

extending from the shoreline east to longitude 80 deg. 51.6' W with the southern and northern boundary at latitudes 30 deg. 00' N., 31 deg. 27' N., respectively.)

(Pub. L. 92-340, §11, as added Pub. L. 95-474, §2, Oct. 17, 1978, 92 Stat. 1477; amended Pub. L. 105-383, title III, §313, Nov. 13, 1998, 112 Stat. 3424.)

AMENDMENTS

1998—Subsec. (d). Pub. L. 105-383 added subsec. (d).

§ 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.

(Pub. L. 92-340, §12, as added Pub. L. 95-474, §2, Oct. 17, 1978, 92 Stat. 1477.)

§ 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 eighteen members with particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety as follows:

- (1) Seven members representing the barge and towing industry, reflecting a regional geographic balance.
- (2) One member representing the offshore mineral and oil supply vessel industry.
- (3) One member representing holders of active licensed Masters or Pilots of towing vessels with experience on the Western Rivers and the Gulf Intracoastal Waterway.
- (4) One member representing the holders of active licensed Masters of towing vessels in offshore service.
- (5) One member representing Masters who are active ship-docking or harbor towing vessel.¹

¹ So in original.

(6) One member representing licensed or unlicensed towing vessel engineers with formal training and experience.

(7) Two members representing each of the following groups:

- (A) Port districts, authorities, or terminal operators.
- (B) Shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge).

(8) Two members representing 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, or in the event of a vacancy in the office 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, 2020.

(Pub. L. 96–380, Oct. 6, 1980, 94 Stat. 1521; Pub. L. 97–322, title I, § 118(d), Oct. 15, 1982, 96 Stat. 1587; Pub. L. 98–557, § 16(a), Oct. 30, 1984, 98 Stat. 2866; Pub. L. 101–225, title I, § 105(b), Dec. 12, 1989, 103 Stat. 1910; Pub. L. 104–324, title III, § 304(c), Oct. 19, 1996, 110 Stat. 3917; Pub. L. 107–295, title III, § 336, Nov. 25, 2002, 116 Stat. 2105; Pub. L. 108–293, title IV, § 418(g), Aug. 9, 2004, 118 Stat. 1049; Pub. L. 111–281, title VI, § 621(e), Oct. 15, 2010, 124 Stat. 2976.)

CODIFICATION

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

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–281, § 621(e)(1), added subsec. (a) and struck out former subsec. (a) which established the Towing Safety Advisory Committee and its membership requirements.

Subsec. (e). Pub. L. 111–281, § 621(e)(2), substituted “September 30, 2020” for “September 30, 2010”.

2004—Subsec. (e). Pub. L. 108–293 substituted “September 30, 2010” for “September 30, 2005”.

2002—Subsec. (e). Pub. L. 107–295 substituted “September 30, 2005” for “September 30, 2000”.

1996—Subsec. (e). Pub. L. 104–324 substituted “September 30, 2000” for “September 30, 1995”.

1989—Subsec. (e). Pub. L. 101–225 substituted “September 30, 1995” for “September 30, 1990”.

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.

Subsec. (d). Pub. L. 97–322, § 118(d)(3), inserted introductory provisions respecting compensation and travel expenses of members of the Committee.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, 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.

§ 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 day of a 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 commits a class D felony.

(2) Any person who, in the willful¹ 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, commits a class C felony.

(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

(1) If any owner, operator, or individual in charge of a vessel is liable for a penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to a penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 60105 of title 46.

(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

¹ So in original. Probably should be “willful”.