

crew is transported on a vessel as permitted by this section, the owner, charterer, managing operator, agent, master, or individual in charge of the vessel first shall notify the individual of the presence on board of dangerous articles as defined by law, and of other conditions or circumstances that would constitute a risk of safety to the individual on board.

(c) A privilege authorized by this section applies to a vessel of a foreign country that affords a similar privilege to vessels of the United States in trades not restricted to vessels under its own flag.

(d) A fishing, fish processing, or fish tender vessel that transports not more than 12 individuals employed in the fishing industry in addition to the crew is not subject to inspection as a passenger or small passenger vessel.

(e) The Secretary may by regulation allow individuals in addition to the crew to be transported in an emergency or under section 2304 of this title.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 513; Pub. L. 98-364, title IV, § 402(4), July 17, 1984, 98 Stat. 446; Pub. L. 99-307, § 1(5)(A), May 19, 1986, 100 Stat. 444.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source section (U.S. Code)</i> |
|------------------------|-----------------------------------|
| 3304 .....             | 46:390-393<br>46:882              |

Section 3304 permits the carriage of not more than 12 individuals in addition to the crew on international voyages or not more than 16 individuals in addition to the crew on other voyages without subjecting a documented vessel carrying cargo to the inspection requirements of a passenger vessel. This section permits the bulk of vessels subject to the International Convention for Safety of Life at Sea to carry up to 12 passengers and to permit other cargo vessels, primarily those engaged in the coastwise trade, to carry up to 16 passengers without being categorized as passenger vessels. It also requires that these individuals be notified of the presence of dangerous articles or other conditions or circumstances that constitute a risk of safety. This is of prime importance on tank vessels that carry flammable or hazardous cargoes.

#### AMENDMENTS

1986—Pub. L. 99-307, § 1(5)(A)(i), substituted “Transporting” for “Carrying” in section catchline.

Subsec. (a). Pub. L. 99-307, § 1(5)(A)(ii), substituted “transporting cargo that transports” for “carrying cargo that carries” and inserted “if the vessel is otherwise subject to inspection under this chapter”.

Subsec. (b). Pub. L. 99-307, § 1(5)(A)(iii), substituted “Except when subsection (e) of this section applies, before” for “Before” and “transported” for “carried”.

Subsec. (c). Pub. L. 99-307, § 1(5)(A)(iv), substituted “A privilege” for “The privilege”.

Subsec. (e). Pub. L. 99-307, § 1(5)(A)(v), added subsec. (e).

1984—Subsec. (d). Pub. L. 98-364 added subsec. (d).

#### EFFECTIVE DATE

Section 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.

### § 3305. Scope and standards of inspection

(a)(1) The inspection process shall ensure that a vessel subject to inspection—

(A) is of a structure suitable for the service in which it is to be employed;

(B) is equipped with proper appliances for lifesaving, fire prevention, and firefighting;

(C) has suitable accommodations for the crew, sailing school instructors, and sailing school students, and for passengers on the vessel if authorized to carry passengers;

(D) has an adequate supply of potable water for drinking and washing by passengers and crew;

(E) is in a condition to be operated with safety to life and property; and

(F) complies with applicable marine safety laws and regulations.

(2) In determining the adequacy of the supply of potable water under paragraph (1)(D), the Secretary shall consider—

(A) the size and type of vessel;

(B) the number of passengers or crew on board;

(C) the duration and routing of voyages; and

(D) guidelines for potable water recommended by the Centers for Disease Control and Prevention and the Public Health Service.

(b) If an inspection, or examination under section 3308 of this title, reveals that a life preserver, lifesaving device, or firehose is defective and incapable of being repaired, the owner or master shall destroy the life preserver, lifesaving device, or firehose in the presence of the official conducting the inspection or examination.

(c) A nautical school vessel operated by a civilian nautical school or by an educational institution under section 558 of title 40 shall be inspected like a small passenger vessel or a passenger vessel, depending on its tonnage.

(d)(1) The Commandant of the Coast Guard shall ensure that Officers in Charge, Marine Inspections consistently interpret regulations and standards under this subtitle and chapter 700 to avoid disruption and undue expense to industry.

(2)(A) Subject to subparagraph (B), in the event of a disagreement regarding the condition of a vessel or the interpretation of a regulation or standard referred to in subsection (a) between a local Officer in Charge, Marine Inspection conducting an inspection of the vessel and the Officer in Charge, Marine Inspection that issued the most recent certificate of inspection for the vessel, such Officers shall seek to resolve such disagreement.

(B) If a disagreement described in subparagraph (A) involves vessel design or plan review, the Coast Guard marine safety center shall be included in all efforts to resolve such disagreement.

(C) If a disagreement described in subparagraph (A) or (B) cannot be resolved, the local Officer in Charge, Marine Inspection shall submit to the Commandant of the Coast Guard, through the cognizant Coast Guard district commander, a request for a final agency determination of the matter in disagreement.

(3) The Commandant of the Coast Guard shall—

(A) provide to each person affected by a decision or action by an Officer in Charge, Marine Inspection or by the Coast Guard marine safety center all information necessary for such person to exercise any right to appeal such decision or action; and

(B) if such an appeal is filed, process such appeal under parts 1 through 4 of title 46, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2017.

(4) In this section, the term “Officer in Charge, Marine Inspection” means any person from the civilian or military branch of the Coast Guard who—

(A) is designated as such by the Commandant; and

(B) under the superintendence and direction of the cognizant Coast Guard district commander, is in charge of an inspection zone for the performance of duties with respect to the inspections under, and enforcement and administration of, subtitle II, chapter 700, and regulations under such laws.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 513; Pub. L. 99–36, §1(a)(1), May 15, 1985, 99 Stat. 67; Pub. L. 99–640, §13(e), Nov. 10, 1986, 100 Stat. 3551; Pub. L. 107–217, §3(m)(2), Aug. 21, 2002, 116 Stat. 1302; Pub. L. 108–293, title IV, §416, Aug. 9, 2004, 118 Stat. 1047; Pub. L. 109–241, title IX, §901(f), July 11, 2006, 120 Stat. 564; Pub. L. 115–282, title V, §501(a), Dec. 4, 2018, 132 Stat. 4268.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source section (U.S. Code)</i> |
|------------------------|-----------------------------------|
| 3305 .....             | 46:369                            |
|                        | 46:390a                           |
|                        | 46:391                            |
|                        | 46:392                            |
|                        | 46:395                            |
|                        | 46:404–1                          |
|                        | 46:405                            |
|                        | 46:406                            |
|                        | 46:407                            |
|                        | 46:408                            |
|                        | 46:660a                           |
|                        | 46:881                            |

Section 3305 consolidates, at one place, the basic scope of coverage of the inspection process. It is to be noted that the time difference in enactment of various statutes has resulted in some anomalies. Thus, for example, R.S. 4417 (46 U.S.C. 391) which had originally set periods of inspection and vested authority in “local inspectors” was expanded over the years to provide the base for inspection of certain classes of vessels as well as setting out the periods and scope. The distillation of inspection objectives and standards in later laws and the transfer of all functions of separately created bureaus and functionaries to the Coast Guard permit this consolidation. There are those who have a desire to see the scope and standards of inspection be more specific in law similar to those presently applicable to boilers and boiler plating that predate 1871. The Committee believes this serves no useful purpose since the specifics are either antiquated or too limiting and have, in fact, been superseded by the statutorily authorized adoption of various industrial specifications, standards, and codes by the Coast Guard. These include the American Bureau of Shipping (ABS), American Society of Mechanical Engineers (ASME), American National Standards Institute (ANSI), American Society for Testing and Materials (ASTM), American Welding Society (AWS), Underwriters Laboratories (UL), and many others. In addition, Coast Guard regulations must also implement and conform to the numerous international maritime safety treaties to which the United States is signatory. The Committee expects that the regulatory flexibility being provided will not reduce the present vessel inspection requirements that have been historically developed.

Section 3305(a) establishes the statutory scope of the Coast Guard’s vessel inspection authority and duty.

The inspection process shall ensure that a vessel is of suitable structure, equipment, and accommodations, is maintained in an operating condition consistent with safety of life and property, and complies with applicable marine safety laws and regulations.

Subsection (b) requires that defective life preservers and firehose be destroyed in the presence of the inspecting official, normally a qualified Coast Guard marine inspector. The Committee believes that if this equipment is defective for use on an inspected vessel, it should be destroyed so that it cannot be used on an uninspected or recreational vessel.

Subsection (c) provides flexibility in the inspection of various sizes of nautical school vessels.

#### REFERENCES IN TEXT

The date of enactment of the Coast Guard Authorization Act of 2017, referred to in subsec. (d)(3)(B), probably means the date of enactment of the Frank LoBiondo Coast Guard Authorization Act of 2018, Pub. L. 115–282, which enacted subsec. (d) of this section and chapter 700 of this title and was approved Dec. 4, 2018. No act with the title “Coast Guard Authorization Act of 2017” has been enacted.

#### AMENDMENTS

2018—Subsec. (d). Pub. L. 115–282 added subsec. (d).

2006—Subsec. (a)(2). Pub. L. 109–241 realigned margins.

2004—Subsec. (a). Pub. L. 108–293, §416(b), designated existing provisions as par. (1), redesignated former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (1), and added par. (2).

Subsec. (a)(4) to (6). Pub. L. 108–293, §416(a), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

2002—Subsec. (c). Pub. L. 107–217 substituted “section 558 of title 40” for “section 13 of the Coast Guard Authorization Act of 1986”.

1986—Subsec. (c). Pub. L. 99–640 inserted “or by an educational institution under section 13 of the Coast Guard Authorization Act of 1986”.

1985—Subsec. (b). Pub. L. 99–36 substituted “lifesaving” and “life preserver, lifesaving device, or firehose” for “life-saving” and “life preserver or firehose”, respectively.

#### EFFECTIVE DATE

Section 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.

### § 3306. Regulations

(a) To carry out this part and to secure the safety of individuals and property on board vessels subject to inspection, the Secretary shall prescribe necessary regulations to ensure the proper execution of, and to carry out, this part in the most effective manner for—

(1) the design, construction, alteration, repair, and operation of those vessels, including superstructures, hulls, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, boilers, unfired pressure vessels, piping, electric installations, and accommodations for passengers and crew, sailing school instructors, and sailing school students;

(2) lifesaving equipment and its use;

(3) firefighting equipment, its use, and precautionary measures to guard against fire;

(4) inspections and tests related to paragraphs (1), (2), and (3) of this subsection; and

(5) the use of vessel stores and other supplies of a dangerous nature.

(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.