

§ 3715. Lightering

(a) A vessel may transfer oil or hazardous material in a port or place subject to the jurisdiction of the United States, when the cargo has been transferred from another vessel on the navigable waters of the United States or in the marine environment, only if—

- (1) the transfer was conducted consistent with regulations prescribed by the Secretary;
(2) both the delivering and receiving vessels had on board, at the time of transfer, a certificate of inspection or a certificate of compliance, as would have been required under section 3710 or 3711 of this title, had the transfer taken place in a port or place subject to the jurisdiction of the United States;
(3) the delivering and the receiving vessel had on board at the time of transfer, a certificate of financial responsibility as would have been required under section 1016 of the Oil Pollution Act of 1990, had the transfer taken place in a place subject to the jurisdiction of the United States;
(4) the delivering and the receiving vessel had on board at the time of transfer, evidence that each vessel is operating in compliance with section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)); and
(5) the delivering and the receiving vessel are operating in compliance with section 3703a of this title.

(b) The Secretary shall prescribe regulations to carry out subsection (a) of this section. The regulations shall include provisions on—

- (1) minimum safe operating conditions, including sea state, wave height, weather, proximity to channels or shipping lanes, and other similar factors;
(2) the prevention of spills;
(3) equipment for responding to a spill;
(4) the prevention of any unreasonable interference with navigation or other reasonable uses of the high seas, as those uses are defined by treaty, convention, or customary international law;
(5) the establishment of lightering zones; and
(6) requirements for communication and prearrival messages.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 526; Pub. L. 101-380, title IV, §4115(d), Aug. 18, 1990, 104 Stat. 520; Pub. L. 114-120, title III, §306(a)(4), Feb. 8, 2016, 130 Stat. 54.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 3715, 46:391a(17)

Section 3715 requires the Secretary to control lightering operations; that is, the transferring of cargoes at sea from large deep-draft vessels to shallow-draft vessels for subsequent transfer to shoreside terminals due to the inability of the larger tank vessels to enter shallow ports. It prohibits a tank vessel from unloading any cargo of oil or hazardous material at any port or terminal under the jurisdiction of the United States, unless the cargo has been transferred in accordance with lightering regulations. It also prohibits the shore-side transfer unless both the delivering and receiving vessels involved in the prior lightering had on board at the time of the offshore transfer, the certificates that

would have been required had the transfer taken place in a port or place subject to the jurisdiction of the United States.

The regulations to be prescribed by the Secretary shall include a number of specific considerations but may include any related matters deemed necessary to promote navigation and vessel safety and protection of the marine environment. The Secretary must consider standards for minimum safe operating conditions, including sea state, wave height, weather, vessel traffic, the prevention of oil spills, and oil spill response equipment. In regulating this operation, there must not be any unreasonable interference with international navigation or reasonable uses of the high seas, and there must be established lightering zones with attendant communications and prearrival message requirements.

REFERENCES IN TEXT

Section 1016 of the Oil Pollution Act of 1990, referred to in subsec. (a)(3), is classified to section 2716 of Title 33, Navigation and Navigable Waters.

AMENDMENTS

- 2016—Subsec. (a)(2). Pub. L. 114-120 struck out “and” at end.
1990—Subsec. (a)(3) to (5). Pub. L. 101-380 added pars. (3) to (5).

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.

EFFECTIVE DATE

Pub. L. 98-89, §2(g)(2), Aug. 26, 1983, 97 Stat. 599, provided that: “Section 3715(a) of title 46 (as enacted by section 1 of this Act) is effective on the day after the effective date of the regulations prescribed by the Secretary under section 3715(b) of title 46.” [Regulations effective Apr. 26, 1984, see 49 F.R. 11170, Mar. 26, 1984.]

§ 3716. Tank washings

(a) A vessel may not transfer cargo in a port or place subject to the jurisdiction of the United States if, before arriving, the vessel has discharged tank washings containing oil or hazardous material in preparation for loading at that port or place in violation of the laws of the United States or in a manner or quantities inconsistent with a treaty to which the United States is a party.

(b) The Secretary shall establish effective control and supervisory measures to carry out this section.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 527.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 3716, 46:391a(18)

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.