

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 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.

#### 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.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### § 1223. Vessel operating requirements

#### (a) In general

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

(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, may construct, operate, maintain, improve, or expand 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) shall require appropriate vessels which operate in an area of a vessel traffic service to utilize or comply with that service;

(3) may 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 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 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) may 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—

(A) specifying times of entry, movement, or departure;

(B) establishing vessel traffic routing schemes;

(C) establishing vessel size, speed, draft limitations and vessel operating conditions; and

(D) restricting operation, in any hazardous area or under hazardous conditions, to vessels which have particular operating characteristics or capabilities which he considers necessary for safe operation under the circumstances;

(5) may 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; and

(6) may prohibit the use on vessels of electronic or other devices that interfere with communication and navigation equipment, except that such authority shall not apply to electronic or other devices certified to transmit in the maritime services by the Federal Communications Commission and used within the frequency bands 157.1875–157.4375 MHz and 161.7875–162.0375 MHz.

#### (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 the territorial sea 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 grant-