

in the channel and the safety of the passengers and crew aboard such vessels.

“(c) DEFINITIONS.—In this section:

“(1) COVERED NAVIGATION CHANNEL.—The term ‘covered navigation channel’ means a navigation channel that—

“(A) is federally marked or maintained;

“(B) is part of the Atlantic Intracoastal Waterway; and

“(C) is adjacent to a marina.

“(2) COVERED VESSEL.—The term ‘covered vessel’ means a recreational vessel or an uninspected passenger vessel, as such terms are defined in section 2101 of title 46, United States Code.

“(d) SAVINGS CLAUSE.—Nothing in this section shall be construed to relieve the master, pilot, or other person responsible for determining the speed of a vessel from the obligation to comply with the inland navigation regulations promulgated pursuant to section 3 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2071) or any other applicable laws or regulations governing the safe navigation of a vessel.”

#### NOTICE OF ARRIVAL FOR FOREIGN VESSELS ON THE OUTER CONTINENTAL SHELF

Pub. L. 112-213, title VII, §704, Dec. 20, 2012, 126 Stat. 1580, provided that: “The regulations required under section 109(a) of the Security and Accountability For Every Port Act of 2006 [Pub. L. 109-347] (33 U.S.C. 1223 note) [now 46 U.S.C. 70001 note] dealing with notice of arrival requirements for foreign vessels on the Outer Continental Shelf shall not apply to a vessel documented under section 12105 of title 46, United States Code, unless the vessel arrives from a foreign port or place.”

Pub. L. 109-347, title I, §109, Oct. 13, 2006, 120 Stat. 1893, provided that:

“(a) NOTICE OF ARRIVAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 13, 2006], the Secretary of the department in which the Coast Guard is operating shall update and finalize the rulemaking on notice of arrival for foreign vessels on the Outer Continental Shelf.

“(b) CONTENT OF REGULATIONS.—The regulations promulgated pursuant to subsection (a) shall be consistent with information required under the Notice of Arrival under section 160.206 of title 33, Code of Federal Regulations, as in effect on the date of the enactment of this Act [Oct. 13, 2006].”

#### § 7002. Special powers

The Secretary may order any vessel, in a port or place subject to the jurisdiction of the United States or in the navigable waters of the United States, to operate or anchor in a manner the Secretary directs if—

(1) the Secretary has reasonable cause to believe such vessel does not comply with any regulation issued under section 70034 or any other applicable law or treaty;

(2) the Secretary determines such vessel does not satisfy the conditions for port entry set forth in section 70021 or 70022 of this title; or

(3) by reason of weather, visibility, sea conditions, port congestion, other hazardous circumstances, or the condition of such vessel, the Secretary is satisfied such direction is justified in the interest of safety.

(Added Pub. L. 115-282, title IV, §401(a), Dec. 4, 2018, 132 Stat. 4255; amended Pub. L. 116-283, div. G, title LVXXXV [LXXXV], §8508(2)(A), Jan. 1, 2021, 134 Stat. 4755.)

#### Editorial Notes

##### AMENDMENTS

2021—Par. (2). Pub. L. 116-283 inserted “or 70022” after “section 70021”.

#### § 7003. Port access routes

(a) AUTHORITY TO DESIGNATE.—Except as provided in subsection (b) and subject to the requirements of subsection (c), in order to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to the jurisdiction of the United States, the Secretary shall designate necessary fairways and traffic separation schemes for vessels operating in the territorial sea of the United States and in high seas approaches, outside the territorial sea, to such ports or places. Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses.

(b) LIMITATION.—

(1) IN GENERAL.—No designation may be made by the Secretary under this section if—

(A) the Secretary determines such a designation, as implemented, would deprive any person of the effective exercise of a right granted by a lease or permit executed or issued under other applicable provisions of law; and

(B) such right has become vested before the time of publication of the notice required by paragraph (1) of subsection (c).

(2) CONSULTATION REQUIRED.—The Secretary shall make the determination under paragraph (1)(A) after consultation with the head of the agency responsible for executing the lease or issuing the permit.

(c) CONSIDERATION OF OTHER USES.—Before making a designation under subsection (a), and in accordance with the requirements of section 70004, the Secretary shall—

(1) undertake a study of the potential traffic density and the need for safe access routes for vessels in any area for which fairways or traffic separation schemes are proposed or that may otherwise be considered and publish notice of such undertaking in the Federal Register;

(2) in consultation with the Secretary of State, the Secretary of the Interior, the Secretary of Commerce, the Secretary of the Army, and the Governors of affected States, as their responsibilities may require, take into account all other uses of the area under consideration, including, as appropriate, the exploration for, or exploitation of, oil, gas, or other mineral resources, the construction or operation of deepwater ports or other structures on or above the seabed or subsoil of the submerged lands or the Outer Continental Shelf of the United States, the establishment or operation of marine or estuarine sanctuaries, and activities involving recreational or commercial fishing; and

(3) to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved.

(d) STUDY.—In carrying out the Secretary’s responsibilities under subsection (c), the Secretary shall—

(1) proceed expeditiously to complete any study undertaken; and

(2) after completion of such a study, promptly—

(A) issue a notice of proposed rulemaking for the designation contemplated; or

(B) publish in the Federal Register a notice that no designation is contemplated as a result of the study and the reason for such determination.

(e) IMPLEMENTATION OF DESIGNATION.—In connection with a designation made under this section, the Secretary—

(1) shall issue reasonable rules and regulations governing the use of such designated areas, including rules and regulations regarding the applicability of rules 9 and 10 of the International Regulations for Preventing Collisions at Sea, 1972, relating to narrow channels and traffic separation schemes, respectively, in waters where such regulations apply;

(2) to the extent that the Secretary finds reasonable and necessary to effectuate the purposes of the designation, make the use of designated fairways and traffic separation schemes mandatory for specific types and sizes of vessels, foreign and domestic, operating in the territorial sea of the United States and for specific types and sizes of vessels of the United States operating on the high seas beyond the territorial sea of the United States;

(3) may, from time to time, as necessary, adjust the location or limits of designated fairways or traffic separation schemes in order to accommodate the needs of other uses that cannot be reasonably accommodated otherwise, except that such an adjustment may not, in the judgment of the Secretary, unacceptably adversely affect the purpose for which the existing designation was made and the need for which continues; and

(4) shall, through appropriate channels—

(A) notify cognizant international organizations of any designation, or adjustment thereof; and

(B) take action to seek the cooperation of foreign States in making it mandatory for vessels under their control to use, to the same extent as required by the Secretary for vessels of the United States, any fairway or traffic separation scheme designated under this section in any area of the high seas.

(Added Pub. L. 115-282, title IV, § 401(a), Dec. 4, 2018, 132 Stat. 4255.)

#### Editorial Notes

##### REFERENCES IN TEXT

The International Regulations for Preventing Collisions at Sea, 1972, referred to in subsec. (e)(1), came into effect pursuant to the Convention on the International Regulations for Preventing Collisions at Sea, 1972. See International Regulations for Preventing Collisions at Sea, 1972 note under section 1602 of Title 33, Navigation and Navigable Waters.

#### § 70004. Considerations by Secretary

In carrying out the duties of the Secretary under sections 70001, 70002, and 70003, the Secretary shall—

(1) take into account all relevant factors concerning navigation and vessel safety, pro-

tection of the marine environment, and the safety and security of United States ports and waterways, including—

(A) the scope and degree of the risk or hazard involved;

(B) vessel traffic characteristics and trends, including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;

(C) port and waterway configurations and variations in local conditions of geography, climate, and other similar factors;

(D) the need for granting exemptions for the installation and use of equipment or devices for use with vessel traffic services for certain classes of small vessels, such as self-propelled fishing vessels and recreational vessels;

(E) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;

(F) environmental factors;

(G) economic impact and effects;

(H) existing vessel traffic services; and

(I) local practices and customs, including voluntary arrangements and agreements within the maritime community; and

(2) at the earliest possible time, consult with and receive and consider the views of representatives of the maritime community, ports and harbor authorities or associations, environmental groups, and other persons who may be affected by the proposed actions.

(Added Pub. L. 115-282, title IV, § 401(a), Dec. 4, 2018, 132 Stat. 4257.)

#### § 70005. International agreements

(a) TRANSMITTAL OF REGULATIONS.—The Secretary shall transmit, via the Secretary of State, to appropriate international bodies or forums, any regulations issued under this subchapter, for consideration as international standards.

(b) AGREEMENTS.—The President is authorized and encouraged to—

(1) enter into negotiations and conclude and execute agreements with neighboring nations, to establish compatible vessel standards and vessel traffic services, and to establish, operate, and maintain international vessel traffic services, in areas and under circumstances of mutual concern; and

(2) enter into negotiations, through appropriate international bodies, and conclude and execute agreements to establish vessel traffic services in appropriate areas of the high seas.

(c) OPERATIONS.—The Secretary, pursuant to any agreement negotiated under subsection (b) that is binding upon the United States in accordance with constitutional requirements, may—

(1) require vessels operating in an area of a vessel traffic service to utilize or to comply with the vessel traffic service, including the carrying or installation of equipment and devices as necessary for the use of the service; and