

breadth of the territorial sea is measured forms the outer limit of the waters of the Alexander Archipelago in those five locations.”

PREEMPTION; ADDITIONAL STATE REQUIREMENTS

Pub. L. 100-220, title II, §2003, Dec. 29, 1987, 101 Stat. 1460, provided that:

“(a) **PREEMPTION.**—Except as specifically provided in this title [see Effective Date of 1987 Amendment note above], nothing in this title shall be interpreted or construed to supersede or preempt any other provision of Federal or State law, either statutory or common.

“(b) **ADDITIONAL STATE REQUIREMENTS.**—Nothing in this title shall be construed or interpreted as preempting any State from imposing any additional requirements.”

§ 1902. Ships subject to preventive measures

(a) Included vessels

This chapter shall apply—

(1) to a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

(2) with respect to Annexes I and II to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters of the United States;

(3) with respect to the requirements of Annex V to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters or the exclusive economic zone of the United States;

(4) with respect to regulations prescribed under section 1905 of this title, any port or terminal in the United States; and

(5) with respect to Annex VI to the Convention, and other than with respect to a ship referred to in paragraph (1)—

(A) to a ship that is in a port, shipyard, offshore terminal, or the internal waters of the United States;

(B) to a ship that is bound for, or departing from, a port, shipyard, offshore terminal, or the internal waters of the United States, and is in—

(i) the navigable waters or the exclusive economic zone of the United States;

(ii) an emission control area designated pursuant to section 1903 of this title; or

(iii) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment;

(C) to a ship that is entitled to fly the flag of, or operating under the authority of, a party to Annex VI, and is in—

(i) the navigable waters or the exclusive economic zone of the United States;

(ii) an emission control area designated under section 1903 of this title; or

(iii) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment; and

(D) to any other ship, to the extent that, and in the same manner as, such ship may be boarded by the Secretary to implement or enforce any other law of the United States or Annex I, II, or V of the Convention, and is in—

(i) the exclusive economic zone of the United States;

(ii) the navigable waters of the United States;

(iii) an emission control area designated under section 1903 of this title; or

(iv) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment.

(b) Excluded vessels; discharge requirements

(1) Except as provided in paragraph (3), this chapter shall not apply to—

(A) a ship of the Armed Forces described in paragraph (2); or

(B) any other ship specifically excluded by the MARPOL Protocol or the Antarctic Protocol.

(2) A ship described in this paragraph is a ship that is owned or operated by the Secretary, with respect to the Coast Guard, or by the Secretary of a military department, and that, as determined by the Secretary concerned—

(A) has unique military design, construction, manning, or operating requirements; and

(B) cannot fully comply with the discharge requirements of Annex V to the Convention because compliance is not technologically feasible or would impair the operations or operational capability of the ship.

(3)(A) Notwithstanding any provision of the MARPOL Protocol, the requirements of Annex V to the Convention shall apply to all ships referred to in subsection (a) other than those described in paragraph (2).

(B) A ship that is described in paragraph (2) shall limit the discharge into the sea of garbage as follows:

(i) The discharge into the sea of plastics, including synthetic ropes, synthetic fishing nets, plastic garbage bags, and incinerator ashes from plastic products that may contain toxic chemicals or heavy metals, or the residues thereof, is prohibited.

(ii) Garbage consisting of the following material may be discharged into the sea, subject to subparagraph (C):

(I) A non-floating slurry of seawater, paper, cardboard, or food waste that is capable of passing through a screen with openings no larger than 12 millimeters in diameter.

(II) Metal and glass that have been shredded and bagged (in compliance with clause (i)) so as to ensure negative buoyancy.

(III) With regard to a submersible, non-plastic garbage that has been compacted and weighted to ensure negative buoyancy.

(IV) Ash from incinerators or other thermal destruction systems not containing

toxic chemicals, heavy metals, or incompletely burned plastics.

(C)(i) Garbage described in subparagraph (B)(ii)(I) may not be discharged within 3 nautical miles of land.

(ii) Garbage described in subclauses (II), (III), and (IV) of subparagraph (B)(ii) may not be discharged within 12 nautical miles of land.

(D) Notwithstanding subparagraph (C), a ship described in paragraph (2) that is not equipped with garbage-processing equipment sufficient to meet the requirements of subparagraph (B)(ii) may discharge garbage that has not been processed in accordance with subparagraph (B)(ii) if such discharge occurs as far as practicable from the nearest land, but in any case not less than—

(i) 12 nautical miles from the nearest land, in the case of food wastes and non-floating garbage, including paper products, cloth, glass, metal, bottles, crockery, and similar refuse; and

(ii) 25 nautical miles from the nearest land, in the case of all other garbage.

(E) This paragraph shall not apply when discharge of any garbage is necessary for the purpose of securing the safety of the ship, the health of the ship's personnel, or saving life at sea. In the event that there is such a discharge, the discharge shall be reported to the Secretary, with respect to the Coast Guard, or the Secretary concerned.

(F) This paragraph shall not apply during time of war or a national emergency declared by the President or Congress.

(c) Application to other persons

This chapter shall apply to all persons to the extent necessary to ensure compliance with Annex VI to the Convention.

(d) Discharges in special areas

(1) Except as provided in paragraphs (2) and (3), not later than December 31, 2000, all surface ships owned or operated by the Department of the Navy, and not later than December 31, 2008, all submersibles owned or operated by the Department of the Navy, shall comply with the special area requirements of Regulation 5 of Annex V to the Convention.

(2)(A) Subject to subparagraph (B), any ship described in subparagraph (C) may discharge, without regard to the special area requirements of Regulation 5 of Annex V to the Convention, the following non-plastic, non-floating garbage:

(i) A slurry of seawater, paper, cardboard, or food waste that is capable of passing through a screen with openings no larger than 12 millimeters in diameter.

(ii) Metal and glass that have been shredded and bagged so as to ensure negative buoyancy.

(iii) With regard to a submersible, nonplastic garbage that has been compacted and weighted to ensure negative buoyancy.

(B)(i) Garbage described in subparagraph (A)(i) may not be discharged within 3 nautical miles of land.

(ii) Garbage described in clauses (ii) and (iii) of subparagraph (A) may not be discharged within 12 nautical miles of land.

(C) This paragraph applies to any ship that is owned or operated by the Department of the

Navy that, as determined by the Secretary of the Navy—

(i) has unique military design, construction, manning, or operating requirements; and

(ii) cannot fully comply with the special area requirements of Regulation 5 of Annex V to the Convention because compliance is not technologically feasible or would impair the operations or operational capability of the ship.

(3)(A) Not later than December 31, 2000, the Secretary of the Navy shall prescribe and publish in the Federal Register standards to ensure that each ship described in subparagraph (B) is, to the maximum extent practicable without impairing the operations or operational capabilities of the ship, operated in a manner that is consistent with the special area requirements of Regulation 5 of Annex V to the Convention.

(B) Subparagraph (A) applies to surface ships that are owned or operated by the Department of the Navy that the Secretary plans to decommission during the period beginning on January 1, 2001, and ending on December 31, 2005.

(C) At the same time that the Secretary publishes standards under subparagraph (A), the Secretary shall publish in the Federal Register a list of the ships covered by subparagraph (B).

(e) Regulations

The Secretary or the Administrator, consistent with section 1903 of this title, shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol (or the applicable Annex), including regulations conforming to and giving effect to the requirements of Annex V and Annex VI as they apply under subsection (a) of this section, to ensure that their treatment is not more favorable than that accorded ships to parties to the MARPOL Protocol.

(f) Compliance by excluded vessels

(1) The Secretary of the Navy shall develop and, as appropriate, support the development of technologies and practices for solid waste management aboard ships owned or operated by the Department of the Navy, including technologies and practices for the reduction of the waste stream generated aboard such ships, that are necessary to ensure the compliance of such ships with subsection (b) of this section.

(2) Notwithstanding any effective date of the application of this section to a ship, the provisions of Annex V to the Convention and subsection (b)(3)(B)(i) of this section with respect to the disposal of plastic shall apply to ships equipped with plastic processors required for the long-term collection and storage of plastic aboard ships of the Navy upon the installation of such processors in such ships.

(3) Except when necessary for the purpose of securing the safety of the ship, the health of the ship's personnel, or saving life at sea, it shall be a violation of this chapter for a ship referred to in subsection (b)(1)(A) of this section that is owned or operated by the Department of the Navy:

(A) With regard to a submersible, to discharge buoyant garbage or plastic.

(B) With regard to a surface ship, to discharge plastic contaminated by food during the last 3 days before the ship enters port.

(C) With regard to a surface ship, to discharge plastic, except plastic that is contaminated by food, during the last 20 days before the ship enters port.

(4) The Secretary of Defense shall publish in the Federal Register:

(A) Each year, the amount and nature of the discharges in special areas, not otherwise authorized under this chapter, during the preceding year from ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy.

(B) Beginning on October 1, 1996, and each year thereafter until October 1, 1998, a list of the names of such ships equipped with plastic processors pursuant to section 1003(e) of the National Defense Authorization Act for Fiscal Year 1994.

(g) Waiver authority

The President may waive the effective dates of the requirements set forth in subsection (c)¹ of this section and in subsection 1003(e) of the National Defense Authorization Act for Fiscal Year 1994 if the President determines it to be in the paramount interest of the United States to do so. Any such waiver shall be for a period not in excess of one year. The President shall submit to the Congress each January a report on all waivers from the requirements of this section granted during the preceding calendar year, together with the reasons for granting such waivers.

(h) Noncommercial shipping standards

The heads of Federal departments and agencies shall prescribe standards applicable to ships excluded from this chapter by subsection (b)(1) of this section and for which they are responsible. Standards prescribed under this subsection shall ensure, so far as is reasonable and practicable without impairing the operations or operational capabilities of such ships, that such ships act in a manner consistent with the MARPOL Protocol.

(i) Savings clause

Nothing in this section shall be construed to restrict in a manner inconsistent with international law navigational rights and freedoms as defined by United States law, treaty, convention, or customary international law.

(Pub. L. 96-478, §3, Oct. 21, 1980, 94 Stat. 2297; Pub. L. 100-220, title II, §2102, Dec. 29, 1987, 101 Stat. 1461; Pub. L. 103-160, div. A, title X, §1003(a)-(d), Nov. 30, 1993, 107 Stat. 1745-1747; Pub. L. 104-201, div. A, title III, §324(a), (d), Sept. 23, 1996, 110 Stat. 2480, 2481; Pub. L. 104-227, title II, §201(b), Oct. 2, 1996, 110 Stat. 3042; Pub. L. 105-261, div. A, title III, §326, Oct. 17, 1998, 112 Stat. 1965; Pub. L. 110-280, §4, July 21, 2008, 122 Stat. 2611; Pub. L. 112-81, div. A, title III, §313, Dec. 31, 2011, 125 Stat. 1355.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original “this Act”, meaning Pub. L. 96-478, Oct. 21, 1980, 94 Stat. 2297, known as the “Act to Prevent Pollution from Ships” which is classified principally to this

chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

Section 1003(e) of the National Defense Authorization Act for Fiscal Year 1994, referred to in subsecs. (f)(4)(B) and (g), is section 1003(e) of Pub. L. 103-160, which is set out below.

Subsection (c) of this section, referred to in subsec. (g), was redesignated subsection (d) by Pub. L. 110-280, §4(3), July 21, 2008, 122 Stat. 2613.

AMENDMENTS

2011—Subsec. (b). Pub. L. 112-81, §313(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to excluded vessels.

Subsec. (f)(1). Pub. L. 112-81, §313(b)(1), substituted “subsection (b)” for “Annex V to the Convention on or before the dates referred to in subsections (b)(2)(A) and (c)(1)”.

Subsec. (f)(2). Pub. L. 112-81, §313(b)(2), inserted “and subsection (b)(3)(B)(i) of this section” after “Annex V to the Convention”.

2008—Subsec. (a)(5). Pub. L. 110-280, §4(1), added par. (5).

Subsec. (b)(1). Pub. L. 110-280, §4(2)(A), substituted “paragraphs (2) and (3),” for “paragraph (2),” in introductory provisions.

Subsec. (b)(3). Pub. L. 110-280, §4(2)(B), added par. (3).

Subsecs. (c), (d). Pub. L. 110-280, §4(3), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 110-280, §4(4)(C), substituted “Protocol (or the applicable Annex), including regulations conforming to and giving effect to the requirements of Annex V and Annex VI” for “Protocol, including regulations conforming to and giving effect to the requirements of Annex V”.

Pub. L. 110-280, §4(4)(B), made technical amendment to reference in original act which appears in text as reference to “of this section” requiring no change in text.

Pub. L. 110-280, §4(4)(A), inserted “or the Administrator, consistent with section 1903 of this title,” after “Secretary”.

Pub. L. 110-280, §4(3), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsecs. (f) to (h). Pub. L. 110-280, §4(3), redesignated subsecs. (e) to (g) as (f) to (h), respectively.

Subsec. (i). Pub. L. 110-280, §4(5), added subsec. (i).

1998—Subsec. (c)(2)(A)(iii). Pub. L. 105-261, §326(a)(1), added cl. (iii).

Subsec. (c)(2)(B)(ii). Pub. L. 105-261, §326(a)(2), substituted “clauses (ii) and (iii) of subparagraph (A)” for “subparagraph (A)(ii)”.

Subsec. (e)(3)(A). Pub. L. 105-261, §326(b), struck out “garbage that contains more than the minimum amount practicable of” after “buoyant garbage or”.

1996—Subsec. (b)(1)(B). Pub. L. 104-227 inserted “or the Antarctic Protocol” after “MARPOL Protocol”.

Subsec. (c)(1). Pub. L. 104-201, §324(a)(1), substituted “Except as provided in paragraphs (2) and (3), not later than” for “Not later than”.

Subsec. (c)(2) to (4). Pub. L. 104-201, §324(a)(2), added pars. (2) and (3) and struck out former pars. (2) to (4) which required the Secretary of the Navy to submit to Congress a plan for compliance of Navy ships with the requirements set forth in par. (1) of this subsec. and provided for modification of the applicability of par. (1) as appropriate.

Subsec. (e)(4)(A). Pub. L. 104-201, §324(d), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “Beginning on October 1, 1994, and each year thereafter until October 1, 2000, the amount and nature of the discharges in special areas, not otherwise authorized under Annex V to the Convention, during the preceding year from ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy.”

1993—Subsec. (b)(2)(A). Pub. L. 103-160, §1003(a), substituted “as follows:” and cls. (i) to (iii) for “after 5

¹ See References in Text note below.

years after the effective date of this paragraph to a ship referred to in paragraph (1)(A)."

Subsecs. (c), (d). Pub. L. 103-160, §1003(b), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (g).

Subsecs. (e), (f). Pub. L. 103-160, §1003(c), (d), added subsecs. (e) and (f).

Subsec. (g). Pub. L. 103-160, §1003(b)(1), redesignated subsec. (d) as (g).

1987—Subsec. (a). Pub. L. 100-220, §2102(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "This chapter applies to—

"(1) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

"(2) a ship registered in or of the nationality of a country party to the MARPOL Protocol, or one operated under the authority of a country party to the MARPOL Protocol, while in the navigable waters of the United States; and

"(3) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States."

Subsec. (b). Pub. L. 100-220, §2102(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "This chapter does not apply to—

"(1) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

"(2) any other ship specifically excluded by the MARPOL Protocol."

Subsec. (c). Pub. L. 100-220, §2102(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol to ensure that their treatment is not more favorable than that accorded ships of parties to the MARPOL Protocol."

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. (c) and (d) 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.

COMPLIANCE WITH ANNEX V TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

Pub. L. 104-201, div. A, title III, §324(b), (c), Sept. 23, 1996, 110 Stat. 2480, as amended by Pub. L. 105-85, div. A, title X, §1073(c)(1), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 108-136, div. A, title X, §1031(f)(1), Nov. 24, 2003, 117 Stat. 1604, provided that:

"(b) SENSE OF CONGRESS.—(1) It is the sense of Congress that it should be an objective of the Navy to achieve full compliance with Annex V to the Convention as part of the Navy's development of ships that are environmentally sound.

"(2) In this subsection and subsection (c), the terms 'Convention' and 'ship' have the meanings given such terms in section 2(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)).

"[(c) Repealed. Pub. L. 108-136, div. A, title X, §1031(f)(1), Nov. 24, 2003, 117 Stat. 1604.]"

INSTALLATION SCHEDULE FOR PLASTICS PROCESSOR EQUIPMENT ABOARD SHIPS; REQUEST FOR PROPOSALS FOR EQUIPMENT

Pub. L. 103-160, div. A, title X, §1003(e), Nov. 30, 1993, 107 Stat. 1747, provided that:

"(1) Not later than October 1, 1994, the Secretary of the Navy shall release a request for proposals for equip-

ment (hereinafter in this subsection referred to as 'plastics processor') required for the long-term collection and storage of plastic aboard ships owned or operated by the Navy.

"(2) Not later than July 1, 1996, the Secretary shall install the first production unit of the plastics processor on board a ship owned or operated by the Navy.

"(3) Not later than March 1, 1997, the Secretary shall complete the installation of plastics processors on board not less than 25 percent of the ships owned or operated by the Navy that require plastics processors to comply with section 3 of the Act to Prevent Pollution from Ships [33 U.S.C. 1902], as amended by subsections (a), (b), and (c) of this section.

"(4) Not later than July 1, 1997, the Secretary shall complete the installation of plastics processors on board not less than 50 percent of the ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section.

"(5) Not later than July 1, 1998, the Secretary shall complete the installation of plastics processors on board not less than 75 percent of the ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section.

"(6) Not later than December 31, 1998, the Secretary shall complete the installation of plastics processors on board all ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section."

§ 1902a. Discharge of agricultural cargo residue

Notwithstanding any other provision of law, the discharge from a vessel of any agricultural cargo residue material in the form of hold washings shall be governed exclusively by the provisions of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) that implement Annex V to the International Convention for the Prevention of Pollution from Ships.

(Pub. L. 107-295, title II, §204, Nov. 25, 2002, 116 Stat. 2094.)

REFERENCES IN TEXT

The Act to Prevent Pollution from Ships, referred to in text, is Pub. L. 96-478, Oct. 21, 1980, 94 Stat. 2297, as amended, which is classified principally to this chapter (§1901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

CODIFICATION

Section was enacted as part of the Maritime Policy Improvement Act of 2002 and as part of the Maritime Transportation Security Act of 2002, and not as part of the Act to Prevent Pollution from Ships which comprises this chapter.

§ 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) Duty of the Administrator

In addition to other duties specified in this chapter, the Administrator and the Secretary, respectively, shall have the following duties and authorities: