

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.)

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 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 examinations 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

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 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 offender 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.

Editorial Notes

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”.

Statutory Notes and Related Subsidiaries

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 National 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; amended Pub. L. 115-282, title VI, §601(c)(6)(B)(i), Dec. 4, 2018, 132 Stat. 4290.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282 inserted “National” before “Towing Safety” in introductory provisions.

Statutory Notes and Related Subsidiaries

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 regulations 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.

Editorial Notes

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.)