those recreational vessels and commercial vessels that are propelled by machinery other than steam.

Thirty years later, the 1910 Act was amended by the Motorboat Act of 1940 (Public Law 76-484, 54 Stat. 163), which added to the equipment that was required and provided for other regulatory controls. In this manner the Federal Government continued to exercise some degree of maritime safety supervision over the commercial and recreational vessel sector that was “uninspected”. This was important because steam towing vessels were converting to diesel propulsion and were therefore no longer subject to the detailed periodic and extensive hull, machinery, and equipment inspections of a Federal agency. In addition, the number of recreational vessels primarily propelled by gasoline were increasing and were also suffering casualties from explosions and fires.

AMENDMENTS

1990—Pub. L. 101-595, title VI, §603(3)(B), Nov. 16, 1990, 104 Stat. 2993, struck out item 4104 “Regulations”.

1984—Pub. L. 98-364, title IV, §402(7)(B), July 17, 1984, 98 Stat. 446, inserted “GENERALLY” in chapter heading.

§ 4101. Application

This chapter applies to an uninspected vessel not subject to chapter 45 of this title—

- (1) on the navigable waters of the United States; or (2) owned in the United States and operating on the high seas.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 528; Pub. L. 100-424, §8(b), Sept. 9, 1988, 102 Stat. 1593.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 4101 46:526u

Section 4101 makes this chapter applicable to uninspected vessels, as defined in section 2101(43), that op-

erate on the navigable waters of the United States or that are owned in the United States and while operating on the high seas. Therefore a vessel that operates on waters that are considered to be solely State waters would not be subject to these Federal requirements.

AMENDMENTS

1988—Pub. L. 100-424 inserted “not subject to chapter 45 of this title” after “an uninspected vessel”.

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.

§ 4102. Safety equipment

(a) Each uninspected vessel propelled by machinery shall be provided with the number, type, and size of fire extinguishers, capable of promptly and effectively extinguishing burning liquid fuel, that may be prescribed by regulation. The fire extinguishers shall be kept in condition for immediate and effective use and so placed as to be readily accessible.

(b) The Secretary shall prescribe regulations requiring the installation, maintenance, and use of life preservers and other lifesaving devices for individuals on board uninspected vessels.

(c) Each uninspected vessel shall have the carburetors of each engine of the vessel (except an outboard motor) using gasoline as fuel, equipped with an efficient flame arrestor, backfire trap, or other similar device prescribed by regulation.

(d) Each uninspected vessel using a volatile liquid as fuel shall be provided with the means prescribed by regulation for properly and efficiently ventilating the bilges of the engine and fuel tank compartments, so as to remove any explosive or flammable gases.

(e) Each manned uninspected vessel owned in the United States and operating beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured or beyond three nautical miles from the coastline of the Great Lakes shall be equipped with the number and type of alerting and locating equipment, including emergency position indicating radio beacons, prescribed by the Secretary.

(f)(1) The Secretary, in consultation with the Towing Safety Advisory Committee and taking into consideration the characteristics, methods of operation, and nature of service of towing vessels, may require the installation, maintenance, and use of a fire suppression system or other measures to provide adequate assurance that fires on board towing vessels can be suppressed under reasonably foreseeable circumstances.

(2) The Secretary shall require under paragraph (1) the use of a fire suppression system or other measures to provide adequate assurance that a fire on board a towing vessel that is towing a non-self-propelled tank vessel can be suppressed under reasonably foreseeable circumstances.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 528; Pub. L. 99-640, §16, Nov. 10, 1986, 100 Stat. 3552; Pub. L. 100-424, §2(c), Sept. 9, 1988, 102 Stat. 1590; Pub. L. 100-540, §1(a), Oct. 28, 1988, 102 Stat. 2719; Pub. L. 104-324, title IX, §902(a), Oct. 19, 1996, 110 Stat.