

Attachment 3



Public Law 92-340
92nd Congress, H. R. 8140
July 10, 1972

An Act

To promote the safety of ports, harbors, waterfront areas, and navigable waters of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ports and Waterways Safety Act of 1972".

Ports and Waterways Safety Act of 1972.

TITLE I-PORTS AND WATERWAYS SAFETY AND ENVIRONMENTAL QUALITY

SEC. 101. In order to prevent damage to, or the destruction or loss of any vessel, bridge, or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to those Waters; and to protect the navigable waters and the resources therein from environmental harm resulting from vessel or structure damage, destruction, or loss, the Secretary of the department, in which the Coast Guard is operating may--

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(1) establish, operate, and maintain vessel traffic services and systems for ports, harbors, and other waters subject to congested vessel traffic;

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(2) require vessels which operate in an area of a vessel traffic service or system to utilize or comply with that service or system, including the carrying or installation of electronic or other devices necessary for the use of the service or system;

(3) control vessel traffic in areas which he determines to be especially hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances by--

(i) specifying times of entry, movement, or departure to, from, within, or through ports, harbors, or other waters;

(ii) establishing vessel traffic routing schemes;

(iii) establishing vessel size and speed limitations and vessel operating conditions; and

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

(4) direct the anchoring, mooring, or movement of a vessel when necessary to prevent damage to or by that vessel or her cargo, stores, supplies, or fuel;

(5) require pilots on self-propelled vessels engaged in the foreign trades in areas and under circumstances where a pilot is not otherwise required by State law to be on board until the State having jurisdiction of an area involved establishes a requirement for a pilot in that area or under the circumstances involved;

(6) establish procedures, measures, and standards for the handling, loading, discharge, storage, stowage, and movement, including the emergency removal, control and disposition, of explosives or other dangerous articles or substances (including the substances described in section 4417a(2) (A), (B), and (C) of the Revised Statutes of the United States (46 U.S.C. 391a(2) (A), (B), and (C) ) on structures subject to this title;

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(7) prescribe minimum safety equipment requirements for structures subject to this title to assure adequate protection from fire, explosion, natural disasters, and other serious accidents or casualties;

(S) establish 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

(9) establish procedures for examination to assure compliance with the minimum safety equipment requirements for structures.

"United  
States."

Sec. 102. ( a ) For the purpose of this Act, the term "United States" includes the fifty States, the District of Columbia, Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

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(b) Nothing contained in this title upplants or modifies any treaty or Federal statute or authority granted thereunder, nor does it prevent a State or political subdivision thereof from prescribing for structures only higher safety equipment requirements or safety standards than those which may be prescribed pursuant to this title.

(c) In the exercise of his authority under this title, the Secretary shall consult with other Federal agencies, as appropriate, in order to give due consideration to their statutory and other responsibilities, and to assure consistency of regulations applicable to vessels, structures, and areas covered by this title. The Secretary may also consider, utilize, and incorporate regulations or similar directory materials issued by port or other State and local authorities.

Panama Canal;  
Saint  
Lawrence  
Seaway.

(1.) This title shall not be applicable to the Panama Canal. The authority granted to the Secretary under this title shall not be delegated with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation. Any other authority granted the Secretary under this title shall be delegated to the Saint Lawrence Seaway Development Corporation to the extent that the Secretary determines such delegation is necessary for the proper operation of the Seaway.

(e) In carrying out his duties and responsibilities under this title to promote the safe and efficient conduct of maritime commerce the Secretary shall consider fully the wide variety of interests which may be affected by the exercise of his authority hereunder. In determining the need for, and the substance of, any rule or regulation or the exercise of other authority hereunder the Secretary shall, among other things, consider—

(1) the scope and degree of the hazards;

(2) vessel traffic characteristics including minimum interference with the flow of commercial traffic, traffic volume, the sizes and types of vessels, the usual nature of local cargoes, and similar factors;

(3) port and waterway configurations and the differences in geographic, climatic, and other conditions and circumstances;

(4) environmental factors;

(5) economic impact and effects;

(6) existing vessel traffic control systems, services, and schemes; and

(7) local practices and customs, including voluntary arrangements and agreements within the maritime community.

Investigatory  
powers.

Sec. 103. The Secretary may investigate any incident, accident, or act involving the loss or destruction of, or damage to, any structure subject to this title, or which affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States. In any investigation under this title, the Secretary may issue a subpoena to require the attendance of any witness and the production of documents and other evidence. In case of refusal to obey a subpoena issued to any person, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance. Witnesses may be paid fees for travel and attendance at rates not exceeding those allowed in a district court of the United States.

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SEC. 104. The Secretary may issue reasonable rules, regulations, and standards necessary to implement this title. In the exercise of his rulemaking authority the Secretary is subject to the provisions of chapters 5 and 7 of title 5, United States Code. In preparing proposed rules, regulations, and standards, the Secretary shall provide an adequate opportunity for consultation and comment to State and local governments, representatives of the marine industry, port and harbor authorities, environmental groups, and other interested parties.

SEC. 105. The Secretary shall, within one year after the effective date of this Act, report to the Congress his recommendations for legislation which may be necessary to achieve coordination and/or eliminate duplication between the functions authorized by this Act and the functions of any other agencies.

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Rulemaking authority.

80 Stat. 380, 392; 81 Stat. 195.  
5 USC 500, 701.

Report to Congress.

SEC. 106. Whoever violates a regulation issued under this title shall be liable to a civil penalty of not more than \$10,000. The Secretary may assess and collect any civil penalty incurred under this title and, in his discretion, remit, mitigate, or compromise any penalty. Upon failure to collect or compromise a penalty, the Secretary may request the Attorney General to commence an action for collection in any district court of the United States. A vessel used or employed in a violation of a regulation under this title shall be liable in rem and may be proceeded against in any district court of the United States having jurisdiction.

Penalty.

SEC. 107. Whoever willfully violates a regulation issued under this title shall be fined not less than \$5,000 or more than \$50,000 or imprisoned for not more than five years, or both.

## TITLE II—VESSELS CARRYING CERTAIN CARGOES IN BULK

SEC. 201. Section 4-417a of the Revised Statutes of the United States (46 U.S.C. 391a) is hereby amended to read as follows:

"SEC. 4417a. (1) STATEMENT OF POLICY.—The Congress hereby finds and declares—

"That the carriage by vessels of certain cargoes in bulk creates substantial hazards to life, property, the navigable waters of the United States (including the quality thereof) and the resources contained therein and of the adjoining land, including but not limited to fish, shellfish, and wild life, marine and coastal ecosystems and recreational and scenic values, which waters and resources are hereafter in this section referred to as the 'marine environment'.

"That existing standards for the design, construction, alteration, repair, maintenance and operation of such vessels, must be improved for the adequate protection of the marine environment.

"That it is necessary that there be established for all such vessels documented under the laws of the United States or entering the navigable waters of the United States comprehensive minimum standards of design, construction, alteration, repair, maintenance, and operation to prevent or mitigate the hazards to life, property, and the marine environment.

"(2) VESSELS INCLUDED.—All vessels, regardless of tonnage size, or manner of propulsion, and whether self-propelled or not, and whether carrying freight or passengers for hire or not, which are documented under the laws of the United States or enter the navigable waters of the United States, except public vessels other than those engaged in

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commercial service, that shall have on board liquid cargo in bulk which is-

● (A) inflammable or combustible, or

● \*(II) oil, of any kind or in any form, including but not limited to, petroleum, fuel oil, sludge, oil refus,) and oil mixed with wastes other than dredged spoil, or

"(C) designated as a hazardous polluting substance under section 12(a) of the Federal Water Pollution Control Act (:331".S.( '1162) ;

84 Stat. 98.

46 USC 361  
*et sea.*82 Stat. 341.  
46 USC 391a.

shall be considered steam vessels for the purposes of title 52 of the Revised Statutes of the United States and shall be subject to the provisions thereof: Provided, That this section shall not apply to vessels having on board the substances set forth in (A), (13), or (C) above only for use as fuel or stores or to vessels carrying such cargo only in drums, barrels, or other packages: And *provided further*. That nothing contained herein shall be deemed to amend or modify the provisions of section 4 of Public Law 90-397 with respect to certain vessels of not more than five hundred gross tons: *And provided further*, That this section shall not apply to vessels of not more than five hundred gross tons documented in the service of oil exploitation which are not tank vessels and which would be subject to this section only because of the transfer of fuel from the vessels' own fuel supply tanks to offshore drilling or production facilities.

"(3) RULES AND REGULATIONS.-In order 'to secure effective provision (A) for vessel safety, and (B for protection of the marine environment, the Secretary of the department in which the Coast Guard is operating(hereafter referred to in this section as the 'Secretary') shall establish for the vessels to which this section applies such additional rules and regulations as may be necessary with respect to the design and construction, alteration, repair, and maintenance of such vessels, including, but not limited to, the superstructures, hulls, places for stowing and carrying such cargo fittings, equipment, appliances, propulsive machinery, auxiliary machinery, and boilers thereof; and with respect to all materials used in such construction, alteration, or repair; and with respect to the handling and stowage of such cargo the manner of such handling or stowage, and the machinery and appliances used in such handling and stowage; and with respect to equipment and appliances for life saving, fire protection, and the prevention and mitigation of damage to the marine environment; and with respect to the operation of such vessels; and with respect to the requirements of the manning of such vessels and the duties and qualifications of the officers and crew thereof; and with respect to the inspection of all the foregoing. In establishing such rules and regulations the Secretary may, after hearing as provided in subsection (4), adopt rules of the American Bureau of Shipping or similar American classification society for classed vessels insofar as such rules pertain to the efficiency of hulls and the reliability of machinery of vessels to which this section applies. In establishing such rules and regulations, the Secretary shall give due consideration to the kinds and grades of such cargo permitted to be on board such vessel. In establishing such rules and regulations the Secretary shall, after consultation with the Secretary of Commerce and the Administrator of the Environmental Protection Agency, identify those established for protection of the marine environment and those established for vessel safety.

"(4) ADOPTION OF RULES AND REGULATIONS.-Before any rules or regulations, or any alteration, amendment, or repeal thereof, are approved by the Secretary under the provisions of this section, except

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in an emergency, the Secretary shall (A) consult with other appropriate Federal departments and agencies, and particularly with the Administrator of the Environmental Protection Agency and the Secretary of Commerce, with regard to all rules and regulations for the protection of the marine environment, (B) publish proposed regulations and regulations, and (C) permit interested persons an opportunity for hearing. In prescribing rules or regulations, the Secretary shall consider, among other things, (i) the need for such rules or regulations, (ii) the extent to which such rules or regulations will contribute to safety or protection of the marine environment, and (iii) the practicability of compliance therewith, including cost and technical feasibility.

"(5) RULES AND REGULATIONS FOR SAFETY; INSPECTION; PERMITS; FOREIGN VESSELS.—No vessel subject to the provisions of this section shall, after the effective date of the rules and regulations for vessel safety established hereunder, have on board such cargo, until a certificate of inspection has been issued to such vessel in accordance with the provisions of title 52 of the Revised Statutes of the United States and until a permit has been endorsed on such certificate of inspection by the Secretary, indicating that such vessel is in compliance with the provisions of this section and the rules and regulations for vessel safety established hereunder, and showing the kinds and grades of such cargo that such vessel may have on board or transport. Such permit shall not be endorsed by the Secretary on such certificate of inspection until such vessel has been inspected by the Secretary and found to be in compliance with the provisions of this section and the rules and regulations for vessel safety established hereunder. For the purpose of such inspection, approved plans and certificates of class of the American Bureau of Shipping or other recognized classification society for classed vessels may be accepted as evidence of the structural efficiency of the hull and the reliability of the machinery of such classed vessels except as far as existing law places definite responsibility on the Coast Guard. A certificate issued under the provisions of this section shall be valid for a period of time not to exceed the duration of the certificate of inspection on which such permit is endorsed, and shall be subject to revocation by the Secretary whenever he shall find that the vessel concerned does not comply with the conditions upon which such permit was issued: *Provided*, That rules and regulations for vessel safety established hereunder and the provisions of this subsection shall not apply to vessels of a foreign nation having on board a valid certificate of inspection recognized under law or treaty by the United States: *And provided further*. That no permit shall be issued under the provisions of this section authorizing the presence on board any vessel of any of the materials expressly prohibited from being thereon by subsection (3) of section 4172 of this title.

46 USC 170.

"(6) RULES AND REGULATIONS FOR PROTECTION OF THE MARINE ENVIRONMENT; INSPECTION; CERTIFICATION.—No vessel subject to the provisions of this section shall, after the effective date of rules and regulations for protection of the marine environment, have on board such cargo, until a certificate of compliance, or an endorsement on the certificate of inspection for domestic vessels, has been issued by the Secretary indicating that such vessel is in compliance with such rules and regulations. Such certificate of compliance or endorsement shall not be issued by the Secretary until such vessel has been inspected by the Secretary and found to be in compliance with the rules and regulations for protection of the marine environment established hereunder. A certificate of compliance or an endorsement issued under this subsection shall be valid for a period specified therein by the Secretary and shall be subject to revocation whenever the Secretary finds that the vessel concerned does not comply with the conditions upon which such certificate or endorsement was issued.

Publication.

“(7) RULES AND REGULATIONS FOR PROTECTION OF THE MARINE ENVIRONMENTAL RELATING TO VESSEL DESIGN AND CONSTRUCTION. ALTERATION. AND REPAIR; INTERNATIONAL AGREEMENT.—(a) The Secretary shall begin publication as soon as practicable of proposed rules and regulations setting forth minimum standards of design, construction, alteration, and repair of the vessels to which this section applies for the purpose of protecting the marine environment. Such rules and regulations shall, to the extent possible, include but not be limited to standards to improve vessel maneuvering and stopping ability and otherwise reduce the possibility of collision, grounding, or other accident, to reduce cargo loss following collision, grounding, or other accident, and to reduce damage to the marine environment by normal vessel operations such as ballasting and deballasting, cargo handling, and other activities.

“(B) The Secretary shall cause proposed rules and regulations published by him pursuant to subsection (7) (A) to be transmitted to appropriate international forums for consideration as international standards.

“(C) Rules and regulations published pursuant to subsection (7) (A) shall be effective not earlier than January 1, 1974, unless the Secretary shall earlier establish rules and regulations consonant with international treaty, convention, or agreement, which generally address the regulation of similar topics for the protection of the marine environment. In the absence of the promulgation of such rules and regulations consonant with international treaty, convention, or agreement, the Secretary shall establish an effective date not later than January 1, 1976, for rules and regulations previously published pursuant to this subsection (7) which he then deems appropriate.

“(D) Any rule or regulation for protection of the marine environment promulgated pursuant to this subsection (7) shall be equally applicable to foreign vessels and United States-flag vessels operating in the foreign trade. If a treaty, convention, or agreement provides for reciprocity of recognition of certificates or other documents to be issued to vessels by countries party thereto, which evidence compliance with rules and regulations issued pursuant to such treaty, convention, or agreement, the Secretary, in his discretion, may accept such certificates or documents as evidence of compliance with such rules and regulations in lieu of the certificate of compliance otherwise required by subsection (6) of this section.

“(8) SHIPPING DOCUMENTS.—Vessels subject to the provisions of this section shall have on board such shipping documents as may be prescribed by the Secretary indicating the kinds, grades, and approximate quantities of such cargo on board such vessel, the shippers and consignees thereof, and the location of the shipping and destination points.

“(9) OFFICERS; TANKERMEN; CERTIFICATION.—(A) In all cases where the certificate of inspection does not require at least two licensed officers, the Secretary shall enter in the permit issued to any vessel under the provisions of this section the number of the crew required to be certified as tankermen.

“(B) The Secretary shall issue to applicants certificates as tankermen, stating the kinds of cargo the holder of such certificate is, in the

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judgment of the Secretary, qualified to handle aboard vessels with safety, upon satisfactory proof and examination, in form and manner prescribed by the Secretary, that the applicant is in good physical condition, that such applicant is trained in and capable efficiently to perform the necessary operations aboard vessels handling such cargo on board, and that the applicant fulfills the qualifications of tankerman as prescribed by the Secretary under the provisions of this section. Such certificates shall be subject to suspension or revocation on the same grounds and in the same manner and with like procedure as is provided in the case of suspension or revocation of licenses of officers under the provisions of section 4450 of this title.

46 usc 239.

"(10) EFFECTIVE DATE OF RULES AND REGULATIONS.-Except as otherwise provided herein, the rules and regulations to be established pursuant to this section shall become effective ninety days after their promulgation unless the Secretary shall for good cause fix a different time. If the Secretary shall fix an effective date later than ninety days after such promulgation, his determination to fix such a later date shall be accompanied by an explanation of such determination which he shall publish and transmit to the Congress.

"(11) PENALTIES.- (A) The owner, master, or person in charge of any vessel subject to the provisions of this section; or any or all of them, who shall violate the provisions of this section, or the rules and regulations established hereunder, shall be liable to a civil penalty of not more than \$10,000.

"(B) The owner, master, or person in charge of any vessel subject to the provisions of this section, or any or all of them, who shall knowingly and willfully violate the provisions of this section or the rules and regulations established hereunder, shall be subject to a fine of not less than \$5,000 or more than \$50,000, or imprisonment for not more than five years, or both.

"(C) Any vessel subject to the provisions of this section, which shall be in violation of this section or the rules and regulations established hereunder, shall be liable in rem and may be proceeded against in the United States district court for any district in which the vessel may be found.

"(12) INJUNCTIVE PROCEEDINGS.-The United States district courts shall have jurisdiction for cause shown to restrain violations of this section or the rules and regulations promulgated hereunder.

"(13) DENIAL OF ENTRY.-The Secretary may, subject to recognized principles of international law, deny entry into the navigable waters of the United States to any vessel not in compliance with the provisions of this section or the regulations promulgated thereunder."

SEC. 202. Regulations previously issued under statutory provisions repealed, modified, or amended by this title shall continue in effect as though promulgated under the authority of section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a), as amended by I his title, until expressly abrogated, modified, or amended by the Secretary of the Department in which the Coast Guard is operating under the regulatory authority of such section 4417a as so amended. Any proceeding under such section 4417a for a violation which occurred before the effective date of this title may be initiated or continued to conclusion as though such section 4417a had not been amended hereby.

savings  
provision.

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Report to  
Congress.

SEC. 203. The Secretary of the Department in which the Coast Guard is operating shall, for a period of ten years following the enactment of this title, make a report to the Congress at the beginning of each regular session, regarding his activities under this title. Such report shall include but not be limited to (A) a description of the rules and regulations prescribed by the Secretary ( i ) to improve vessel maneuvering and stopping ability and otherwise reduce the risks of collisions, groundings , and other accidents, (ii) to reduce cargo loss in the event of collisions, grounding, and other accidents. and (iii) to reduce damage to the marine environment from the normal operation of the vessels to which this title applies, (13) the progress made with respect to the adoption of international standards for the design, construction, alteration, and repair of vessels to which this title applies for protection of the marine environment, and (C) to the extent that the secretary finds standards with respect to the design, construction, alteration, and repair of vessels for the purposes set forth in (A) (i), (ii), or (iii) above not possible, an explanation of the reasons therefor.

Approved July 10, 1972.

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LEGISLATIVE HISTORY :

HOUSE REPORTS: No. 92-563 (Comm. on Merchant Marine and Fisheries) and No. 92-1178 (Comm. of Conference).

SENATE REPORT No. 92-724 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 117 ( 1971) Oct. 18, considered and passed House.

Vol. 118 ( 1972) : Mar. 30, considered and passed Senate, amended.

June 26, Senate agreed to conference report.

June 28, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS :

vol. 8, No. 29 ( 1972): July 10) presidential statement .