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TITLE 33--NAVIGATION AND NAVIGABLE WATERS

CHAPTER 25--PORTS AND WATERWAYS SAFETY PROGRAM

Sec. 1225. Waterfront safety

(a) In general

The Secretary may take such action as is necessary to--

(1) prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters; and

(2) protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss. Such action may include, but need not be limited to--

(A) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement on the structure (including the emergency removal, control, and disposition) of explosives or other dangerous articles and substances, including oil or hazardous material as those terms are defined in section 2101 of title 46;

(B) prescribing minimum safety equipment requirements for the structure to assure adequate protection from fire, explosion, natural disaster, and other serious accidents or casualties;

(C) establishing water or waterfront safety zones, or other measures for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area; and

(D) establishing procedures for examination to assure compliance with the requirements prescribed under this section.

(b) State law

Nothing contained in this section, with respect to structures, prohibits a State or political subdivision thereof from prescribing higher safety equipment requirements or safety standards than those which may be prescribed by regulations hereunder.

(Pub. L. 92-340, Sec. 6, formerly title I, Sec. 105, July 10, 1972, 86 Stat. 427; renumbered and amended Pub. L. 95-474, Sec. 2, Oct. 17, 1978, 92 Stat. 1475.)

Codification

In subsec. (a) (2) (A), ``section 2101 of title 46'' substituted for ``section 4417a of the Revised Statutes [46 U.S.C. 391a]'' on authority of Pub. L. 98-89, Sec. 2(b), Aug. 26, 1983, 97 Stat. 598, section 1 of which enacted Title 46, Shipping.

Amendments

1978--Pub. L. 95-474 substituted provisions relating to waterfront safety for provision requiring the Secretary to report to Congress within one year his recommendations for legislation to achieve coordination between functions authorized under Pub. L. 92-340 and the functions of any other agencies and to eliminate duplication of these functions.

Section Referred to in Other Sections

This section is referred to in sections 1229, 1911 of this title; title 42 section 7511b.

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TITLE 46--SHIPPING

Subtitle II--Vessels and Seamen

Part B--Inspection and Regulation of Vessels

CHAPTER 37--CARRIAGE OF LIQUID BULK DANGEROUS CARGOES

Sec. 3703. Regulations

(a) The Secretary shall prescribe regulations for the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels to which this chapter applies, that may be necessary for increased protection against hazards to life and property, for navigation and vessel safety, and for enhanced protection of the marine environment. The Secretary may prescribe different regulations applicable to vessels engaged in the domestic trade, and also may prescribe regulations that exceed standards set internationally. Regulations prescribed by the Secretary under this subsection are in addition to regulations prescribed under other laws that may apply to any of those vessels. Regulations prescribed under this subsection shall include requirements about--

(1) superstructures, hulls, cargo holds or tanks, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, and boilers;

(2) the handling or stowage of cargo, the manner of handling or stowage of cargo, and the machinery and appliances used in the handling or stowage;

(3) equipment and appliances for lifesaving, fire protection, and prevention and mitigation of damage to the marine environment;

(4) the manning of vessels and the duties, qualifications, and training of the officers and crew;

(5) improvements in vessel maneuvering and stopping ability and other features that reduce the possibility of marine casualties;

(6) the reduction of cargo loss if a marine casualty occurs; and

(7) the reduction or elimination of discharges during ballasting, deballasting, tank cleaning, cargo handling, or other such activity.

(b) In prescribing regulations under subsection (a) of this section, the Secretary shall consider the types and grades of cargo permitted to be on board a tank vessel.

(c) In prescribing regulations under subsection (a) of this section, the Secretary shall establish procedures for consulting with, and receiving and considering the views of--

(1) interested departments, agencies, and instrumentalities of the United States Government;

(2) officials of State and local governments;

(3) representatives of port and harbor authorities and associations;

(4) representatives of environmental groups; and

(5) other interested parties knowledgeable or experienced in

dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 522.)

Historical and Revision Notes

Revised section	Source section (U.S. Code)
3703.....	46:391a(6) 46:391a(12)

Section 3703 requires the Secretary to issue regulations to implement this section. Specific items are listed to be included within the regulations issued. The regulatory authority must be exercised under the Administrative Procedure Act and, in prescribing these regulations, the Secretary must consider the kinds and grades of cargo carried on board. Furthermore, in addition to any requirements of the Administrative Procedure Act, the Secretary must establish specific consultation procedures for considering the views of various specified interested officials, groups, and individuals. The procedures are intended to provide for consultation as early as possible in the regulatory process.

Studies Addressing Various Sources of Oil Spill Risk

Pub. L. 104-324, title IX, Sec. 903, Oct. 19, 1996, 110 Stat. 3947, provided that:

“(a) Study of Group-5 Fuel Oil Spills.--

“(1) Definition.--In this subsection, the term ‘group-5 fuel oil’ means a petroleum-based oil that has a specific gravity of greater than 1.0.

“(2) Coordination of study.--The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council to conduct a study of the relative environmental and public health risks posed by discharges of group-5 fuel oil.

“(3) Matters to be included.--The study under this subsection shall include a review and analysis of--

“(A) the specific risks posed to the public health or welfare of the United States, including fish, shellfish and wildlife, public and private property, shorelines, beaches, habitat, and other natural resources under the jurisdiction or control of the United States, as a result of an actual or threatened discharge of group-5 fuel oil from a vessel or facility;

“(B) cleanup technologies currently available to address actual or threatened discharge of group-5 fuel oil; and

“(C) any technological and financial barriers that prevent the prompt remediation of discharges of group-5 fuel oil.

“(4) Report.--Not later than 18 months after the date of enactment of this Act [Oct. 19, 1996], the Secretary of Transportation shall submit to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study under this subsection.

“(5) Rulemaking.--If the Secretary of Transportation determines, based on the results of the study under this subsection,

that there are significant risks to public health or the environment resulting from the actual or threatened discharge of group-5 fuel oil from a vessel or facility that cannot be technologically or economically addressed by existing or anticipated cleanup efforts, the Secretary may initiate a rulemaking to take such action as is necessary to abate the threat.

``(b) Study of Automatic Fueling Shutoff Equipment.--

``(1) Coordination of study.--The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council to conduct a study of the unintentional or accidental discharge of fuel oil during lightering or fuel loading or off-loading activity.

``(2) Matters to be included.--The study under this subsection shall include a review and analysis of current monitoring and fueling practices to determine the need for automatic fuel shutoff equipment to prevent the accidental discharge of fuel oil, and whether such equipment is needed as a supplement to or replacement of existing preventive equipment or procedures.

``(3) Report.--Not later than 18 months after the date of enactment of this Act [Oct. 19, 1996], the Secretary of Transportation shall submit to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study under this subsection.

``(4) Rulemaking.--If the Secretary of Transportation determines, based on the results of the study conducted under this subsection, that the use of automatic oil shutoff equipment is necessary to prevent the actual or threatened discharge of oil during lightering or fuel loading or off[-]loading activity, the Secretary may initiate a rulemaking to take such action as is necessary to abate a threat to public health or the environment.

``(c) Lightering Study.--The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council on a study into the actual incidence and risk of oil spills from lightering operations off the coast of the United States. Among other things, the study shall address the manner in which existing regulations are serving to reduce oil spill risks. The study shall take into account current or proposed international rules and standards and also include recommendations on measures that would be likely to further reduce the risks of oil spills from lightering operations. Not later than 18 months after the date of enactment of this Act [Oct. 19, 1996], the Secretary shall submit a report on the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.''

Existing Tank Vessel Research

Pub. L. 104-324, title XI, Sec. 1134, Oct. 19, 1996, 110 Stat. 3985, provided that:

``(a) Funding.--The Secretary of Transportation shall take steps to allocate funds appropriated for research, development, testing, and evaluation, including the combination of funds from any source available and authorized for this purpose, to ensure that any Government-sponsored project intended to evaluate double hull alternatives that provide equal or greater protection to the marine environment, or interim solutions to remediate potential environmental damage resulting from oil spills from existing tank vessels, commenced prior to the date of enactment of this section [Oct. 19, 1996], is fully funded for completion by the end of

fiscal year 1997. Any vessel construction or repair necessary to carry out the purpose of this section must be performed in a shipyard located in the United States.

``(b) Use of Public Vessels.--The Secretary may provide vessels owned by, or demise chartered to, and operated by the Government and not engaged in commercial service, without reimbursement, for use in and the support of projects sponsored by the Government for research, development, testing, evaluation, and demonstration of new or improved technologies that are effective in preventing or mitigating oil discharges and protecting the environment.''

Oil Spill Prevention and Response Technology Test and Evaluation Program

Pub. L. 103-206, title III, Sec. 310, Dec. 20, 1993, 107 Stat. 2425, provided that:

``(a) Not later than 6 months after the date of enactment of this Act [Dec. 20, 1993], the Secretary of Transportation shall establish a program to evaluate the technological feasibility and environmental benefits of having tank vessels carry oil spill prevention and response technology. To implement the program the Secretary shall--

``(1) publish in the Federal Register an invitation for submission of proposals including plans and procedures for testing; and

``(2) review and evaluate technology using, to the maximum extent possible, existing evaluation and performance standards.

``(b) The Secretary shall, to the maximum extent possible, incorporate in the program established in subsection (a), the results of existing studies and evaluations of oil spill prevention and response technology carried on tank vessels.

``(c) Not later than 2 years after the date of the enactment of this Act [Dec. 20, 1993], the Secretary shall evaluate the results of the program established in subsection (a) and submit a report to Congress with recommendations on the feasibility and environmental benefits of, and appropriate equipment and utilization standards for, requiring tank vessels to carry oil spill prevention and response equipment.

``(d) Not later than 6 months after the date of the enactment of this Act [Dec. 20, 1993], the Secretary shall evaluate and report to the Congress on the feasibility of using segregated ballast tanks for emergency transfer of cargo and storage of recovered oil.''

Regulations Requiring Periodic Gauging of Plating Thickness for Oil Carrying Commercial Vessels

Pub. L. 101-380, title IV, Sec. 4109, Aug. 18, 1990, 104 Stat. 515, provided that: ``Not later than 1 year after the date of the enactment of this Act [Aug. 18, 1990], the Secretary shall issue regulations for vessels constructed or adapted to carry, or that carry, oil in bulk as cargo or cargo residue--

``(1) establishing minimum standards for plating thickness; and

``(2) requiring, consistent with generally recognized principles of international law, periodic gauging of the plating thickness of all such vessels over 30 years old operating on the navigable waters or the waters of the exclusive economic zone.''

Regulations Requiring Use of Overfill and Tank Level or Monitoring Devices on Oil Carrying Commercial Vessels

Pub. L. 101-380, title IV, Sec. 4110, Aug. 18, 1990, 104 Stat. 515, provided that:

``(a) Standards.--Not later than 1 year after the date of the enactment of this Act [Aug. 18, 1990], the Secretary shall establish, by regulation, minimum standards for devices for warning persons of overfills and tank levels of oil in cargo tanks and devices for monitoring the pressure of oil cargo tanks.

``(b) Use.--Not later than 1 year after the date of the enactment of this Act [Aug. 18, 1990], the Secretary shall issue regulations establishing, consistent with generally recognized principles of international law, requirements concerning the use of--

``(1) overfill devices, and

``(2) tank level or pressure monitoring devices,

which are referred to in subsection (a) and which meet the standards established by the Secretary under subsection (a), on vessels constructed or adapted to carry, or that carry, oil in bulk as cargo or cargo residue on the navigable waters and the waters of the exclusive economic zone.''

Tanker Navigation Safety Standards Study

Pub. L. 101-380, title IV, Sec. 4111, Aug. 18, 1990, 104 Stat. 515, directed Secretary, not later than 2 years after Aug. 18, 1990, to conduct a study and report to Congress on whether existing laws and regulations are adequate to ensure safe navigation of vessels transporting oil or hazardous substances in bulk on navigable waters and waters of the exclusive economic zone.

Rules Governing Operation of Vessels on Auto-Pilot or With Unattended Engine Room

Pub. L. 101-380, title IV, Sec. 4114(a), Aug. 18, 1990, 104 Stat. 517, provided that: ``In order to protect life, property, and the environment, the Secretary shall initiate a rulemaking proceeding within 180 days after the date of the enactment of this Act [Aug. 18, 1990] to define the conditions under, and designate the waters upon, which tank vessels subject to section 3703 of title 46, United States Code, may operate in the navigable waters with the auto-pilot engaged or with an unattended engine room.''

Regulations Requiring Escorts for Certain Tankers; ``Tanker'' Defined

Pub. L. 101-380, title IV, Sec. 4116(c), (d), Aug. 18, 1990, 104 Stat. 523, provided that:

``(c) Escorts for Certain Tankers.--Not later than 6 months after the date of the enactment of this Act [Aug. 18, 1990], the Secretary shall initiate issuance of regulations under section 3703(a)(3) of title 46, United States Code, to define those areas, including Prince William Sound, Alaska, and Rosario Strait and Puget Sound, Washington (including those portions of the Strait of Juan de Fuca east of Port Angeles, Haro Strait, and the Strait of Georgia subject to United States jurisdiction), on which single hulled tankers over 5,000 gross tons transporting oil in bulk shall be escorted by at least two towing vessels (as defined under section 2101 of title 46, United States Code) or other vessels considered appropriate by the Secretary.

``(d) Tanker Defined.--In this section [amending section 8502 of this title] the term `tanker' has the same meaning the term has in

section 2101 of title 46, United States Code.''

Section Referred to in Other Sections

This section is referred to in title 42 section 7511b.