

**§ 1205. Radiotelephone capability; maintenance; restoration; consequences of loss: navigation of vessel**

Whenever radiotelephone capability is required by this chapter, a vessel's radiotelephone equipment shall be maintained in effective operating condition. If the radiotelephone equipment carried aboard a vessel ceases to operate, the master shall exercise due diligence to restore it or cause it to be restored to effective operating condition at the earliest practicable time. The failure of a vessel's radiotelephone equipment shall not, in itself, constitute a violation of this chapter, nor shall it obligate the master of any vessel to moor or anchor his vessel; however, the loss of radiotelephone capability shall be given consideration in the navigation of the vessel.

(Pub. L. 92-63, § 6, Aug. 4, 1971, 85 Stat. 165.)

**§ 1206. Exemptions; terms and conditions**

The Secretary may, if he considers that marine navigational safety will not be adversely affected or where a local communication system fully complies with the intent of this concept but does not conform in detail, issue exemptions from any provisions of this chapter, on such terms and conditions as he considers appropriate.

(Pub. L. 92-63, § 7, Aug. 4, 1971, 85 Stat. 165.)

**§ 1207. Regulations**

**(a) Operating and technical conditions and characteristics; frequencies, emission, and power of radiotelephone equipment**

The Federal Communications Commission shall, after consultation with other cognizant agencies, prescribe regulations necessary to specify operating and technical conditions and characteristics including frequencies, emission, and power of radiotelephone equipment required under this chapter.

**(b) Enforcement**

The Secretary shall, subject to the concurrence of the Federal Communications Commission, prescribe regulations for the enforcement of this chapter.

(Pub. L. 92-63, § 8, Aug. 4, 1971, 85 Stat. 165.)

**§ 1208. Penalties**

**(a) Master, person in charge, or pilot subject to penalty**

Whoever, being the master or person in charge of a vessel subject to this chapter, fails to enforce or comply with this chapter or the regulation, hereunder; or

Whoever, being designated by the master or person in charge of a vessel subject to this chapter to pilot or direct the movement of the vessel, fails to enforce or comply with this chapter or the regulations hereunder—

Is liable to a civil penalty of not more than \$500 to be assessed by the Secretary.

**(b) Vessels subject to penalty; jurisdiction**

Every vessel navigating in violation of this chapter or the regulations hereunder is liable to a civil penalty of not more than \$500 to be as-

essed by the Secretary for which the vessel may be proceeded against in any district court of the United States having jurisdiction.

**(c) Remission or mitigation**

Any penalty assessed under this section may be remitted or mitigated by the Secretary upon such terms as he may deem proper.

(Pub. L. 92-63, § 9, Aug. 4, 1971, 85 Stat. 165.)

**CHAPTER 25—PORTS AND WATERWAYS SAFETY PROGRAM**

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**§ 1221. Statement of policy**

The Congress finds and declares—

(a) that navigation and vessel safety, protection of the marine environment, and safety and security of United States ports and waterways 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 environment;

(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 requirements 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 agencies, State representatives, affected users, and the general public, in the development and implementation of such measures.

(Pub. L. 92-340, § 2, formerly title I, § 101, July 10, 1972, 86 Stat. 424; renumbered and amended Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1471; Pub. L. 107-295, title IV, § 443(1), Nov. 25, 2002, 116 Stat. 2132.)

#### AMENDMENTS

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

1978—Pub. L. 95-474 substituted provision relating to Congressional declaration of findings for provision relating to the authority of the Secretary of the department 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 1986 AMENDMENT

Pub. L. 99-399, title IX, § 901, Aug. 27, 1986, 100 Stat. 889, provided that: "This title [enacting section 1226 of this title and sections 1801 to 1809 of the former Appendix to Title 46, Shipping] may be cited as the 'International Maritime and Port Security Act'."

#### SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-474, § 1, Oct. 17, 1978, 92 Stat. 1471, provided: "That this Act [enacting sections 1225, 1228 to 1231, and 1232 of this title, amending this section, sections 1222 to 1224, 1226, and 1227 of this title, and sections 214 and 391a of Title 46, Shipping, and enacting provisions set out as notes under this section and section 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

Pub. L. 92-340, § 1, July 10, 1972, 86 Stat. 424, 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

Pub. L. 95-474, § 6(a), Oct. 17, 1978, 92 Stat. 1492, provided that: "Regulations previously issued under statutory provisions which are amended by section 2 of this Act [amending this section and sections 1222 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 proceeding under title I of Public Law 92-340 [which enacted this section and sections 1222 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

Pub. L. 95-474, § 6(c), Oct. 17, 1978, 92 Stat. 1493, provided that: "If a provision of this Act [see Short Title of 1978 Amendment note 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

Pub. L. 93-153, title IV, § 402, Nov. 16, 1973, 87 Stat. 589, provided that: "The Secretary of the Department in

which the Coast Guard is operating is hereby directed to establish a vessel traffic control system for Prince William Sound and Valdez, Alaska, pursuant to authority contained in title I of the Ports and Waterways Safety Act of 1972 (86 Stat. 424, Public Law 92-340) [this chapter, prior to the amendment by Pub. L. 95-474, Oct. 17, 1978, 92 Stat. 1471]."

#### § 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, except that "Secretary" means the Secretary of Transportation with respect to the application of this chapter to the Saint Lawrence Seaway.

(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.

(5) "Navigable waters of the United States" includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.

(Pub. L. 92-340, § 3, formerly title I, § 102, July 10, 1972, 86 Stat. 425; renumbered and amended Pub. L. 95-474, § 2, Oct. 17, 1978, 92 Stat. 1471; Pub. L. 105-383, title III, § 301(a), Nov. 13, 1998, 112 Stat. 3417; Pub. L. 108-293, title III, § 304, Aug. 9, 2004, 118 Stat. 1042.)

#### REFERENCES IN TEXT

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

Presidential Proclamation No. 5928, referred to in par. (5), is set out under section 1331 of Title 43, Public Lands.

#### AMENDMENTS

2004—Par. (2). Pub. L. 108-293 inserted " , except that 'Secretary' means the Secretary of Transportation with respect to the application of this chapter to the Saint Lawrence Seaway" after "in which the Coast Guard is operating".

1998—Par. (5). Pub. L. 105-383, which directed the amendment of section 102 of the Ports and Waterways Safety Act by adding par. (5), was executed to this section, which is section 3 of that act, to reflect the probable intent of Congress and the renumbering of section 102 as section 3 by Pub. L. 95-474.

1978—Pub. L. 95-474 substituted provision relating to definitions for provision defining "United States", permitting higher State or local safety standards, and pro-