

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.

(e) Cooperative agreements

(1) The Secretary may enter into cooperative agreements with public or private agencies, authorities, associations, institutions, corporations, organizations, or other persons to carry out the functions under subsection (a)(1) of this section.

(2) A nongovernmental entity may not under this subsection carry out an inherently governmental function.

(3) As used in this paragraph, the term “inherently governmental function” means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.

(Pub. L. 92-340, § 4, formerly title I, § 103, July 10, 1972, 86 Stat. 426; renumbered and amended Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1472; Pub. L. 101-380, title IV, § 4107(a), Aug. 18, 1990, 104 Stat. 514; Pub. L. 104-324, title VII, § 705, Oct. 19, 1996, 110 Stat. 3934; Pub. L. 108-293, title III, § 302, Aug. 9, 2004, 118 Stat. 1041; Pub. L. 109-241, title IX, § 901(d), July 11, 2006, 120 Stat. 564.)

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.

The International Regulations for Preventing Collisions at Sea, 1972, referred to in subsec. (c)(5)(A), came into effect pursuant to the Convention on the International Regulations for Preventing Collisions at Sea, 1972. See International Regulations for Preventing Collisions at Sea, 1972 note under section 1602 of this title.

AMENDMENTS

2006—Subsecs. (a)(6), (e). Pub. L. 109-241 amended directory language of Pub. L. 108-293, § 302. See 2004 Amendment note below.

2004—Subsec. (a)(6). Pub. L. 108-293, § 302(1), as amended by Pub. L. 109-241, added par. (6).

Subsec. (e). Pub. L. 108-293, § 302(2), as amended by Pub. L. 109-241, which directed the addition of subsec. (e) at the end of subsec. (a) of this section, was executed by adding subsec. (e) at the end of this section.

1996—Subsec. (a)(3). Pub. L. 104-324 inserted “as measured under section 14502 of title 46, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title” after “300 gross tons”.

1990—Subsec. (a). Pub. L. 101-380, § 4107(a)(1), substituted “Secretary—” for “Secretary may—”.

Subsec. (a)(1). Pub. L. 101-380, § 4107(a)(2), substituted “may construct, operate, maintain, improve, or expand” for “establish, operate, and maintain”.

Subsec. (a)(2). Pub. L. 101-380, § 4107(a)(3), substituted “shall require appropriate” for “require”.

Subsec. (a)(3). Pub. L. 101-380, § 4107(a)(4), inserted “may” before “require”, which was executed by making the insertion before “require” the first place it appeared to reflect the probable intent of Congress.

Subsec. (a)(4). Pub. L. 101-380, § 4107(a)(5), inserted “may” before “control”.

Subsec. (a)(5). Pub. L. 101-380, § 4107(a)(6), inserted “may” before “require”.

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.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-241, title IX, § 901(d), July 11, 2006, 120 Stat. 564, provided in part that the amendment made by section 901(d) is effective Aug. 9, 2004.

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 this title.

NOTICE OF ARRIVAL FOR FOREIGN VESSELS ON THE OUTER CONTINENTAL SHELF

Pub. L. 109-347, title I, § 109, Oct. 13, 2006, 120 Stat. 1893, provided that:

“(a) NOTICE OF ARRIVAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 13, 2006], the Secretary of the department in which the Coast Guard is operating shall update and finalize the rulemaking on notice of arrival for foreign vessels on the Outer Continental Shelf.

“(b) CONTENT OF REGULATIONS.—The regulations promulgated pursuant to subsection (a) shall be consistent with information required under the Notice of Arrival under section 160.206 of title 33, Code of Federal Regulations, as in effect on the date of the enactment of this Act [Oct. 13, 2006].”

DIRECTION OF VESSEL MOVEMENT STUDY; SUBMITTAL OF REPORT TO CONGRESS

Section 4107(b) of Pub. L. 101-380 provided that:

“(1) STUDY.—The Secretary shall conduct a study—

“(A) of whether the Secretary should be given additional authority to direct the movement of vessels on navigable waters and should exercise such authority; and

“(B) to determine and prioritize the United States ports and channels that are in need of new, expanded, or improved vessel traffic service systems, by evaluating—

“(i) the nature, volume, and frequency of vessel traffic;

“(ii) the risks of collisions, spills, and damages associated with that traffic;

“(iii) the impact of installation, expansion, or improvement of a vessel traffic service system; and

“(iv) all other relevant costs and data.

“(2) REPORT.—Not later than 1 year after the date of the enactment of this Act [Aug. 18, 1990], the Secretary shall submit to the Congress a report on the results of the study conducted under paragraph (1) and recommendations for implementing the results of that study.”

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.

§ 1223a. Electronic charts

(a) System requirements

(1) Requirements

Subject to paragraph (2), the following vessels, while operating on the navigable waters of the United States, shall be equipped with and operate electronic charts under regula-

tions prescribed by the Secretary of the department in which the Coast Guard is operating:

(A) A self-propelled commercial vessel of at least 65 feet overall length.

(B) A vessel carrying more than a number of passengers for hire determined by the Secretary.

(C) A towing vessel of more than 26 feet in overall length and 600 horsepower.

(D) Any other vessel for which the Secretary decides that electronic charts are necessary for the safe navigation of the vessel.

(2) Exemptions and waivers

The Secretary may—

(A) exempt a vessel from paragraph (1), if the Secretary finds that electronic charts are not necessary for the safe navigation of the vessel on the waters on which the vessel operates; and

(B) waive the application of paragraph (1) with respect to operation of vessels on navigable waters of the United States specified by the Secretary, if the Secretary finds that electronic charts are not needed for safe navigation on those waters.

(b) Regulations

The Secretary of the department in which the Coast Guard is operating shall prescribe regulations implementing subsection (a) of this section before January 1, 2007, including requirements for the operation and maintenance of the electronic charts required under subsection (a) of this section.

(Pub. L. 92-340, § 4A, as added Pub. L. 108-293, title IV, § 410, Aug. 9, 2004, 118 Stat. 1045.)

§ 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, protection of the marine environment, and the safety and security of United States ports and waterways, 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;

(8) existing vessel traffic services; and

(9) local practices and customs, including voluntary arrangements and agreements within the maritime community; 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.

(Pub. L. 92-340, § 5, formerly title I, § 104, July 10, 1972, 86 Stat. 427; renumbered and amended Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1474; Pub. L. 107-295, title IV, § 443(2), Nov. 25, 2002, 116 Stat. 2132.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-295 substituted “safety, protection of the marine environment, and the safety and security of United States ports and waterways,” for “safety and protection of the marine environment,” in introductory provisions.

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 former section 1802(8) 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.

§ 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, con-