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Editorial Notes

AMENDMENTS

2022—Pub. L. 117–263, div. K, title CXIII, §11318(d), Dec. 23, 2022, 136 Stat. 4091, added item 70007.

2021—Pub. L. 116–283, div. G, title LVXXXIII [LXXXIII], §8342(b), title LVXXXV, §§8501(b)(5), 8507(a)(3), 8508(2)(C), Jan. 1, 2021, 134 Stat. 4709, 4746, 4753, 4755, inserted “Sec.” before item 70001, added items 70006, 70014, and 70022, and substituted “Conditions for entry into ports in the United States” for “Conditions for entry to ports in the united states” in item 70021, “SUBCHAPTER I” for “SUBCHAPTER A”, “SUBCHAPTER II” for “SUBCHAPTER B”, “SUBCHAPTER III” for “SUBCHAPTER C”, “SUBCHAPTER IV” for “SUBCHAPTER D”, “SUBCHAPTER V” for “SUBCHAPTER E”, and “SUBCHAPTER VI” for “SUBCHAPTER F”. Items 70014 and 70022 were added to this analysis after items 70013 and 70021, respectively, to reflect the probable intent of Congress, notwithstanding errors in directory language.

2018—Pub. L. 115–282, title IV, §§406(b), 407(e), Dec. 4, 2018, 132 Stat. 4266, 4267, added items for subchapters E and F and items 70041 and 70051 to 70054.

SUBCHAPTER I—VESSEL OPERATIONS

§ 70001. Vessel traffic services

(a) IN GENERAL.—Subject to the requirements of section 70004, the Secretary—

(1) in any port or place under the jurisdiction of the United States, in the navigable waters of the United States, or in any area covered by an international agreement negotiated pursuant to section 70005, may construct, operate, maintain, improve, or expand vessel traffic services, that consist of measures for controlling or supervising vessel traffic or for protecting navigation and the marine environment and that may include one or more of reporting and operating requirements, surveillance and communications systems, routing systems, and fairways;

(2) shall require appropriate vessels that operate in an area of a vessel traffic service to utilize or comply with that service;

(3) may require vessels to install and use specified navigation equipment, communications equipment, electronic relative motion analyzer equipment, or any electronic or other device necessary to comply with a vessel traffic service or that is necessary in the interests of vessel safety, except that the Secretary shall not require fishing vessels under 300 gross tons as measured under section 14502, or

an alternate tonnage measured under section 14302 as prescribed by the Secretary under section 14104, or recreational vessels 65 feet or less to possess or use the equipment or devices required by this subsection solely under the authority of this chapter;

(4) may control vessel traffic in areas subject to the jurisdiction of the United States that the Secretary determines to be hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances, by—

(A) specifying times of entry, movement, or departure;

(B) establishing vessel traffic routing schemes;

(C) establishing vessel size, speed, or draft limitations and vessel operating conditions; and

(D) restricting operation, in any hazardous area or under hazardous conditions, to vessels that have particular operating characteristics or capabilities that the Secretary considers necessary for safe operation under the circumstances;

(5) may require the receipt of prearrival messages from any vessel, destined for a port or place subject to the jurisdiction of the United States, in sufficient time to permit advance vessel traffic planning before port entry, which shall include any information that is not already a matter of record and that the Secretary determines necessary for the control of the vessel and the safety of the port or the marine environment; and

(6) may prohibit the use on vessels of electronic or other devices that interfere with communication and navigation equipment, except that such authority shall not apply to electronic or other devices certified to transmit in the maritime services by the Federal Communications Commission and used within the frequency bands 157.1875–157.4375 MHz and 161.7875–162.0375 MHz.

(b) NATIONAL POLICY.—

(1) ESTABLISHMENT AND UPDATE OF NATIONAL POLICY.—

(A) ESTABLISHMENT OF POLICY.—Not later than one year after the date of enactment of this section, the Secretary shall establish a national policy which is inclusive of local variances permitted under subsection (c), to be applied to all vessel traffic service centers and publish such policy in the Federal Register.

(B) UPDATE.—The Secretary shall periodically update the national policy established under subparagraph (A) and shall publish such update in the Federal Register or on a publicly available website.

(2) ELEMENTS.—The national policy established and updated under paragraph (1) shall include, at a minimum, the following:

(A) Standardization of titles, roles, and responsibilities for all personnel assigned, working, or employed in a vessel traffic service center.

(B) Standardization of organizational structure within vessel traffic service centers, to include supervisory and reporting chain and processes.

(C) Establishment of directives for the application of authority provided to each vessel traffic service center, specifically with respect to directing or controlling vessel movement when such action is justified in the interest of safety.

(D) Establishment of thresholds and measures for monitoring, informing, recommending, and directing vessel traffic.

(E) Establishment of national procedures and protocols for vessel traffic management.

(F) Standardization of training for all vessel traffic service directors, operators, and watchstanders.

(G) Establishment of certification and competency evaluation for all vessel traffic service directors, operators, and watchstanders.

(H) Establishment of standard operating language when communicating with vessel traffic users.

(I) Establishment of data collection, storage, management, archiving, and dissemination policies and procedures for vessel incidents and near-miss incidents.

(c) LOCAL VARIANCES.—

(1) DEVELOPMENT.—In this section, the Secretary may provide for such local variances as the Secretary considers appropriate to account for the unique vessel traffic, waterway characteristics, and any additional factors that are appropriate to enhance navigational safety in any area where vessel traffic services are provided.

(2) REVIEW AND APPROVAL BY SECRETARY.—The Captain of the Port covered by a vessel traffic service center may develop and submit to the Secretary regional policies in addition to the national policy established and updated under subsection (b) to account for variances from that national policy with respect to local vessel traffic conditions and volume, geography, water body characteristics, waterway usage, and any additional factors that the Captain considers appropriate.

(3) REVIEW AND IMPLEMENTATION.—Not later than 180 days after receiving regional policies under paragraph (2)—

(A) the Secretary shall review such regional policies; and

(B) the Captain of the port concerned shall implement the policies that the Secretary approves.

(4) MAINTENANCE.—The Secretary shall maintain a central depository for all local variances approved under this section.

(d) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may enter into cooperative agreements with public or private agencies, authorities, associations, institutions, corporations, organizations, or other persons to carry out the functions under subsection (a)(1).

(2) INTERNATIONAL COORDINATION.—With respect to vessel traffic service areas that cross international boundaries, the Secretary may enter into bilateral or cooperative agreements with international partners to jointly carry out the functions under subsection (a)(1) and to jointly manage such areas to collect, share,

assess, and analyze information in the possession or control of the international partner.

(3) LIMITATION.—

(A) INHERENTLY GOVERNMENTAL FUNCTION.—A nongovernmental entity may not under this subsection carry out an inherently governmental function.

(B) DEFINITION OF INHERENTLY GOVERNMENTAL FUNCTION.—In this paragraph, the term “inherently governmental function” means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.

(4) DISCLOSURE.—The Commandant of the Coast Guard shall de-identify information prior to release to the public, including near miss incidents.

(e) PERFORMANCE EVALUATION.—

(1) IN GENERAL.—The Secretary shall develop and implement a standard method for evaluating the performance of vessel traffic service centers.

(2) ELEMENTS.—The standard method developed and implemented under paragraph (1) shall include, at a minimum, analysis and collection of data with respect to the following within a vessel traffic service area covered by each vessel traffic service center:

(A) Volume of vessel traffic, categorized by type of vessel.

(B) Total volume of flammable, combustible, or hazardous liquid cargo transported, categorized by vessel type as provided in the Notice of Arrival, if applicable, or as determined by other means.

(C) Data on near-miss incidents.

(D) Data on marine casualties.

(E) Application by vessel traffic operators of traffic management authority during near-miss incidents and marine casualties.

(F) Other additional methods as the Secretary considers appropriate.

(3) REPORT.—Not later than 1 year after the date of the enactment of this paragraph, and biennially thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the evaluation conducted under paragraph (1) of the performance of vessel traffic service centers, including—

(A) recommendations to improve safety and performance; and

(B) data regarding marine casualties and near-miss incidents that have occurred during the period covered by the report.

(f) RISK ASSESSMENT PROGRAM.—

(1) IN GENERAL.—The Secretary shall develop a continuous risk assessment program to evaluate and mitigate safety risks for each vessel traffic service area to improve safety and reduce the risks of oil and hazardous material discharge in navigable waters.

(2) **METHOD FOR ASSESSMENT.**—The Secretary, in coordination with stakeholders and the public, shall develop a standard method for conducting risk assessments under paragraph (1) that includes the collection and management of all information necessary to identify and analyze potential hazardous navigational trends within a vessel traffic service area.

(3) **INFORMATION TO BE ASSESSED.**—

(A) **IN GENERAL.**—The Secretary shall ensure that a risk assessment conducted under paragraph (1) includes an assessment of the following:

(i) Volume of vessel traffic, categorized by type of vessel.

(ii) Total volume of flammable, combustible, or hazardous liquid cargo transported, categorized by vessel type as provided in the Notice of Arrival, if applicable, or as determined by other means.

(iii) Data on near-miss events incidents.

(iv) Data on marine casualties.

(v) Geographic locations for near-miss events incidents and marine casualties, including latitude and longitude.

(vi) Cyclical risk factors such as weather, seasonal water body currents, tides, bathymetry, and topography.

(vii) Weather data, in coordination with the National Oceanic and Atmospheric Administration.

(B) **INFORMATION STORAGE AND MANAGEMENT POLICIES.**—The Secretary shall retain all information collected under subparagraph (A) and ensure policies and procedures are in place to standardize the format in which that information is retained to facilitate statistical analysis of that information to calculate within a vessel traffic service area, at a minimum, the incident rate, intervention rate, and casualty prevention rate.

(4) **PUBLIC AVAILABILITY.**—

(A) **ASSESSMENTS AND INFORMATION.**—In accordance with section 552 of title 5, the Secretary shall make any risk assessments conducted under paragraph (1) and any information collected under paragraph (3)(A) available to the public.

(B) **INFORMATION IN POSSESSION OR CONTROL OF INTERNATIONAL PARTNERS.**—The Secretary shall endeavor to coordinate with international partners as described in subsection (d)(2) to enter into agreements to make information collected, shared, and analyzed under that paragraph available to the public.

(C) **DISCLOSURE.**—The Commandant of the Coast Guard shall de-identify information prior to release to the public, including near-miss incidents.

(g) **VESSEL TRAFFIC SERVICE TRAINING.**—

(1) **TRAINING PROGRAM.**—

(A) **IN GENERAL.**—The Secretary shall develop a comprehensive nationwide training program for all vessel traffic service directors, operators, and watchstanders.

(B) **ELEMENTS.**—The comprehensive nationwide training program under subparagraph (A) and any variances to that program

under subsection (c) shall include, at a minimum, the following:

(i) Realistic vessel traffic scenarios to the maximum extent practicable that integrate—

(I) the national policy developed under subsection (b);

(II) international rules under the International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.);

(III) inland navigation rules under part 83 of title 33, Code of Federal Regulations;

(IV) the application of vessel traffic authority; and

(V) communication with vessel traffic service users.

(ii) Proficiency training with respect to use, interpretation, and integration of available data on vessel traffic service display systems such as radar, and vessel automatic identification system feeds.

(iii) Practical application of—

(I) the international rules under the International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.); and

(II) the inland navigation rules under part 83 of title 33, Code of Federal Regulations.

(iv) Proficiency training with respect to the operation of radio communications equipment and any other applicable systems necessary to execute vessel traffic service authorities.

(v) Incorporation of the Standard Marine Communication Phrases adopted by the International Maritime Organization by resolution on April 4, 2000, as amended and consolidated, or any successor resolution.

(vi) Incorporation to the maximum extent possible of guidance and recommendations contained in vessel traffic services operator training, vessel traffic services supervisor training, or other relevant training set forth by the International Association of Marine Aids to Navigation and Lighthouse Authorities.

(vii) A minimum number of hours of training for an individual to complete before the individual is qualified to fill a vessel traffic services position without supervision.

(viii) Local area geographic and operational familiarization.

(ix) Such additional components as the Secretary considers appropriate.

(2) **STANDARD COMPETENCY QUALIFICATION PROCESS.**—

(A) **IN GENERAL.**—The Secretary shall develop a standard competency qualification process to be applied to all personnel assigned, employed, or working in a vessel traffic service center.

(B) **APPLICATION OF PROCESS.**—The competency qualification process developed under subparagraph (A) shall include measurable thresholds for determining proficiency.

(3) **INTERNATIONAL AND INLAND NAVIGATION RULES TEST.**—

(A) IN GENERAL.—All personnel assigned, employed, or working in a vessel traffic service center with responsibilities that include communicating, interacting, or directing vessels within a vessel traffic service area, as determined under the national policy developed under subsection (b), shall be required to pass a United States international and inland navigation rules test developed by the Secretary.

(B) ELEMENTS OF TEST.—The Secretary shall determine the content and passing standard for the rules test developed under subparagraph (A).

(C) TESTING FREQUENCY.—The Secretary shall establish a frequency, not to exceed once every 5 years, for personnel described in subparagraph (A) to be required to pass the rules test developed under such subparagraph.

(h) RESEARCH ON VESSEL TRAFFIC.—

(1) VESSEL COMMUNICATION.—The Secretary shall conduct research, in consultation with subject matter experts identified by the Secretary, to develop more effective procedures for monitoring vessel communications on radio frequencies to identify and address unsafe situations in a vessel traffic service area. The Secretary shall consider data collected under subparagraph (A) of subsection (f)(3).

(2) PROFESSIONAL MARINER REPRESENTATION.—

(A) IN GENERAL.—The Secretary shall conduct research, in consultation with local stakeholders and subject matter experts identified by the Secretary, to evaluate and determine the feasibility, costs and benefits of representation by professional mariners on the vessel traffic service watchfloor at each vessel traffic service center.

(B) IMPLEMENTATION.—The Secretary shall implement representation by professional mariners on the vessel traffic service watchfloor at those vessel traffic service centers for which it is determined feasible and beneficial pursuant to research conducted under subparagraph (A).

(i) INCLUSION OF IDENTIFICATION SYSTEM ON CERTAIN VESSELS.—

(1) IN GENERAL.—The National Navigation Safety Advisory Committee shall advise and provide recommendations to the Secretary on matters relating to the practicability, economic costs, regulatory burden, and navigational impact of outfitting vessels lacking independent means of propulsion that carry flammable, combustible, or hazardous liquid cargo with vessel automatic identification systems.

(2) REGULATIONS.—Based on the evaluation under paragraph (1), the Secretary shall prescribe such regulations as the Secretary considers appropriate to establish requirements relating to the outfitting of vessels described in such subparagraph with vessel automatic identification systems.

(j) PERIODIC REVIEW OF VESSEL TRAFFIC SERVICE NEEDS.—

(1) IN GENERAL.—Based on the performance evaluation conducted under subsection (e) and

the risk assessment conducted under subsection (f), the Secretary shall periodically review vessel traffic service areas to determine—

(A) if there are any additional vessel traffic service needs in those areas; and

(B) if a vessel traffic service area should be moved or modified.

(2) INFORMATION TO BE ASSESSED.—

(A) IN GENERAL.—The Secretary shall ensure that a review conducted under paragraph (1) includes an assessment of the following:

(i) Volume of vessel traffic, categorized by type of vessel.

(ii) Total volume of flammable, combustible, or hazardous liquid cargo transported, categorized by vessel type as provided in the Notice of Arrival, if applicable, or as determined by other means.

(iii) Data on near miss incidents.

(iv) Data on marine casualties.

(v) Geographic locations for near-miss incidents and marine casualties, including latitude and longitude.

(vi) Cyclical risk factors such as weather, seasonal water body currents, tides, bathymetry, and topography.

(vii) Weather data, in coordination with the National Oceanic and Atmospheric Administration.

(3) STAKEHOLDER INPUT.—In conducting the periodic reviews under paragraph (1), the Secretary shall seek input from port and waterway stakeholders to identify areas of increased vessel conflicts or marine casualties that could benefit from the use of routing measures or vessel traffic service special areas to improve safety, port security, and environmental protection.

(4) DISCLOSURE.—The Commandant of the Coast Guard shall de-identify information prior to release to the public, including near miss incidents.

(k) LIMITATION OF LIABILITY FOR COAST GUARD VESSEL TRAFFIC SERVICE PILOTS AND NON-FEDERAL VESSEL TRAFFIC SERVICE OPERATORS.—

(1) COAST GUARD VESSEL TRAFFIC SERVICE PILOTS.—Any pilot, acting in the course and scope of his or her duties while at a Coast Guard Vessel Traffic Service Center, who provides information, advice, or communication assistance while under the supervision of a Coast Guard officer, member, or employee shall not be liable for damages caused by or related to such assistance unless the acts or omissions of such pilot constitute gross negligence or willful misconduct.

(2) NON-FEDERAL VESSEL TRAFFIC SERVICE OPERATORS.—An entity operating a non-Federal vessel traffic information service or advisory service pursuant to a duly executed written agreement with the Coast Guard, and any pilot acting on behalf of such entity, is not liable for damages caused by or related to information, advice, or communication assistance provided by such entity or pilot while so operating or acting unless the acts or omissions of such entity or pilot constitute gross negligence or willful misconduct.

(l) EXISTING AUTHORITY.—Nothing in this section shall be construed to alter the existing au-

thorities of the Secretary to enhance navigation, vessel safety, marine environmental protection, and to ensure safety and preservation of life and property at sea.

(m) DEFINITIONS.—In this section:

(1) HAZARDOUS LIQUID CARGO.—The term “hazardous liquid cargo” has the meaning given that term in regulations prescribed under section 5103 of title 49.

(2) MARINE CASUALTY.—The term “marine casualty” has the meaning given that term in regulations prescribed under section 6101(a).

(3) VESSEL TRAFFIC SERVICE AREA.—The term “vessel traffic service area” means an area specified in subpart C of part 161 of title 33, Code of Federal Regulations, or any successor regulation.

(4) VESSEL TRAFFIC SERVICE CENTER.—The term “vessel traffic service center” means a center for the provision of vessel traffic services in a vessel traffic service area.

(5) NEAR MISS INCIDENT.—The term “near miss incident” means any occurrence or series of occurrences having the same origin, involving one or more vessels, facilities, or any combination thereof, resulting in the substantial threat of a marine casualty.

(6) DE-IDENTIFIED.—The term “de-identified” means the process by which all information that is likely to establish the identity of the specific persons or entities noted in the reports, data, or other information is removed from the reports, data, or other information.

(Added Pub. L. 115–282, title IV, §401(a), Dec. 4, 2018, 132 Stat. 4253; amended Pub. L. 116–283, div. G, title LVXXXIII [LXXXIII], §8345, Jan. 1, 2021, 134 Stat. 4711.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b)(1)(A), probably means the date of enactment of Pub. L. 116–283, which amended this section generally and was approved Jan. 1, 2021.

The date of the enactment of this paragraph, referred to in subsec. (e)(3), is the date of enactment of Pub. L. 116–283, which was approved Jan. 1, 2021.

The International Navigational Rules Act of 1977, referred to in subsec. (g)(1)(B)(i)(II), (iii)(I), is Pub. L. 95–75, July 27, 1977, 91 Stat. 308, which is classified principally to chapter 30 (§1601 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 33 and Tables.

AMENDMENTS

2021—Pub. L. 116–283 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to establishment of vessel traffic services, cooperative agreements, and limitation of liability for Coast Guard Vessel Traffic Service pilots and non-federal vessel traffic service operators, respectively.

Statutory Notes and Related Subsidiaries

NO WAKE ZONES IN NAVIGATION CHANNELS

Pub. L. 114–322, title I, §1149, Dec. 16, 2016, 130 Stat. 1660, as amended by Pub. L. 116–260, div. AA, title III, §347, Dec. 27, 2020, 134 Stat. 2715, provided that:

“(a) IN GENERAL.—At the request of a State or local official, the Secretary [of the Army], in consultation with the Commandant of the Coast Guard, shall

promptly identify and, subject to the considerations in subsection (b), allow the implementation of measures for addressing navigation safety hazards in a covered navigation channel resulting from wakes created by covered vessels identified by such official, while maintaining the navigability of the channel.

“(b) CONSIDERATIONS.—In identifying measures under subsection (a) with respect to a covered navigation channel, the Secretary shall consider, at a minimum, whether—

“(1) State or local law enforcement officers have documented the existence of safety hazards in the channel that are the direct result of excessive wakes from covered vessels present in the channel;

“(2) the Secretary has made a determination that safety concerns exist in the channel and that the proposed measures will remedy those concerns without significant impacts to the navigable capacity of the channel; and

“(3) the measures are consistent with any recommendations made by the Commandant of the Coast Guard to ensure the safety of vessels operating 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].”

§ 70002. 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—