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TITLE 33--NAVIGATION AND NAVIGABLE WATERS

CHAPTER 33--PREVENTION OF POLLUTION FROM SHIPS

Sec. 1903. Administration and enforcement

(a) Duty of Secretary; Annexes of Convention applicable to seagoing vessels

Unless otherwise specified in this chapter, the Secretary shall administer and enforce the MARPOL Protocol, Annex IV to the Antarctic Protocol, and this chapter. In the administration and enforcement of the MARPOL Protocol and this chapter, Annexes I and II of the Convention apply only to seagoing ships.

(b) Regulations; refuse record books; waste management plans; notification of crew and passengers

(1) The Secretary shall prescribe any necessary or desired regulations to carry out the provisions of the MARPOL Protocol, Annex IV to the Antarctic Protocol, or this chapter.

(2) The Secretary of the department in which the Coast Guard is operating shall--

(A) prescribe regulations which--

(i) require certain ships described in section 1902(a)(1) of this title to maintain refuse record books and shipboard management plans, and to display placards which notify the crew and passengers of the requirements of Annex V to the Convention and of Annex IV to the Antarctic Protocol; and

(ii) specify the ships described in section 1902(a)(1) of this title to which the regulations apply;

(B) seek an international agreement or international agreements which apply requirements equivalent to those described in subparagraph (A)(i) to all vessels subject to Annex V to the Convention; and

(C) within 2 years after the effective date of this paragraph, report to the Congress--

(i) regarding activities of the Secretary under subparagraph (B); and

(ii) if the Secretary has not obtained agreements pursuant to subparagraph (B) regarding the desirability of applying the requirements described in subparagraph (A)(i) to all vessels described in section 1902(a) of this title which call at United States ports.

(c) Utilization of personnel, facilities, or equipment of other Federal departments and agencies

The Secretary may utilize by agreement, with or without reimbursement, personnel, facilities, or equipment of other Federal departments and agencies in administering the MARPOL Protocol, this chapter, or the regulations thereunder.

(Pub. L. 96-478, Sec. 4, Oct. 21, 1980, 94 Stat. 2298; Pub. L. 100-220, title II, Sec. 2107, Dec. 29, 1987, 101 Stat. 1464; Pub. L. 104-227,

title II, Sec. 201(c), Oct. 2, 1996, 110 Stat. 3042.)

References in Text

The effective date of this paragraph, referred to in subsec. (b) (2) (C), is Dec. 31, 1988, the effective date of section 2107(b) of Pub. L. 100-220 which added par. (2) to subsec. (b). See Effective Date of 1987 Amendment note below.

Amendments

1996--Subsec. (a). Pub. L. 104-227, Sec. 201(c)(1), inserted `` Annex IV to the Antarctic Protocol,'' after ``the MARPOL Protocol'' in first sentence.

Subsec. (b) (1). Pub. L. 104-227, Sec. 201(c)(2), inserted `` Annex IV to the Antarctic Protocol,'' after ``the MARPOL Protocol''.

Subsec. (b) (2) (A). Pub. L. 104-227, Sec. 201(c)(3), (4), struck out ``within 1 year after the effective date of this paragraph,'' before ``prescribe'' in introductory provisions and inserted ``and of Annex IV to the Antarctic Protocol'' after ``the Convention'' in cl. (i).

1987--Subsec. (a). Pub. L. 100-220, Sec. 2107(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ``Unless otherwise specified herein, the Secretary shall administer and enforce the MARPOL Protocol and this chapter. In the administration and enforcement of the MARPOL Protocol and this chapter, Annexes I and II of the MARPOL Protocol shall be applicable only to seagoing ships.''

Subsec. (b). Pub. L. 100-220, Sec. 2107(b), designated existing provisions as par. (1) and added par. (2).

Effective Date of 1987 Amendment

Amendment by Pub. L. 100-220 effective Dec. 31, 1988, the date on which Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, entered into force for the United States, see section 2002(a) of Pub. L. 100-220, set out as a note under section 1901 of this title.

Effective Date

Subsec. (b) of this section effective Oct. 21, 1980, see section 14(b) of Pub. L. 96-478, set out as a note under section 1901 of this title.

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TITLE 33--NAVIGATION AND NAVIGABLE WATERS

CHAPTER 33--PREVENTION OF POLLUTION FROM SHIPS

Sec. 1905. Pollution reception facilities

(a) Adequacy; criteria

(1) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall establish regulations setting criteria for determining the adequacy of a port's or terminal's reception facilities for mixtures containing oil or noxious liquid substances and shall establish procedures whereby a person in charge of a port or terminal may request the Secretary to certify that the port's or terminal's facilities for receiving the residues and mixtures containing oil or noxious liquid substance from seagoing ships are adequate.

(2) The Secretary, after consulting with appropriate Federal agencies, shall establish regulations setting criteria for determining the adequacy of reception facilities for garbage at a port or terminal, and stating such additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that such facilities are available, for receiving garbage in accordance with those regulations.

(b) Traffic considerations

In determining the adequacy of reception facilities required by the MARPOL Protocol or the Antarctic Protocol at a port or terminal, and in establishing regulations under subsection (a) of this section, the Secretary may consider, among other things, the number and types of ships or seagoing ships using the port or terminal, including their principal trades.

(c) Certificate; issuance; validity; inspection; review of suspension or revocation by Secretary

(1) If reception facilities of a port or terminal meet the requirements of Annex I and Annex II to the Convention and the regulations prescribed under subsection (a)(1) of this section, the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.

(2) (A) Subject to subparagraph (B), if reception facilities of a port or terminal meet the requirements of Annex V to the Convention and the regulations prescribed under subsection (a)(2) of this section, the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect to the person in charge of the port or terminal.

(B) The Secretary may not issue a certificate attesting to the adequacy of reception facilities under this paragraph unless, prior to the issuance of the certificate, the Secretary conducts an inspection of the reception facilities of the port or terminal that is the subject of the certificate.

(C) The Secretary may, with respect to certificates issued under this paragraph prior to October 19, 1996, prescribe by regulation

differing periods of validity for such certificates.

(3) A certificate issued under this subsection--

(A) is valid for the 5-year period beginning on the date of issuance of the certificate, except that if--

(i) the charge for operation of the port or terminal is transferred to a person or entity other than the person or entity that is the operator on the date of issuance of the certificate--

(I) the certificate shall expire on the date that is 30 days after the date of the transfer; and

(II) the new operator shall be required to submit an application for a certificate before a certificate may be issued for the port or terminal; or

(ii) the certificate is suspended or revoked by the Secretary, the certificate shall cease to be valid; and

(B) shall be available for inspection upon the request of the master, other person in charge, or agent of a ship using or intending to use the port or terminal.

(4) The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by the Secretary in the manner prescribed by regulation.

(d) Publication of list of certificated ports or terminals

(1) The Secretary shall maintain a list of ports or terminals with respect to which a certificate issued under this section--

(A) is in effect; or

(B) has been revoked or suspended.

(2) The Secretary shall make the list referred to in paragraph (1) available to the general public.

(e) Entry; denial

(1) Except in the case of force majeure, the Secretary shall deny entry to a seagoing ship required by the Convention or the Antarctic Protocol to retain onboard while at sea, residues and mixtures containing oil or noxious liquid substances, if--

(A) the port or terminal is one required by Annexes I and II of the Convention or Article 9 of Annex IV to the Antarctic Protocol or regulations hereunder to have adequate reception facilities; and

(B) the port or terminal does not hold a valid certificate issued by the Secretary under this section.

(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide adequate reception facilities for garbage if the port or terminal is not in compliance with those regulations.

(f) Surveys

(1) The Secretary is authorized to conduct surveys of existing reception facilities in the United States to determine measures needed to comply with the MARPOL Protocol or the Antarctic Protocol.

(2) (A) \1\ Not later than 18 months after October 19, 1996, the Secretary shall promulgate regulations that require the operator of each port or terminal that is subject to any requirement of the MARPOL Protocol relating to reception facilities to post a placard in a location that can easily be seen by port and terminal users. The placard shall state, at a minimum, that a user of a reception facility of the port or terminal should report to the Secretary any inadequacy of the reception facility.

 \1\ So in original. No subpar. (B) has been enacted.

(Pub. L. 96-478, Sec. 6, Oct. 21, 1980, 94 Stat. 2299; Pub. L. 100-220, title II, Sec. 2103, Dec. 29, 1987, 101 Stat. 1461; Pub. L. 101-225, title II, Sec. 201(1), Dec. 12, 1989, 103 Stat. 1910; Pub. L. 104-227, title II, Sec. 201(d), Oct. 2, 1996, 110 Stat. 3042; Pub. L. 104-324, title VIII, Sec. 801, Oct. 19, 1996, 110 Stat. 3943.)

Amendments

1996--Subsec. (b). Pub. L. 104-227, Sec. 201(d)(1), inserted ``or the Antarctic Protocol'' after ``the MARPOL Protocol''.

Subsec. (c)(2). Pub. L. 104-324, Sec. 801(a)(1), (2), designated existing provisions as subpar. (A), substituted ``Subject to subparagraph (B), if'' for ``If'', and added subpars. (B) and (C).

Subsec. (c)(3)(A). Pub. L. 104-324, Sec. 801(a)(3), added subpar. (A) and struck out former subpar. (A) which read as follows: ``is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and''.

Subsec. (d). Pub. L. 104-324, Sec. 801(a)(4), added subsec. (d) and struck out former subsec. (d) which read as follows: ``The Secretary shall periodically cause to be published in the Federal Register a list of the ports or terminals holding a valid certificate issued under this section.''

Subsec. (e)(1). Pub. L. 104-227, Sec. 201(d)(2), (3), inserted ``or the Antarctic Protocol'' after ``the Convention'' in introductory provisions and inserted ``or Article 9 of Annex IV to the Antarctic Protocol'' after ``the Convention'' in subpar. (A).

Subsec. (f). Pub. L. 104-324, Sec. 801(b), designated existing provisions as par. (1) and added par. (2)(A).

Pub. L. 104-227, Sec. 201(d)(4), inserted ``or the Antarctic Protocol'' after ``the MARPOL Protocol''.

1989--Subsec. (c)(1). Pub. L. 101-225 substituted ``Annex I and Annex II'' for ``Annex V''.

1987--Subsec. (a). Pub. L. 100-220, Sec. 2103(a), designated existing provisions as par. (1), substituted ``a port's or terminal's reception facilities for mixtures containing oil or noxious liquid substances'' for ``reception facilities of a port or terminal'', and added par. (2).

Subsec. (b). Pub. L. 100-220, Sec. 2103(b), inserted ``and in establishing regulations under subsection (a) of this section,'' and ``ships or''.

Subsec. (c). Pub. L. 100-220, Sec. 2103(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ``If, upon inspection, reception facilities of a port or terminal are adequate to meet the requirements of the MARPOL Protocol and the regulations established hereunder, the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant. A certificate issued under this subsection--

``(1) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

``(2) shall be available for inspection upon the request of the master, other person in charge, or agent of a seagoing ship using or intending to use the port or terminal.

The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by him in the manner prescribed by regulation.''

Subsec. (e). Pub. L. 100-220, Sec. 2103(d), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, in subpar. (A), substituted ``Annexes I and II of the Convention'' for ``the MARPOL Protocol'', and

added par. (2).

Effective Date of 1987 Amendment

Amendment by Pub. L. 100-220 effective Dec. 31, 1988, the date on which Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, entered into force for the United States, see section 2002(a) of Pub. L. 100-220, set out as a note under section 1901 of this title.

Effective Date

Subsecs. (a), (c), and (f) of this section effective Oct. 21, 1980, see section 14(b) of Pub. L. 96-478, set out as a note under section 1901 of this title.

Section Referred to in Other Sections

This section is referred to in section 1902 of this title.