

mined by the Secretary, creates reason to believe that such vessel may be unsafe or may create a threat to the marine environment;

(2) fails to comply with any applicable regulation issued under section 70034, chapter 37, or any other applicable law or treaty;

(3) discharges oil or hazardous material in violation of any law of the United States or in a manner or quantities inconsistent with any treaty to which the United States is a party;

(4) does not comply with any applicable vessel traffic service requirements;

(5) is manned by one or more officers who are licensed by a certificating State that the Secretary has determined, pursuant to section 9101 of title 46, does not have standards for licensing and certification of seafarers that are comparable to or more stringent than United States standards or international standards that are accepted by the United States;

(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.—

(1) IN GENERAL.—The Secretary may allow provisional entry of a vessel that is 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.

(2) PROVISIONS NOT APPLICABLE.—Paragraphs (1), (2), (3), and (4) of subsection (a) of this section shall not apply to a vessel allowed provisional entry under paragraph (1) 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.

(Added Pub. L. 115-282, title IV, § 401(a), Dec. 4, 2018, 132 Stat. 4260.)

SUBCHAPTER IV—DEFINITIONS, REGULATIONS, ENFORCEMENT, INVESTIGATORY POWERS, APPLICABILITY

§ 70031. Definitions

As used in subchapters A through C¹ and this subchapter, unless the context otherwise requires:

(1) The term “marine environment” means—

(A) the navigable waters of the United States and the land and resources therein and thereunder;

(B) the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority;

(C) the seabed and subsoil of the Outer Continental Shelf of the United States, the resources thereof, and the waters superjacent thereto; and

(D) the recreational, economic, and scenic values of such waters and resources.

(2) The term “Secretary” means the Secretary of the department in which the Coast Guard is operating, except that such term means the Secretary of Transportation with respect to the application of this chapter to the Saint Lawrence Seaway.

(3) The term “navigable waters of the United States” includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.

(Added Pub. L. 115-282, title IV, § 401(a), Dec. 4, 2018, 132 Stat. 4261.)

REFERENCES IN TEXT

Presidential Proclamation No. 5928, referred to in par. (3), is set out under section 1331 of Title 43, Public Lands.

§ 70032. Saint Lawrence Seaway

The authority granted to the Secretary under sections 70001, 70002, 70003, 70004, and 70011 may 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 subchapters A through C¹ and this subchapter shall be delegated by the Secretary to the Saint Lawrence Seaway Development Corporation to the extent the Secretary determines such delegation is necessary for the proper operation of the Saint Lawrence Seaway.

(Added Pub. L. 115-282, title IV, § 401(a), Dec. 4, 2018, 132 Stat. 4261.)

§ 70033. Limitation on application to foreign vessels

Except pursuant to international treaty, convention, or agreement, to which the United States is a party, subchapters A through C¹ and this subchapter shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

(1) innocent passage through the territorial sea of the United States; or

(2) transit through the navigable waters of the United States that form a part of an international strait.

(Added Pub. L. 115-282, title IV, § 401(a), Dec. 4, 2018, 132 Stat. 4261.)

§ 70034. Regulations

(a) IN GENERAL.—In accordance with section 553 of title 5, the Secretary shall issue, and may from time to time amend or repeal, regulations necessary to implement subchapters A through C¹ and this subchapter.

(b) CONSULTATION.—In the exercise of the regulatory authority under subchapters A through C¹ and this subchapter, the Secretary shall consult with, and receive and consider the views of all interested persons, including—

(1) interested Federal departments and agencies;

(2) officials of State and local governments;

¹So in original. Probably should be “subchapters I through III”.

¹So in original. Probably should be “subchapters I through III”.

- (3) representatives of the maritime community;
- (4) representatives of port and harbor authorities or associations;
- (5) representatives of environmental groups;
- (6) any other interested persons who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment; and
- (7) advisory committees consisting of all interested segments of the public when the establishment of such committees is considered necessary because the issues involved are highly complex or controversial.

(Added Pub. L. 115-282, title IV, § 401(a), Dec. 4, 2018, 132 Stat. 4261.)

SAFETY ZONES FOR PERMITTED MARINE EVENTS

Pub. L. 114-120, title III, § 305, Feb. 8, 2016, 130 Stat. 54, provided that: “Not later than 6 months after the date of the enactment of this Act [Feb. 8, 2016], the Secretary of the department in which the Coast Guard is operating shall establish and implement a process to—

- “(1) account for the number of safety zones established for permitted marine events;
- “(2) differentiate whether the event sponsor who requested a permit for such an event is—
 - “(A) an individual;
 - “(B) an organization; or
 - “(C) a government entity; and
- “(3) account for Coast Guard resources utilized to enforce safety zones established for permitted marine events, including for—
 - “(A) the number of Coast Guard or Coast Guard Auxiliary vessels used; and
 - “(B) the number of Coast Guard or Coast Guard Auxiliary patrol hours required.”

§ 70035. 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 subchapters A through C¹ and this subchapter, or that 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.

(Added Pub. L. 115-282, title IV, § 401(a), Dec. 4, 2018, 132 Stat. 4262.)

§ 70036. Enforcement

(a) CIVIL PENALTY.—

(1) IN GENERAL.—Any person who is found by the Secretary, after notice and an opportunity

for a hearing, to have violated subchapters A through C¹ or this subchapter or a regulation issued under subchapters A through C¹ or this subchapter shall be liable to the United States for a civil penalty, not to exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or the Secretary’s designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) COMPROMISE, MODIFICATION, OR REMISSION.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(3) FAILURE TO PAY PENALTY.—If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

(b) CRIMINAL PENALTY.—

(1) CLASS D FELONY.—Any person who willfully and knowingly violates subchapters A through C¹ or this subchapter or any regulation issued thereunder commits a class D felony.

(2) CLASS C FELONY.—Any person who, in the willful and knowing violation of subchapters A through C¹ or this subchapter or of any regulation issued thereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of such a subchapter or the regulations issued under such subchapter, commits a class C felony.

(c) IN REM LIABILITY.—Any vessel that is used in violation of subchapters A, B, or C² or this subchapter, or any regulations issued under such subchapter, shall be liable in rem for any civil penalty assessed pursuant to subsection (a) and may be proceeded against in the United States district court for any district in which such vessel may be found.

(d) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of subchapter A, B, or C² or this subchapter or of regulations issued under such subchapter, for cause shown.

(e) DENIAL OF ENTRY.—Except as provided in section 70021, the Secretary may, subject to recognized principles of international law, deny entry by any vessel that is not in compliance with subchapter A, B, or C² or this subchapter or the regulations issued under such subchapter—

(1) into the navigable waters of the United States; or

(2) to any port or place under the jurisdiction of the United States.

(f) WITHHOLDING OF CLEARANCE.—

(1) IN GENERAL.—If any owner, operator, or individual in charge of a vessel is liable for a

¹ So in original. Probably should be “subchapters I through III”.

² So in original. Probably should be “subchapter I, II, or III”.