

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

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

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

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

Statutory Notes and Related Subsidiaries

FLAG-STATE GUIDANCE AND SUPPLEMENTS

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

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

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

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

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

[For definitions of “Secretary” and “recognized organizations” as used in section 213 of Pub. L. 115-265, set out above, see section 203 of Pub. L. 115-265, set out as a note under section 2101 of this title.]

§ 3204. Implementation of safety management system

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

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

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

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

§ 3205. Certification

(a) ISSUANCE OF CERTIFICATE AND DOCUMENT.—After verifying that the responsible person for a

vessel to which this chapter applies and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

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

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

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

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

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

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

Editorial Notes

AMENDMENTS

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

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

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

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

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

CHAPTER 33—INSPECTION GENERALLY

- Sec. 3301. Vessels subject to inspection. 3302. Exemptions. 3303. Reciprocity for foreign vessels. 3304. Transporting individuals in addition to crew. 3305. Scope and standards of inspection. 3306. Regulations. 3307. Frequency of inspection. 3308. Examinations. 3309. Certificate of inspection. 3310. Records of certification. 3311. Certificate of inspection required. 3312. Display of certificate of inspection. 3313. Compliance with certificate of inspection. 3314. Expiration of certificate of inspection. 3315. Disclosure of defects and protection of informants. 3316. Classification societies. 3317. Fees. 3318. Penalties.

HISTORICAL AND REVISION NOTES

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

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

In the more than 100 years since then, as the public recognized the need for vessel safety legislation, pri-

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

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

Editorial Notes

AMENDMENTS

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

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

§ 3301. Vessels subject to inspection

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

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

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

HISTORICAL AND REVISION NOTES

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