

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.

REPORT ON USE OF NON-COAST GUARD PERSONNEL

Pub. L. 107-295, title I, §107(b), Nov. 25, 2002, 116 Stat. 2088, provided that: "The Secretary of the department in which the Coast Guard is operating shall evaluate and report to the Congress on—

"(1) the potential use of Federal, State, or local government personnel, and documented United States Merchant Marine personnel, to supplement Coast Guard personnel under section 7(b)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)(3));

"(2) the possibility of using personnel other than Coast Guard personnel to carry out Coast Guard personnel functions under that section and whether additional legal authority would be necessary to use such personnel for such functions; and

"(3) the possibility of utilizing the United States Merchant Marine Academy, State maritime academies, or Coast Guard approved maritime industry schools in the United States, to provide training under that section."

§ 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.

(b) 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.

(Pub. L. 92-340, §8, formerly title I, §107, July 10, 1972, 86 Stat. 427; renumbered and amended Pub. L. 95-474, §2, Oct. 17, 1978, 92 Stat. 1476.)

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 wa-

ters 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), if the owner or operator of such vessel proves, to the satisfaction of the Secretary, 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) 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) shall become applicable eighteen months after October 17, 1978.

(Pub. L. 92-340, §9, as added Pub. L. 95-474, §2, Oct. 17, 1978, 92 Stat. 1476; amended Pub. L. 101-380, title IV, §4106(c), Aug. 18, 1990, 104 Stat. 514.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-380, §4106(c)(1), substituted "chapter 37 of title 46" for "section 4417a of the Revised Statutes, as amended" in provisions preceding par. (1) and in par. (2) and substituted "section 9101 of title 46" for "section 4417a(11) of the Revised Statutes, as amended" in par. (5).

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.