

AA, title V, §512(c)(6)(F), Dec. 27, 2020, 134 Stat. 2757; Pub. L. 116-283, div. G, title LVXXXV [LXXXV], §8507(a)(5), Jan. 1, 2021, 134 Stat. 4753.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 substituted “I through III” for “A through C”.

2020—Pub. L. 116-260 substituted “Great Lakes St. Lawrence Seaway Development Corporation” for “Saint Lawrence Seaway Development Corporation” in two places.

§ 70033. Limitation on application to foreign vessels

Except pursuant to international treaty, convention, or agreement, to which the United States is a party, subchapters I through III 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; amended Pub. L. 116-283, div. G, title LVXXXV [LXXXV], §8507(a)(6), Jan. 1, 2021, 134 Stat. 4753.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 substituted “I through III” for “A through C” in introductory provisions.

§ 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 I through III and this subchapter.

(b) CONSULTATION.—In the exercise of the regulatory authority under subchapters I through III 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;
- (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; amended Pub. L. 116-283, div.

G, title LVXXXV [LXXXV], §8507(a)(7), Jan. 1, 2021, 134 Stat. 4753.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 substituted “I through III” for “A through C” in subsecs. (a) and (b).

Statutory Notes and Related Subsidiaries

SAFETY OF SPECIAL ACTIVITIES

Pub. L. 116-283, div. G, title LVXXXIII [LXXXIII], §8343, Jan. 1, 2021, 134 Stat. 4710, provided that:

“(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall conduct a 2-year pilot program to establish and implement a process to—

- “(1) establish safety zones to address special activities in the exclusive economic zone;
- “(2) account for the number of safety zones established for special activities;
- “(3) differentiate whether an applicant who requests a safety zone for such activities is—

- “(A) an individual;
- “(B) an organization; or
- “(C) a government entity; and

“(4) account for Coast Guard resources utilized to enforce safety zones established for special activities, including—

- “(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.

“(b) BRIEFING.—Not later than 180 days after the expiration of the 2-year pilot program, the Commandant [of the Coast Guard] shall brief the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate regarding—

- “(1) the process required under subsection (a); and
- “(2) whether the authority to establish safety zones to address special activities in the exclusive economic zone should be extended or made permanent in the interest of safety.

“(c) DEFINITIONS.—In this section:

“(1) SAFETY ZONE.—The term ‘safety zone’ has the meaning given such term in section 165.20 of title 33, Code of Federal Regulations.

“(2) SPECIAL ACTIVITIES.—The term ‘special activities’ includes—

- “(A) space activities, including launch and reentry, as such terms are defined in section 50902 of title 51, United States Code, carried out by United States citizens; and

“(B) offshore energy development activities, as described in section 8(p)(1)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)(1)(C)), on or near a fixed platform.

“(3) UNITED STATES CITIZEN.—The term ‘United States citizen’ has the meaning given the term ‘eligible owners’ in section 12103 of title 46, United States Code.

“(4) FIXED PLATFORM.—The term ‘fixed platform’ means an artificial island, installation, or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.”

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 I through III 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; amended Pub. L. 116-283, div. G, title LVXXXV [LXXXV], § 8507(a)(8), Jan. 1, 2021, 134 Stat. 4753.)

Editorial Notes

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283 substituted “I through III” for “A through C”.

§ 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 I through III or this subchapter or a regulation issued under subchapters I through III 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, mod-

ify, 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 I through III 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 I through III 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 I, II, or III 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 I, II, or III or this subchapter or of regulations issued under such subchapter, for cause shown.

(e) DENIAL OF ENTRY.—Except as provided in section 70021 or 70022, the Secretary may, subject to recognized principles of international law, deny entry by any vessel that is not in compliance with subchapter I, II, or III 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 penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to a penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 60105 of title 46.

(2) GRANTING CLEARANCE REFUSED OR REVOKED.—Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

(Added Pub. L. 115-282, title IV, § 401(a), Dec. 4, 2018, 132 Stat. 4262; amended Pub. L. 116-283, div. G, title LVXXXV [LXXXV], §§ 8507(a)(9), 8508(2)(B), Jan. 1, 2021, 134 Stat. 4753, 4755.)