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.

VESSELS REPAIRED OR RETROFITTED FOR MOBILE TRADE FAIR PURPOSES DEEMED OUT OF COMMISSION

Pub. L. 100–418, title X, § 10003(b), Aug. 23, 1988, 102 Stat. 1573, provided that: ''For one year after the date of enactment of this Act [Aug. 23, 1988], a vessel that is undergoing repair or retrofitting for use solely for mobile trade fair purposes is deemed to be out of commission under section 3302(e) of title 46, United States Code, during the repair or retrofitting.''

EXEMPTION OF CERTAIN FISHING AND FISH PROCESSING VESSELS

Pub. L. 98–364, title IV, § 403, July 17, 1984, 98 Stat. 450, as amended by Pub. L. 99–36, § 3, May 15, 1985, 99 Stat. 68; Pub. L. 101–225, title III, § 306, Dec. 12, 1989, 103 Stat. 1925, provided that:

''(a) Except as provided in chapter 37 of title 46, United States Code, and before January 1, 1991, a fishing, fish processing, or fish tender vessel, that is (1) not more than 500 gross tons and (2) in operation, or contracted for purchase to be used as a vessel of this type, before July 1, 1984, may transport cargo to or from a place in Alaska not receiving weekly transportation service from a port of the United States by an established water common carrier, except that the service limitation does not apply to transporting cargo of a type not accepted by that carrier.

''(b) A fish processing vessel entered into service before January 1, 1988, and more than 1,600 gross tons or entered into service after December 31, 1987, and having more than 16 individuals on board primarily employed in the preparation of fish or fish products is exempt from section 8702(b) of title 46, United States Code, until 18 months after the date of enactment of this Act [July 17, 1984].

''(c) As used in subsections (a) and (b) of this section, the terms 'fishing vessel', 'fish processing vessel' and 'fish tender vessel' shall have the meaning given to such terms in section 2101 of title 46, United States Code.''

OFFSHORE SUPPLY VESSELS; TRANSITION PERIOD FOR COMPLIANCE WITH VESSEL INSPECTION PROVISIONS

Pub. L. 98–89, § 2(i), Aug. 26, 1983, 97 Stat. 599, provided that: ''Each offshore supply vessel described in section 3302(g) of title 46 (as enacted by section 1 of this Act), that was registered with the Secretary of Transportation under section 4426a(7) of the Revised Statutes [former 46 U.S.C. 404–1(7)] but that has not been inspected by the Secretary shall be held to be in compliance with all applicable vessel inspection laws pending verification by actual inspection or until one year after the date of enactment of this Act [Aug. 26, 1983], whichever is earlier.''

## § 3303. Reciprocity for foreign vessels

Except as provided in chapter 37 and section 3505 of this title, a foreign vessel of a country having inspection laws and standards similar to those of the United States and that has an unexpired certificate of inspection issued by proper authority of its respective country, is subject to an inspection to ensure that the condition of the vessel is as stated in its current certificate of inspection. A foreign country is considered to have inspection laws and standards similar to those of the United States when it is a party to an International Convention for Safety of Life at Sea to which the United States Government is currently a party. A foreign certificate of inspection may be accepted as evidence of lawful inspection only when presented by a vessel of a country that has by its laws accorded to vessels of the United States visiting that country the same privileges accorded to vessels of that country visiting the United States.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 512; Pub. L. 102–587, title V, § 5210(a), Nov. 4, 1992, 106 Stat. 5076; Pub. L. 104–324, title XI, § 1111, Oct. 19, 1996, 110 Stat. 3970; Pub. L. 108–293, title IV, § 411(b), Aug. 9, 2004, 118 Stat. 1046.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source section (U.S. Code)* |
|---|---|
| 3303 | 46:362(a)<br>46:390c<br>46:391a(3) |

Section 3303 acknowledges the international concept of comity with respect to recognizing inspection laws and standards for foreign flag vessels that are similar to those of the United States. If a foreign nation is signatory to the International Convention for Safety of Life at Sea, it is presumed to have similar standards. However, reciprocity requirements for foreign flag tank vessels are included in chapter 37. Subsection (b) provides for a mutual waiver of fees for the inspection of foreign vessels carrying passengers from the United States.

AMENDMENTS

2004—Pub. L. 108–293 inserted ''and section 3505'' after ''chapter 37''.

1996—Pub. L. 104–324 struck out subsec. (a) designation and subsec. (b) which read as follows: ''The Secretary shall collect and pay to the Treasury the same fees for the inspection of foreign vessels carrying passengers from the United States that a foreign country charges vessels of the United States trading to the ports of that country. The Secretary may waive at any time the collection of the fees on notice of the proper authorities of any country concerned that the collection of fees for the inspection of vessels of the United States has been discontinued.''

1992—Subsec. (a). Pub. L. 102–587, in first sentence, struck out ''only'' after ''is subject'' and substituted ''the condition of the vessel is'' for ''the condition of the vessel's propulsion equipment and lifesaving equipment are''.

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.

## § 3304. Transporting individuals in addition to crew

(a) A documented vessel transporting cargo that transports 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, is not subject to inspection as a passenger vessel or a small passenger vessel if the vessel is otherwise subject to inspection under this chapter.

(b) Except when subsection (e) of this section applies, before an individual in addition to the 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 circum-

stances 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

| *Revised section* | *Source section (U.S. Code)* |
|---|---|
| 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).

## § 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.

(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.)

HISTORICAL AND REVISION NOTES

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