

“(D) identifying actions to achieve full compliance with and effective implementation of the Code; and

“(E) evaluating the effectiveness of internal reporting and auditing under the Code, and recommending actions to ensure the accuracy and candidness of such reporting and auditing.

These recommended actions may include proposed limits on the use in legal proceedings of documents produced pursuant to the Code.

“(2) The Secretary shall provide opportunity for the public to participate in and comment on the study conducted under paragraph (1).

“(3) Not later than 18 months after the date of the enactment of this Act [Nov. 13, 1998], the Secretary shall submit to the Congress a report on the results of the study conducted under paragraph (1).

“(b) POLICY.—

“(1) Not later than 9 months after submission of the report in subsection (a)(3), the Secretary shall develop a policy to achieve full compliance with and effective implementation of the Code. The policy may include—

“(A) enforcement penalty reductions and waivers, limits on the use in legal proceedings of documents produced pursuant to the Code, or other incentives to ensure accurate and candid reporting and auditing;

“(B) any other measures to achieve full compliance with and effective implementation of the Code; and

“(C) if appropriate, recommendations to Congress for any legislation necessary to implement one or more elements of the policy.

“(2) The Secretary shall provide opportunity for the public to participate in the development of the policy in paragraph (1).

“(3) Upon completion of the policy in paragraph (1), the Secretary shall publish the policy in the Federal Register and provide opportunity for public comment on the policy.”

VESSEL MANAGEMENT METHODS STUDY

Pub. L. 104-324, title VI, §602(c), Oct. 19, 1996, 110 Stat. 3930, provided that:

“(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall conduct, in cooperation with the owners, charterers, and managing operators of vessels documented under chapter 121 of title 46, United States Code, and other interested persons, a study of the methods that may be used to implement and enforce the International Management Code for the Safe Operation of Ships and for Pollution Prevention under chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974.

“(2) REPORT.—The Secretary shall submit to the Congress a report of the results of the study required under paragraph (1) before the earlier of—

“(A) the date that final regulations are prescribed under section 3203 of title 46, United States Code (as enacted by subsection (a)[]); or

“(B) the date that is 1 year after the date of enactment of this Act [Oct. 19, 1996].”

INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA

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

§ 3202. Application

(a) FOREIGN VOYAGES AND FOREIGN VESSELS.—This chapter applies to a vessel that—

(1)(A) is transporting more than 12 passengers described in section 2101(29)(A) of this title; or

(B) is of at least 500 gross tons as measured under section 14302 of this title and is a tank-

er, freight vessel, bulk freight vessel, high speed freight vessel, or self-propelled mobile offshore drilling unit; and

(2)(A) is engaged on a foreign voyage; or

(B) is a foreign vessel departing from a place under the jurisdiction of the United States on a voyage, any part of which is on the high seas.

(b) OTHER PASSENGER VESSELS.—

(1) IN GENERAL.—This chapter applies to a vessel that is—

(A) a passenger vessel or small passenger vessel; and

(B) is transporting more passengers than a number prescribed by the Secretary based on the number of individuals on the vessel that could be killed or injured in a marine casualty.

(2) SAFETY MANAGEMENT SYSTEM.—Notwithstanding any other provision in this chapter, including paragraph (1)(B), any regulations under section 3203, including the safety management system established by such regulations, issued on or after the date of enactment of the Elijah E. Cummings Coast Guard Authorization Act of 2020, shall apply to all covered small passenger vessels, as defined in section 3306(n)(5).

(c) VOLUNTARY APPLICATION.—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

(d) EXCEPTION.—Except as provided in subsection (c) of this section, this chapter does not apply to—

(1) a barge;

(2) a recreational vessel not engaged in commercial service;

(3) a fishing vessel;

(4) a vessel operating on the Great Lakes or its tributary and connecting waters that is not described in subsection (b) of this section; or

(5) a public vessel.

(Added Pub. L. 104-324, title VI, §602(a), Oct. 19, 1996, 110 Stat. 3928; amended Pub. L. 108-293, title IV, §405(a), Aug. 9, 2004, 118 Stat. 1043; Pub. L. 111-281, title VI, §610(a), Oct. 15, 2010, 124 Stat. 2969; Pub. L. 115-232, div. C, title XXXV, §3541(b)(8), Aug. 13, 2018, 132 Stat. 2323; Pub. L. 116-283, div. G, title LVXXXIV [LXXXIV], §8441(b), Jan. 1, 2021, 134 Stat. 4744.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Elijah E. Cummings Coast Guard Authorization Act of 2020, referred to in subsec. (b)(2), is the date of enactment of div. G of Pub. L. 116-283, which was approved Jan. 1, 2021.

AMENDMENTS

2021—Subsec. (b). Pub. L. 116-283 designated existing provisions as par. (1) and inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1) and realigned margins, and added par. (2).

2018—Subsec. (a)(1)(A). Pub. L. 115-232 substituted “section 2101(29)(A)” for “section 2101(21)(A)”.

2010—Subsec. (a). Pub. L. 111-281, §610(a)(1), substituted “FOREIGN VOYAGES AND FOREIGN VESSELS.—” for “MANDATORY APPLICATION.—” in heading.

Subsecs. (b) to (d). Pub. L. 111-281, §610(a)(2)–(4), added subsec. (b), redesignated former subsecs. (b) and (c) as (c) and (d), respectively, and, in introductory provisions of subsec. (d), substituted “subsection (c)” for “subsection (b)”.

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

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

“(1) Beginning July 1, 1998—

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

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

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

§ 3203. Safety management system

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

(1) a safety and environmental protection policy;

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

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

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

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

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

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

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

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

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

(c) AUDITS.—

(1) CERTIFICATES.—

(A) SUSPENSION.—During an audit of a safety management system of a vessel required under section 10104(e), the Secretary may suspend the Safety Management Certificate issued for the vessel under section

3205 and issue a separate Safety Management Certificate for the vessel to be in effect for a 3-month period beginning on the date of the issuance of such separate certificate.

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

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

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

(2) DOCUMENTS OF COMPLIANCE.—

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

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

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

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

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

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

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

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

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

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

Editorial Notes

AMENDMENTS

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