

violation for which he is authorized to issue a compliance order under this subsection. Any action under subsection (h) may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the State of Alaska.

“SEC. 1410. DESIGNATION OF CRUISE VESSEL NO-DISCHARGE ZONES.

“If the State of Alaska determines that the protection and enhancement of the quality of some or all of the waters of the Alexander Archipelago or the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve require greater environmental protection, the State of Alaska may petition the Administrator to prohibit the discharge of graywater and sewage from cruise vessels operating in such waters. The establishment of such a prohibition shall be achieved in the same manner as the petitioning process and prohibition of the discharge of sewage pursuant to section 312(f) of the Federal Water Pollution Control Act [33 U.S.C. 1322(f)], as amended, and the regulations promulgated thereunder.

“SEC. 1411. SAVINGS CLAUSE.

“(a) Nothing in this title shall be construed as restricting, affecting, or amending any other law or the authority of any department, instrumentality, or agency of the United States.

“(b) Nothing in this title shall in any way affect or restrict, or be construed to affect or restrict, the authority of the State of Alaska or any political subdivision thereof—

“(1) to impose additional liability or additional requirements; or

“(2) to impose, or determine the amount of a fine or penalty (whether criminal or civil in nature) for any violation of law; relating to the discharge of sewage (whether treated or untreated) or graywater in the waters of the Alexander Archipelago and the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve.

“SEC. 1412. REGULATIONS.

“The Secretary and the Administrator each may prescribe any regulations necessary to carry out the provisions of this title.

“SEC. 1413. INFORMATION GATHERING AUTHORITY.

“The authority of sections 308(a) and (b) of the Federal Water Pollution Control Act [33 U.S.C. 1318(a), (b)], as amended, shall be available to the Administrator to carry out the provisions of this title. The Administrator and the Secretary shall minimize, to the extent practicable, duplication of or inconsistency with the inspection, sampling, testing, recordkeeping, and reporting requirements established by the Secretary under section 1406 of this title.

“SEC. 1414. DEFINITIONS.

“In this title:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the United States Environmental Protection Agency.

“(2) CRUISE VESSEL.—The term ‘cruise vessel’ means a passenger vessel as defined in section 2101(22) of title 46, United States Code. The term ‘cruise vessel’ does not include a vessel of the United States operated by the Federal Government or a vessel owned and operated by the government of a State.

“(3) DISCHARGE.—The term ‘discharge’ means any release however caused from a cruise vessel, and includes any escape, disposal, spilling, leaking, pumping, emitting, or emptying.

“(4) GRAYWATER.—The term ‘graywater’ means only galley, dishwasher, bath, and laundry waste water. The term does not include other wastes or waste streams.

“(5) NAVIGABLE WATERS.—The term ‘navigable waters’ has the same meaning as in section 502 of the Federal Water Pollution Control Act [33 U.S.C. 1362], as amended.

“(6) PERSON.—The term ‘person’ means an individual, corporation, partnership, limited liability company, association, State, municipality, commission, or political subdivision of a State, or any federally recognized tribe.

“(7) SECRETARY.—The term ‘Secretary’ means the Secretary of the department in which the United States Coast Guard is operating.

“(8) SEWAGE.—The term ‘sewage’ means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.

“(9) TREATED SEWAGE.—The term ‘treated sewage’ means sewage meeting all applicable effluent limitation standards and processing requirements of the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], as amended[,] and of this title, and regulations promulgated under either.

“(10) UNTREATED SEWAGE.—The term ‘untreated sewage’ means sewage that is not treated sewage.

“(11) WATERS OF THE ALEXANDER ARCHIPELAGO.—The term ‘waters of the Alexander Archipelago’ means all waters under the sovereignty of the United States within or near Southeast Alaska, beginning at a point 58°11’41”N, 136°39’25”W [near Cape Spencer Light], thence southeasterly along a line three nautical miles seaward of the baseline from which the breadth of the territorial sea is measured in the Pacific Ocean and the Dixon Entrance, except where this line intersects geodesics connecting the following five pairs of points:

“(1) 58°05’17”N, 136°33’49”W and 58°11’41”N, 136°39’25”W [Cross Sound].

“(2) 56°09’40”N, 134°40’00”W and 55°49’15”N, 134°17’40”W [Chatham Strait].

“(3) 55°49’15”N, 134°17’40”W and 55°50’30”N, 133°54’15”W [Sumner Strait].

“(4) 54°41’30”N, 132°01’00”W and 54°51’30”N, 131°20’45”W [Clarence Strait].

“(5) 54°51’30”N, 131°20’45”W and 54°46’15”N, 130°52’00”W [Revillagigedo Channel].

“The portion of each such geodesic situated beyond three nautical miles from the baseline from which the 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

Section 2003 of title II of Pub. L. 100-220 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; and

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

(b) Excluded vessels

(1) Except as provided in paragraph (2), this chapter shall not apply to—

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

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

(2)(A) Notwithstanding any provision of the MARPOL Protocol, and subject to subparagraph (B) of this paragraph, the requirements of Annex V to the Convention shall apply as follows:

(i) After December 31, 1993, to all ships referred to in paragraph (1)(A) of this subsection other than those owned or operated by the Department of the Navy.

(ii) Except as provided in subsection (c) of this section, after December 31, 1998, to all ships referred to in paragraph (1)(A) of this subsection other than submersibles owned or operated by the Department of the Navy.

(iii) Except as provided in subsection (c) of this section, after December 31, 2008, to all ships referred to in paragraph (1)(A) of this subsection.

(B) This paragraph shall not apply during time of war or a declared national emergency.

(c) 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).

(d) Regulations

The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol, including regulations conforming to and giving effect to the requirements of Annex V 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.

(e) 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 Annex V to the Convention on or before the dates referred to in subsections (b)(2)(A) and (c)(1) 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 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.

(f) Waiver authority

The President may waive the effective dates of the requirements set forth in subsection (c) 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.

(g) 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.

(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.)

REFERENCES IN TEXT

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

AMENDMENTS

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 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.

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

Section 1003(e) of Pub. L. 103-160 provided that:

“(1) Not later than October 1, 1994, the Secretary of the Navy shall release a request for proposals for equipment (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.