

## TITLE 33 - NAVIGATION AND NAVIGABLE WATERS

### CHAPTER 33 - PREVENTION OF POLLUTION FROM SHIPS

#### § 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;
- (4) with respect to regulations prescribed under section 1905 of this title, any port or terminal in the United States; and
- (5) with respect to Annex VI to the Convention, and other than with respect to a ship referred to in paragraph (1)—
  - (A) to a ship that is in a port, shipyard, offshore terminal, or the internal waters of the United States;
  - (B) to a ship that is bound for, or departing from, a port, shipyard, offshore terminal, or the internal waters of the United States, and is in—
    - (i) the navigable waters or the exclusive economic zone of the United States;
    - (ii) an emission control area designated pursuant to section 1903 of this title; or
    - (iii) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment;
  - (C) to a ship that is entitled to fly the flag of, or operating under the authority of, a party to Annex VI, and is in—
    - (i) the navigable waters or the exclusive economic zone of the United States;
    - (ii) an emission control area designated under section 1903 of this title; or
    - (iii) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment; and
  - (D) to any other ship, to the extent that, and in the same manner as, such ship may be boarded by the Secretary to implement or enforce any other law of the United States or Annex I, II, or V of the Convention, and is in—
    - (i) the exclusive economic zone of the United States;
    - (ii) the navigable waters of the United States;
    - (iii) an emission control area designated under section 1903 of this title; or
    - (iv) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment.

##### (b) Excluded vessels

- (1) Except as provided in paragraphs (2) and (3), 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)<sup>1</sup> 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)<sup>1</sup> 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.
- (3) With respect to Annex VI the Administrator, or the Secretary, as relevant to their authorities pursuant to this chapter, may determine that some or all of the requirements under this chapter shall apply to one or more classes of public vessels, except that such a determination by the Administrator shall have no effect unless the head of the Department or agency under which the vessels operate concurs in the determination. This paragraph does not apply during time of war or during a declared national emergency.

**(c) Application to other persons**

This chapter shall apply to all persons to the extent necessary to ensure compliance with Annex VI to the Convention.

**(d) 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).

**(e) Regulations**

The Secretary or the Administrator, consistent with section 1903 of this title, shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol (or the applicable Annex), including regulations conforming to and giving effect to the requirements of Annex V and Annex VI 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.

**(f) 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.

**(g) Waiver authority**

The President may waive the effective dates of the requirements set forth in subsection (c)<sup>1</sup> 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

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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.

**(h) 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.

**(i) Savings clause**

Nothing in this section shall be construed to restrict in a manner inconsistent with international law navigational rights and freedoms as defined by United States law, treaty, convention, or customary international law.

**Footnotes**

<sup>1</sup> See References in Text note below.

(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; Pub. L. 110–280, § 4, July 21, 2008, 122 Stat. 2611.)

**References in Text**

Subsection (c) of this section, referred to in subsecs. (b)(2)(A)(ii), (iii), (f)(1), and (g), was redesignated subsection (d) by Pub. L. 110–280, § 4(3), July 21, 2008, 122 Stat. 2613.

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

**Amendments**

2008—Subsec. (a)(5). Pub. L. 110–280, § 4(1), added par. (5).

Subsec. (b)(1). Pub. L. 110–280, § 4(2)(A), substituted “paragraphs (2) and (3),” for “paragraph (2),” in introductory provisions.

Subsec. (b)(3). Pub. L. 110–280, § 4(2)(B), added par. (3).

Subsecs. (c), (d). Pub. L. 110–280, § 4(3), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 110–280, § 4(4)(C), substituted “Protocol (or the applicable Annex), including regulations conforming to and giving effect to the requirements of Annex V and Annex VI” for “Protocol, including regulations conforming to and giving effect to the requirements of Annex V”.

Pub. L. 110–280, § 4(4)(B), made technical amendment to reference in original act which appears in text as reference to “of this section” requiring no change in text.

Pub. L. 110–280, § 4(4)(A), inserted “or the Administrator, consistent with section 1903 of this title,” after “Secretary”.

Pub. L. 110–280, § 4(3), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsecs. (f) to (h). Pub. L. 110–280, § 4(3), redesignated subsecs. (e) to (g) as (f) to (h), respectively.

Subsec. (i). Pub. L. 110–280, § 4(5), added subsec. (i).

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”.

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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.

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“(3) Not later than March 1, 1997, the Secretary shall complete the installation of plastics processors on board not less than 25 percent of the ships owned or operated by the Navy that require plastics processors to comply with section 3 of the Act to Prevent Pollution from Ships [33 U.S.C. 1902], as amended by subsections (a), (b), and (c) of this section.

“(4) Not later than July 1, 1997, the Secretary shall complete the installation of plastics processors on board not less than 50 percent of the ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section.

“(5) Not later than July 1, 1998, the Secretary shall complete the installation of plastics processors on board not less than 75 percent of the ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section.

“(6) Not later than December 31, 1998, the Secretary shall complete the installation of plastics processors on board all ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section.”