

erating on the navigable waters of the United States.

(b) EXCEPTIONS.—This section shall not apply to a member or element of the Department of Defense or Department of Homeland Security acting in an official capacity for the purpose of research, development, operations, testing, or training.

(c) LASER POINTER DEFINED.—In this section the term “laser pointer” means any device designed or used to amplify electromagnetic radiation by stimulated emission that emits a beam designed to be used by the operator as a pointer or highlighter to indicate, mark, or identify a specific position, place, item, or object.

(Added Pub. L. 116-283, div. G, title LVXXXIII, § 8342(a), Jan. 1, 2021, 134 Stat. 4709.)

SUBCHAPTER III—CONDITION FOR ENTRY INTO PORTS IN THE UNITED STATES

§ 70021. Conditions for entry to ports in the United States

(a) IN GENERAL.—No vessel that is subject to chapter 37 shall operate in the navigable waters of the United States or transfer cargo or residue in any port or place under the jurisdiction of the United States, if such vessel—

(1) has a history of accidents, pollution incidents, or serious repair problems that, as determined 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 provi-

sional 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.)

§ 70022. Prohibition on entry and operation

(a) PROHIBITION.—

(1) IN GENERAL.—Except as otherwise provided in this section, no vessel described in subsection (b) may enter or operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States.

(2) LIMITATIONS ON APPLICATION.—

(A) IN GENERAL.—The prohibition under paragraph (1) shall not apply with respect to—

(i) a vessel described in subsection (b)(1), if the Secretary of State determines that—

(I) the vessel is owned or operated by or on behalf of a country the government of which the Secretary of State determines is closely cooperating with the United States with respect to implementing the applicable United Nations Security Council resolutions (as such term is defined in section 3 of the North Korea Sanctions and Policy Enhancement Act of 2016); or

(II) it is in the national security interest not to apply the prohibition to such vessel; or

(ii) a vessel described in subsection (b)(2), if the Secretary of State determines that the vessel is no longer registered as described in that subsection.

(B) NOTICE.—Not later than 15 days after making a determination under subparagraph (A), the Secretary of State shall submit to the Committee on Foreign Affairs and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate written notice of the determination and the basis upon which the determination was made.

(C) PUBLICATION.—The Secretary of State shall publish a notice in the Federal Register of each determination made under subparagraph (A).

(b) VESSELS DESCRIBED.—A vessel referred to in subsection (a) is a foreign vessel for which a notice of arrival is required to be filed under section 70001(a)(5), and that—

(1) is on the most recent list of vessels published in Federal¹ Register under subsection (c)(2); or

(2) more than 180 days after the publication of such list, is knowingly registered, pursuant to the 1958 Convention on the High Seas entered into force on September 30, 1962, by a

¹ So in original. Probably should be preceded by “the”.

government the agents or instrumentalities of which are maintaining a registration of a vessel that is included on such list.

(c) INFORMATION AND PUBLICATION.—The Secretary of the department in which the Coast Guard is operating, with the concurrence of the Secretary of State, shall—

(1) maintain timely information on the registrations of all foreign vessels over 300 gross tons that are known to be—

(A) owned or operated by or on behalf of the Government of North Korea or a North Korean person;

(B) owned or operated by or on behalf of any country in which a sea port is located, the operator of which the President has identified in the most recent report submitted under section 205(a)(1)(A) of the North Korea Sanctions and Policy Enhancement Act of 2016; or

(C) owned or operated by or on behalf of any country identified by the President as a country that has not complied with the applicable United Nations Security Council resolutions (as such term is defined in section 3 of such Act); and

(2) periodically publish in the Federal Register a list of the vessels described in paragraph (1).

(d) NOTIFICATION OF GOVERNMENTS.—

(1) IN GENERAL.—The Secretary of State shall notify each government, the agents or instrumentalities of which are maintaining a registration of a foreign vessel that is included on a list published under subsection (c)(2), not later than 30 days after such publication, that all vessels registered under such government's authority are subject to subsection (a).

(2) ADDITIONAL NOTIFICATION.—In the case of a government that continues to maintain a registration for a vessel that is included on such list after receiving an initial notification under paragraph (1), the Secretary shall issue an additional notification to such government not later than 120 days after the publication of a list under subsection (c)(2).

(e) NOTIFICATION OF VESSELS.—Upon receiving a notice of arrival under section 70001(a)(5) from a vessel described in subsection (b), the Secretary of the department in which the Coast Guard is operating shall notify the master of such vessel that the vessel may not enter or operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States, unless—

(1) the Secretary of State has made a determination under subsection (a)(2); or

(2) the Secretary of the department in which the Coast Guard is operating allows provisional entry of the vessel, or transfer of cargo from the vessel, under subsection (f).

(f) PROVISIONAL ENTRY OR CARGO TRANSFER.—Notwithstanding any other provision of this section, the Secretary of the department in which the Coast Guard is operating may allow provisional entry of, or transfer of cargo from, a vessel, if such entry or transfer is necessary for the safety of the vessel or persons aboard.

(g) RIGHT OF INNOCENT PASSAGE AND RIGHT OF TRANSIT PASSAGE.—This section shall not be construed as authority to restrict the right of innocent passage or the right of transit passage as recognized under international law.

(Added and amended Pub. L. 116–283, div. G, title LVXXXV [LXXXV], § 8508(1), Jan. 1, 2021, 134 Stat. 4755.)

Editorial Notes

REFERENCES IN TEXT

Sections 3 and 205(a)(1)(A) of the North Korea Sanctions and Policy Enhancement Act of 2016, referred to in subsecs. (a)(2)(A)(i)(I) and (c)(1)(B), (C), are classified to sections 9202 and 9225(a)(1)(A), respectively, of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section, as added and amended by Pub. L. 116–283, is based on section 16 of Pub. L. 92–340, as added Pub. L. 115–44, title III, § 315(a), Aug. 2, 2017, 131 Stat. 948, which was formerly classified to section 1232c of Title 33, Navigation and Navigable Waters, repealed by Pub. L. 115–282, title IV, § 402(e), Dec. 4, 2018, 132 Stat. 4264, then transferred to this title and renumbered as this section effective upon the enactment of such Pub. L. 115–282 and notwithstanding such repeal.

AMENDMENTS

2021—Pub. L. 116–283, § 8508(1)(A), transferred section 16 of Pub. L. 92–340 to this title and renumbered it as this section. See Codification note above.

Subsec. (b). Pub. L. 116–283, § 8508(1)(B)(i), substituted “section 70001(a)(5)” for “section 4(a)(5)” in introductory provisions.

Subsec. (c)(2). Pub. L. 116–283, § 8508(1)(B)(ii), substituted “periodically” for “not later than 180 days after the date of the enactment of this section, and periodically thereafter.”

Subsec. (e). Pub. L. 116–283, § 8508(1)(B)(i), substituted “section 70001(a)(5)” for “section 4(a)(5)” in introductory provisions.

Subsec. (h). Pub. L. 116–283, § 8508(1)(B)(iii), struck out subsec. (h). Text read as follows: “In this section, the term ‘foreign vessel’ has the meaning given that term in section 110 of title 46, United States Code.”

Statutory Notes and Related Subsidiaries

PROHIBITION ON ENTRY AND OPERATION OF RUSSIAN VESSELS

Pub. L. 117–263, div. K, title CXV, § 11524, Dec. 23, 2022, 136 Stat. 4143, provided that:

“(a) PROHIBITION.—

“(1) IN GENERAL.—Except as otherwise provided in this section, during the period in which Executive Order 14065 (87 Fed. Reg. 10293, relating to blocking certain Russian property or transactions), or any successor Executive Order is in effect, no vessel described in subsection (b) may enter or operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States.

“(2) LIMITATIONS ON APPLICATION.—

“(A) IN GENERAL.—The prohibition under paragraph (1) shall not apply with respect to a vessel described in subsection (b) if the Secretary of State determines that—

“(i) the vessel is owned or operated by a Russian national or operated by the government of the Russian Federation; and

“(ii) it is in the national security interest not to apply the prohibition to such vessel.

“(B) NOTICE.—Not later than 15 days after making a determination under subparagraph (A), the Secretary of State shall submit to the Committee on

Foreign Affairs and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate written notice of the determination and the basis upon which the determination was made.

“(C) PUBLICATION.—The Secretary of State shall publish a notice in the Federal Register of each determination made under subparagraph (A).

“(3) SAVINGS CLAUSE.—The prohibition under paragraph (1) shall not apply with respect to vessels engaged in passage permitted under international law.

“(b) VESSELS DESCRIBED.—A vessel referred to in subsection (a) is a vessel owned or operated by a Russian national or operated by the government of the Russian Federation.

“(c) INFORMATION AND PUBLICATION.—The Secretary, with the concurrence of the Secretary of State, shall—

“(1) maintain timely information on the registrations of all foreign vessels owned or operated by or on behalf of the Government of the Russian Federation, a Russian national, or an entity organized under the laws of the Russian Federation or any jurisdiction within the Russian Federation; and

“(2) periodically publish in the Federal Register a list of the vessels described in paragraph (1).

“(d) NOTIFICATION OF GOVERNMENTS.—

“(1) IN GENERAL.—The Secretary of State shall notify each government, the agents or instrumentalities of which are maintaining a registration of a foreign vessel that is included on a list published under subsection (c)(2), not later than 30 days after such publication, that all vessels registered under such government’s authority are subject to subsection (a).

“(2) ADDITIONAL NOTIFICATION.—In the case of a government that continues to maintain a registration for a vessel that is included on such list after receiving an initial notification under paragraph (1), the Secretary shall issue an additional notification to such government not later than 120 days after the publication of a list under subsection (c)(2).

“(e) NOTIFICATION OF VESSELS.—Upon receiving a notice of arrival under section 70001(a)(5) of title 46, United States Code, from a vessel described in subsection (b), the Secretary shall notify the master of such vessel that the vessel may not enter or operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States, unless—

“(1) the Secretary of State has made a determination under subsection (a)(2); or

“(2) the Secretary allows provisional entry of the vessel, or transfer of cargo from the vessel, under subsection (f).

“(f) PROVISIONAL ENTRY OR CARGO TRANSFER.—Notwithstanding any other provision of this section, the Secretary may allow provisional entry of, or transfer of cargo from, a vessel, if such entry or transfer is necessary for the safety of the vessel or persons aboard.”

[For definition of “Secretary” as used in section 11524 of Pub. L. 117-263, set out above, see section 11002 of Pub. L. 117-263, set out as a note under section 106 of Title 14, Coast Guard.]

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

§ 70031. Definitions

As used in subchapters I through III 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; amended Pub. L. 116-283, div. G, title LVXXXV [LXXXV], §8507(a)(4), Jan. 1, 2021, 134 Stat. 4753.)

Editorial Notes

REFERENCES IN TEXT

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

AMENDMENTS

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

§ 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 Great Lakes St. Lawrence Seaway Development Corporation. Any other authority granted the Secretary under subchapters I through III and this subchapter shall be delegated by the Secretary to the Great Lakes St. 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; amended Pub. L. 116-260, div. 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