CHAPTER 25—PORTS AND WATERWAYS SAFETY PROGRAM

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CHAPTER REFERRED TO IN OTHER SECTIONS
This chapter is referred to in title 49 App. section 1806.

§ 1221. Statement of policy

The Congress finds and declares—(a) that navigation and vessel safety and protection of the marine environment are matters of major national importance;
(b) that increased vessel traffic in the Nation's ports and waterways creates substantial hazard to life, property, and the marine envi-
ronment;
(c) that increased supervision of vessel and port operations is necessary in order to—
(1) reduce the possibility of vessel or cargo loss, or damage to life, property, or the marine environment;
(2) prevent damage to structures in, on, or immediately adjacent to the navigable waters of the United States or the resources within such
waters;
(3) insure that vessels operating in the navigable waters of the United States shall comply with all applicable standards and require-
ments for vessel construction, equipment, manning, and operational procedures; and
(4) insure that the handling of dangerous articles and substances on the structures in, on, or immediately adjacent to the navigable
waters of the United States is conducted in accordance with established standards and requirements; and
(d) that advance planning is critical in determining proper and adequate protective measures for the Nation's ports and waterways and the marine environment, with continuing consultation with other Federal agen-
cies, State representatives, affected users, and the general public, in the development and implementation of such measures.


AMENDMENTS
1978—Pub. L. 95-474 substituted provision relating to Congressional declaration of findings for provision relating to the authority of the Secretary of the de-
partment in which the Coast Guard is operating to prevent damage to vessels, bridges, and other structures and to protect navigable waters from environmental harm.

SHORT TITLE OF 1978 AMENDMENT
Section 1 of Pub. L. 95-474 provided: "That this Act [enacting sections 1225, 1228 to 1231, and 1233 of this title, amending sections 1221 to 1224, 1226, and 1227 of this title and sections 214 and 391a of Title 46, Ship-
ing, and enacting provisions set out as notes under sections 1221 and 1224 of this title and section 391a of former Title 46] may be cited as the 'Port and Tanker Safety Act of 1978.'"

SHORT TITLE
Section 1 of Pub. L. 92-340, as amended by Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1471, provided that: 'This Act (this chapter) may be cited as the 'Ports and Waterways Safety Act.'"

SAVINGS PROVISION
Section 6(a) of Pub. L. 95-474 provided that: "Regulations previously issued under statutory provisions which are amended by section 2 of this Act (amending sections 1221 to 1227, of this title) shall continue in effect as though issued under the authority of the Ports and Waterways Safety Act of 1972, as amended by this Act (this chapter), until expressly abrogated, modified, or amended by the Secretary. Any proceed-
ing under title I of Public Law 92-340 (which enacted sections 1221 to 1227 of this title) for a violation which occurred before the effective date of this Act (Oct. 17, 1978) may be initiated or continued to conclusion as though such public law had not been amended by this Act (amendment by section 2 of Pub. L. 95-474)."

SEPARABILITY OF PROVISIONS
Section 6(c) of Pub. L. 95-474 provided that: "If a provision of this Act (see Short Title of 1978 Amendment note set out above) or the application of such
provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby."

**Establishment of Vessel Traffic Control System for Prince William Sound and Valdez, Alaska**


§ 1222. Definitions

As used in this chapter, unless the context otherwise requires—

1. "Marine environment" means the navigable waters of the United States and the land and resources therein and thereunder; the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority; the seabed and subsoil of the Outer Continental Shelf of the United States, the resources thereof and the waters superjacent thereto; and the recreational, economic, and scenic values of such waters and resources.

2. "Secretary" means the Secretary of the department in which the Coast Guard is operating.

3. "State" includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.

4. "United States", when used in geographical context, means all the States thereof.


**References in Text**

For definition of Canal Zone, referred to in par. (3), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

**Amendments**

1978—Pub. L. 95-474 substituted provision relating to definitions for provision defining "United States", permitting higher State or local safety standards, and providing for consultation with appropriate agencies, the inapplicability of this chapter to the Panama Canal, delegation of powers with respect to the Saint Lawrence Seaway, and factors to be considered in issuance of regulations.

§ 1223. Vessel operating requirements

(a) In general

Subject to the requirements of section 1224 of this title, the Secretary may—

1. In any port or place under the jurisdiction of the United States, in the navigable waters of the United States, or in any area covered by an international agreement negotiated pursuant to section 1230 of this title, establish, operate, and maintain vessel traffic services, consisting of measures for controlling or supervising vessel traffic or for protecting navigation and the marine environment and may include, but need not be limited to one or more of the following: reporting and operating requirements, surveillance and communications systems, routing systems, and fairways;

2. Require vessels which operate in an area of a vessel traffic service to utilize or comply with that service;

3. Require vessels to install and use specified navigation equipment, communications equipment, electronic relative motion analyzer equipment, or any electronic or other device necessary to comply with a vessel traffic service or which is necessary in the interests of vessel safety: Provided, That the Secretary shall not require fishing vessels under 300 gross tons or recreational vessels 65 feet or less to possess or use the equipment or devices required by this subsection solely under the authority of this chapter;

4. Control vessel traffic in areas subject to the jurisdiction of the United States which the Secretary determines to be hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances by—

1. Specifying times of entry, movement, or departure;

2. Establishing vessel traffic routing schemes;

3. Establishing vessel size, speed, draft limitations and vessel operating conditions; and

4. Restricting operation, in any hazardous or under hazardous conditions, to vessels which have particular operating characteristics or capabilities which he considers necessary for safe operation under the circumstances; and

5. Require the receipt of prearrival messages from any vessel, destined for a port or place subject to the jurisdiction of the United States, in sufficient time to permit advance vessel traffic planning prior to port entry, which shall include any information which is not already a matter of record and which the Secretary determines necessary for the control of the vessel and the safety of the port or the marine environment.

(b) Special powers

The Secretary may order any vessel, in a port or place subject to the jurisdiction of the United States or in the navigable waters of the United States, to operate or anchor in a manner he directs if—

1. He has reasonable cause to believe such vessel does not comply with any regulation issued under this chapter or any other applicable law or treaty;

2. He determines that such vessel does not satisfy the conditions for port entry set forth in section 1228 of this title; or
(3) by reason of weather, visibility, sea conditions, port congestion, other hazardous circumstances, or the condition of such vessel, he is satisfied that such directive is justified in the interest of safety.

(c) Port access routes

(1) In order to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to the jurisdiction of the United States, and subject to the requirements of paragraph (3) hereof, the Secretary shall designate necessary fairways and traffic separation schemes for vessels operating in territorial waters of the United States and in high seas approaches, outside the territorial sea, to such ports or places. Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses.

(2) No designation may be made by the Secretary pursuant to this subsection, if such a designation, as implemented, would deprive any person of the effective exercise of a right granted by a lease or permit executed or issued under other applicable provisions of law: Provided, That such right has become vested prior to the time of publication of the notice required by clause (A) of paragraph (3) hereof: Provided further, That the determination as to whether the designation would so deprive any such person shall be made by the Secretary, after consultation with the responsible official under whose authority the lease was executed or the permit issued.

(3) Prior to making a designation pursuant to paragraph (1) hereof, and in accordance with the requirements of section 1224 of this title, the Secretary shall—

(A) within six months after date of enactment of this Act (and may, from time to time thereafter), undertake a study of the potential traffic density and the need for safe access routes for vessels in any area for which fairways or traffic separation schemes are proposed or which may otherwise be considered and shall publish notice of such undertaking in the Federal Register;

(B) in consultation with the Secretary of State, the Secretary of the Interior, the Secretary of Commerce, the Secretary of the Army, and the Governors of affected States, as their responsibilities may require, take into account all other uses of the area under consideration (including, as appropriate, the exploration for, or exploitation of, oil, gas, or other mineral resources, the construction or operation of deepwater ports or other structures on or above the seabed and subsoil of the submerged lands or the Outer Continental Shelf of the United States, the establishment or operation of marine or estuarine sanctuaries, and activities involving recreational or commercial fishing); and

(C) to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved.

(4) In carrying out his responsibilities under paragraph (3), the Secretary shall proceed expeditiously to complete any study undertaken. Thereafter, he shall promptly issue a notice of proposal or rule-making for the designation contemplated or shall have published in the Federal Register a notice that no designation is contemplated as a result of the study and the reason for such determination.

(5) In connection with a designation made pursuant to this subsection, the Secretary—

(A) shall issue reasonable rules and regulations governing the use of such designated areas, including the applicability of rules 9 and 10 of the International Regulations for Preventing Collisions at Sea, 1972, relating to narrow channels and traffic separation schemes, respectively, in waters where such regulations apply;

(B) to the extent that he finds reasonable and necessary to effectuate the purposes of the designation, make the use of designated fairways and traffic separation schemes mandatory for specific types and sizes of vessels, foreign and domestic, operating in the territorial sea of the United States and for specific types and sizes of vessels of the United States operating on the high seas beyond the territorial sea of the United States;

(C) may, from time to time, as necessary, adjust the location and limits of designated fairways or traffic separation schemes, in order to accommodate the needs of other uses which cannot be reasonably accommodated otherwise: Provided, That such an adjustment will not, in the judgement of the Secretary, unacceptably adversely affect the purpose for which the existing designation was made and the need for which continues; and

(D) shall, through appropriate channels, (i) notify cognizant international organizations of any designation, or adjustment thereof, and (ii) take action to seek the cooperation of foreign States in making it mandatory for vessels under their control to use any fairway or traffic separation scheme designated pursuant to this subsection in any area of the high seas, to the same extent as required by the Secretary for vessels of the United States.

(d) Exception

Except pursuant to international treaty, convention, or agreement, to which the United States is a party, this chapter shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

(1) innocent passage through the territorial sea of the United States, or

(2) transit through the navigable waters of the United States which form a part of an international strait.


References in Text

The date of enactment of this Act, referred to in subsec. (c)(3)(A), probably means the date of enactment of Pub. L. 95-474, which was approved Oct. 17, 1978.

Rules 9 and 10 of the International Regulations for Preventing Collisions at Sea, 1972, referred to in
subsec. (c)(5)(A), are set out as a note under section 1602 of this title.

AMENDMENTS

1978—Pub. L. 95–474 substituted provision relating to vessel operating requirements for provision relating to the investigatory powers of the Secretary, production of witnesses and documents, and fees and allowances for witnesses.

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see. Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1224, 1229 of this title; title 46 section 14305.

§ 1224. Considerations by Secretary

In carrying out his duties and responsibilities under section 1223 of this title, the Secretary shall—

(a) take into account all relevant factors concerning navigation and vessel safety and protection of the marine environment, including but not limited to—

(1) the scope and degree of the risk or hazard involved;

(2) vessel traffic characteristics and trends, including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;

(3) port and waterway configurations and variations in local conditions of geography, climate, and other similar factors;

(4) the need for granting exemptions for the installation and use of equipment or devices for use with vessel traffic services for certain classes of small vessels, such as self-propelled fishing vessels and recreational vessels;

(5) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;

(6) environmental factors;

(7) economic impact and effects; and

(8) existing vessel traffic services; and

(b) at the earliest possible time, consult with and receive and consider the views of representatives of the maritime community, ports and harbor authorities or associations, environmental groups, and other parties who may be affected by the proposed actions.


AMENDMENTS

1978—Pub. L. 95–474 substituted provision relating to factors to be considered by the Secretary and to consultation by the Secretary with affected groups for provision relating to the issuance of rules and regulations by the Secretary.

STUDY OF DESIRABILITY AND FEASIBILITY OF SHORE-STATION SYSTEMS FOR MONITORING VESSELS

Section 3 of Pub. L. 95–474 authorized the Secretary, in consultation with the Secretary of Commerce and other appropriate departments or agencies of the Federal Government to study the desirability and feasibility of shore-station systems for monitoring vessels within the Fishery Conservation Zone as defined in section 1802(b) of Title 16, Conservation, required the Secretary to report his findings to Congress, within two years after Oct. 17, 1978, and authorized appropriations for such study for fiscal years 1979 and 1980.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1223, 1229 of this title.

§ 1225. Waterfront safety

(a) In general

The Secretary may take such action as is necessary to—

(1) prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters; and

(2) protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss. Such action may include, but need not be limited to—

(A) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement on the structure (including the emergency removal, control, and disposition) of explosives or other dangerous articles and substances, including oil or hazardous material as those terms are defined in section 2101 of title 46;

(B) prescribing minimum safety equipment requirements for the structure to assure adequate protection from fire, explosion, natural disaster, and other serious accidents or casualties;

(C) establishing water or waterfront safety zones, or other measures for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area; and

(D) establishing procedures for examination to assure compliance with the requirements prescribed under this section.

(b) State law

Nothing contained in this section, with respect to structures, prohibits a State or political subdivision thereof from prescribing higher safety equipment requirements or safety standards than those which may be prescribed by regulations hereunder.


CODIFICATION

TITe 33 — NAVIGATION AND NAVIGABLE WATERS § 1228

AMENDMENTS
1978—Pub. L. 95-474 substituted provisions relating to waterfront safety for provision requiring the Secretary to report to Congress within one year his recommendations for legislation to achieve coordination between functions authorized under Pub. L. 92-340 and the functions of any other agencies and to eliminate duplication of these functions.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 1229, 1911 of this title.

§ 1226. Port, harbor, and coastal facility security

(a) General authority
The Secretary may take actions described in subsection (b) of this section to prevent or respond to an act of terrorism against—
(1) an individual, vessel, or public or commercial structure, that is—
(A) subject to the jurisdiction of the United States; and
(B) located within or adjacent to the marine environment; or
(2) a vessel of the United States or an individual on board that vessel.

(h) Specific authority
Under subsection (a) of this section, the Secretary may—
(1) carry out or require measures, including inspections, port and harbor patrols, the establishment of security and safety zones, and the development of contingency plans and procedures, to prevent or respond to acts of terrorism; and
(2) recruit members of the Regular Coast Guard and the Coast Guard Reserve and train members of the Regular Coast Guard and the Coast Guard Reserve in the techniques of preventing and responding to acts of terrorism.


PRIOR PROVISIONS

§ 1227. Investigatory powers

(a) Secretary
The Secretary may investigate any incident, accident, or act involving the loss or destruction of, or damage to any structure subject to this chapter, or which affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States.

(h) Powers
In an investigation under this section, the Secretary may issue subpoenas to require the attendance of witnesses and the production of documents or other evidence relating to such incident, accident, or act. If any person refuses to obey a subpoena, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance with the subpoena. Any district court of the United States may, in the case of refusal to obey a subpoena, issue an order requiring compliance with the subpoena, and failure to obey the order may be punished by the court as contempt. Witnesses may be paid fees for travel and attendance at rates not exceeding those allowed in a district court of the United States.


AMENDMENTS
1978—Pub. L. 95-474 substituted provision relating to the investigatory powers of the Secretary for provision relating to criminal penalties.

§ 1228. Conditions for entry to ports in the United States

(a) In general
No vessel, subject to the provisions of chapter 37 of title 46, shall operate in the navigable waters of the United States or transfer cargo or residue in any port or place under the jurisdiction of the United States, if such vessel—
(1) has a history of accidents, pollution incidents, or serious repair problems which, as determined by the Secretary, creates reason to believe that such vessel may be unsafe or may create a threat to the marine environment; or
(2) fails to comply with any applicable regulation issued under this chapter, chapter 37 of title 46, or under any other applicable law or treaty; or
(3) discharges oil or hazardous material in violation of any law of the United States or in a manner or quantities inconsistent with the provisions of any treaty to which the United States is a party; or
(4) does not comply with any applicable vessel traffic service requirements; or
(5) is manned by one or more officers who are licensed by a certificating state which the Secretary has determined, pursuant to section 9101 of title 46, does not have standards for licensing and certification of seafarers which are comparable to or more stringent than United States standards or international standards which are accepted by the United States; or
(6) is not manned in compliance with manning levels as determined by the Secretary to be necessary to insure the safe navigation of the vessel; or
(7) while underway, does not have at least one licensed deck officer on the navigation bridge who is capable of clearly understanding English.

(b) Exceptions
The Secretary may allow provisional entry of a vessel not in compliance with subsection (a) of this section, if the owner or operator of such vessel proves, to the satisfaction of the Secre-
tary, that such vessel is not unsafe or a threat to the marine environment, and if such entry is necessary for the safety of the vessel or persons aboard. In addition, paragraphs (1), (2), (3), and (4) of subsection (a) of this section shall not apply if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is no longer unsafe or a threat to the marine environment, and is no longer in violation of any applicable law, treaty, regulation or condition, as appropriate. Clauses (5) and (6) of subsection (a) of this section shall become applicable eighteen months after October 17, 1978.


CODIFICATION

In subsec. (a), "chapter 37 of title 46" and "section 901 of title 46" were substituted for "section 4417a of the Revised Statutes, as amended (46 U.S.C. 391a)" and "section 4417a(11) of the Revised Statutes, as amended (46 U.S.C. 391a(11))", respectively, on authority of Pub. L. 98-89, § 2(b), Aug. 26, 1983, 97 Stat. 598, section 1 of which enacted Title 46, Shipping.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1223, 1232, 1911 of this title.

§ 1229. Applicability

This chapter shall not apply to the Panama Canal. The authority granted to the Secretary under sections 1223, 1224, and 1225 of this title shall not be delegated with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation. Any other authority granted the Secretary under this chapter shall be delegated to the Saint Lawrence Seaway Development Corporation to the extent he determines such delegation is necessary for the proper operation of the Saint Lawrence Seaway.


AMENDMENTS


SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1911 of this title.

§ 1230. International agreements

(a) Transmittal of regulations

The Secretary shall transmit, via the Secretary of State, to appropriate international bodies or forums, any regulations issued under this chapter, for consideration as international standards.

(b) Agreements

The President is authorized and encouraged to—

(1) enter into negotiations and conclude and execute agreements with neighboring nations, to establish compatible vessel standards and vessel traffic services, and to establish, operate, and maintain international vessel traffic services, in areas and under circumstances of mutual concern; and

(2) enter into negotiations, through appropriate international bodies, and conclude and execute agreements to establish vessel traffic services in appropriate areas of the high seas.

(c) Operations

The Secretary, pursuant to any agreement negotiated under subsection (b) of this section which is binding upon the United States in accordance with constitutional requirements, may—

(1) require vessels in the vessel traffic service area to utilize or to comply with the vessel traffic service, including the carrying or installation of equipment and devices as necessary for the use of the service; and

(2) waive, by order or regulation, the application of any United States law or regulation concerning the design, construction, operation, equipment, personnel qualifications, and manning standards for vessels operating in waters over which the United States exercises jurisdiction if such vessel is not en route to or from a United States port or place, and if vessels en route to or from a United States port or place are accorded equivalent waivers of laws and regulations of the neighboring nation, when operating in waters over which that nation exercises jurisdiction.


SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1223, 1911 of this title.

§ 1231. Regulations

(a) In general

In accordance with the provisions of section 553 of title 5, the Secretary shall issue, and may from time to time amend or repeal, regulations necessary to implement this chapter.

(b) Procedures

The Secretary, in the exercise of this regulatory authority, shall establish procedures for consulting with, and receiving and considering the views of all interested parties, including—

(1) interested Federal departments and agencies,

(2) officials of State and local governments,

(3) representatives of the maritime community,

(4) representatives of port and harbor authorities or associations,

(5) representatives of environmental groups,

(6) any other interested parties who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment, and

(7) advisory committees consisting of all interested segments of the public when the establishment of such committees is considered necessary because the issues involved are highly complex or controversial.
§ 1231a. Towing Safety Advisory Committee

(a) Establishment; membership

There is established a Towing Safety Advisory Committee (hereinafter referred to as the “Committee”). The Committee shall consist of sixteen members with particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety as follows:

(1) seven members from the barge and towing industry, reflecting a regional geographic balance;
(2) one member from the offshore mineral and oil supply vessel industry; and
(3) two members from each of the following—
   (A) port districts, authorities, or terminal operators;
   (B) maritime labor;
   (C) shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge); and
   (D) the general public.

(b) Appointments; Chairman, Vice Chairman, and observers; publication in Federal Register

The Secretary of the department in which the Coast Guard is operating (hereinafter referred to as the “Secretary”) shall appoint the members of the Committee. The Secretary shall designate one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman. The Secretary may request the Secretary of the Army and the Secretary of Commerce to each designate a representative to participate as an observer on the Committee. The Secretary shall not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(c) Functions; meetings; public proceedings and records; disclosures to Congress

The Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned. The Secretary shall consult with the Committee before taking any significant action affecting shallow-draft inland and coastal waterway navigation and towing safety. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Committee shall be open to the public, and a record of the proceedings shall be made available for public inspection. The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.

(d) Compensation and travel expenses; administrative services; personnel; authorization of appropriations

Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5. The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are considered necessary for the conduct of its business. There are authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection.

(e) Termination

Unless extended by subsequent Act of Congress, the Committee shall terminate on September 30, 1990.

CODIFICATION

Section was not enacted as part of the Ports and Waterways Safety Act which comprises this chapter.

AMENDMENTS

1984—Subsec. (e). Pub. L. 98-557 substituted “on September 30, 1990” for “five years from the date of enactment of this Act”.

1982—Subsec. (b). Pub. L. 97-322, § 118(d)(1), required the Secretary, not less often than once a year, to publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

Subsec. (c). Pub. L. 97-322, § 118(d)(2), authorized the Committee to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.


§ 1232. Enforcement provisions

(a) Civil penalty

(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this chapter or a regulation issued hereunder shall be liable to the United States for a civil penalty; not to exceed $25,000 for each violation. Each continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability,
any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(3) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

(b) Criminal penalty

(1) Any person who willfully and knowingly violates this chapter or any regulation issued hereunder shall be fined not more than $50,000 for each violation or imprisoned for not more than five years, or both.

(2) Any person who, in the willful and knowing violation of this chapter or of any regulation issued hereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this chapter or the regulations issued hereunder, shall, in lieu of the penalties prescribed in paragraph (1), be fined not more than $100,000, or imprisoned for not more than ten years, or both.

(c) In rem liability

Any vessel subject to the provisions of this chapter, which is used in violation of this chapter, or any regulations issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to subsection (a) of this section and may be proceeded against in the United States district court for any district in which such vessel may be found.

(d) Injunction

The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued hereunder, for cause shown.

(e) Denial of entry

Except as provided in section 1228 of this title, the Secretary may, subject to recognized principles of international law, deny entry into the navigable waters of the United States to any port or place under the jurisdiction of the United States or to any vessel not in compliance with the provisions of this chapter or the regulations issued hereunder.

(f) Withholding of clearance

The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 91 of title 46, Appendix, of any vessel, the owner or operator of which is subject to any of the penalties in this section. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.


SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1911 of this title; title 14 section 91.

§ 1233. Regulations as to regattas or marine parades

The Commandant of the Coast Guard is authorized and empowered in his discretion to issue from time to time regulations, not contrary to law, to promote the safety of life on navigable waters during regattas or marine parades.


CODIFICATION

Section was not enacted as part of the Ports and Waterways Safety Act which comprises this chapter.

Section was formerly classified to section 454 of former Title 46, Shipping.

TRANSFER OF FUNCTIONS

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 106 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280. 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of Reorg. Plan No. 3 of 1946, §§ 101-104, set out in the Appendix to Title 5.

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913, which provided that the Secretary of Commerce and Labor should be called the Secretary of Commerce.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234, 1235, 1236 of this title.

§ 1234. Enforcement of regulations; use of public or private vessels

To enforce such regulations the Commandant of the Coast Guard may detail any public vessel in the service of the Coast Guard and make use of any private vessel tendered gratuitously for the purpose, or upon the request of the Commandant of the Coast Guard the head of any other department may enforce the regulations issued under sections 1233 and 1235 of this title by means of any public vessel of such department and of any private vessel tendered gratuitously for the purpose.

(Apr. 28, 1908, ch. 151, § 2, 35 Stat. 69; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1946 Reorg. Plan

Codicification

Section was not enacted as part of the Ports and Waterways Safety Act which comprises this chapter.

This section was formerly classified to section 455 of former Title 46, Shipping.

Transfer of Functions

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1956, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14. "Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of Reorg. Plan No. 3 of 1946, §§ 101-104, set out in the Appendix to Title 5.

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913, which provided that the Secretary of Commerce and Labor should be called the Secretary of Commerce.

Section Referred to in Other Sections

This section is referred to in sections 1234, 1236 of this title.

§ 1236. Penalties for violations of regulations

For any violation of regulations issued pursuant to sections 1233 to 1235 of this title the following penalties shall be incurred:

(a) A licensed officer shall be liable to suspension or revocation of license in the manner now prescribed by law for incompetency or misconduct.

(b) Any person in charge of the navigation of a vessel other than a licensed officer shall be liable to a penalty of $500.

(c) The owner of a vessel (including any corporate officer of a corporation owning the vessel) actually on board shall be liable to a penalty of $500, unless the violation of regulations shall have occurred without his knowledge.

(d) Any other person shall be liable to a penalty of $250.

The Commandant of the Coast Guard is authorized and empowered to mitigate or remit any penalty herein provided for in the manner prescribed by law for the mitigation or remission of penalties for violation of the navigation laws.


Codicification

Section was not enacted as part of the Ports and Waterways Safety Act which comprises this chapter.

This section was formerly classified to section 456 of former Title 46, Shipping.

Transfer of Functions

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-670, § 6(b)(1), Oct. 15, 1956, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14. "Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of Reorg. Plan No. 3 of 1946, §§ 101-104, set out in the Appendix to Title 5.

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1913, which provided that the Secretary of Commerce and Labor should be called the Secretary of Commerce.

Section Referred to in Other Sections

This section is referred to in sections 1234, 1236 of this title.

References in Text

The navigation laws, referred to in text, are classified generally to this title.

Codicification

This section was not enacted as part of the Ports and Waterways Safety Act which comprises this chapter.

This section was formerly classified to section 457 of former Title 46, Shipping.
Transfer of Functions

The Coast Guard was transferred to the Department of Transportation, and all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury were transferred to the Secretary of Transportation by Pub. L. 89-870, § 6(b), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-870, however, provided that notwithstanding such transfer of functions, the Coast Guard shall operate as part of the Navy in time of war or when the President directs as provided in section 3 of Title 14, Coast Guard. See section 106 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of the Department of the Treasury, with certain exceptions, to the Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 16, Government Organization and Employees. Functions of the Coast Guard, and the Commandant of the Coast Guard, were excepted from transfer when the Coast Guard is operating as part of the Navy under sections 1 and 3 of Title 14.

"Commandant of the Coast Guard" was substituted for "Secretary of Commerce" on authority of Reorg. Plan No. 3 of 1946, §§ 101-104, set out in the Appendix to Title 5.

Upon incorporation into the Code, the words "Secretary of Commerce" were substituted for "Secretary of Commerce and Labor" to conform to act Mar. 4, 1950, c. 9, 64 Stat. 3, which provided that the Secretary of Commerce and Labor should be called the Secretary of Commerce.

CHAPTER 26—WATER POLLUTION PREVENTION AND CONTROL

SUBCHAPTER I—RESEARCH AND RELATED PROGRAMS

Sec. 1252. Comprehensive programs for water pollution control.

(a) Preparation and development.
(b) Planning for reservoirs; storage for regulation of streamflow.
(c) Basins; grants to State agencies.
(d) Report to Congress.

Sec. 1252a. Reservoir projects, water storage; modification; storage for other than water quality, flood control, irrigation, and other public purposes.

(a) Establishment of national programs; cooperation; investigations; water quality surveillance systems; reports.
(b) Authorized activities of Administrator.
(c) Research and studies on harmful effects of pollutants; cooperation with Secretary of Health and Human Services.
(d) Sewage treatment; identification and measurement of effects of pollutants; augmented streamflow.
(e) Field laboratory and research facilities.
(f) Great Lakes water quality research.
(g) Treatment works pilot training programs; employment needs forecasting; training projects and grants; research fellowships; technical training; report to the President and transmittal to Congress.
(h) Lake pollution.
(i) Oil pollution control studies.
(j) Solid waste disposal equipment for vessels.
(k) Land acquisition.
(l) Collection and dissemination of scientific knowledge on effects and control of pesticides in water.
(m) Waste oil disposal study.
(n) Comprehensive studies of effects of pollution on estuaries and estuarine zones; reports.
(o) Methods of reducing total flow of sewage and unnecessary water consumption; reports.
(p) Agricultural pollution.
(q) Sewage in rural areas; clearinghouse for alternative treatment information; clearinghouse on small flows.
(r) Research grants to colleges and universities.
(s) River Study Centers.
(t) Thermal discharges.
(u) Authorization of appropriations.

Grants for research and development.

(a) Demonstration projects covering storm waters, advanced waste treatment and water purification methods, and joint treatment systems for municipal and industrial wastes.
(b) Demonstration projects for advanced treatment and environmental enhancement techniques to control pollution in river basins.
(c) Research and demonstration projects for prevention of water pollution by industry.
(d) Accelerated and priority development of waste management and waste treatment methods and identification and measurement methods.