cipients, loan amounts, and loan terms and similar details on other forms of financial assistance provided from the water pollution control revolving fund.

(e) Annual Federal oversight review

The Administrator shall conduct an annual oversight review of each State plan prepared under subsection (c) of this section, each State report prepared under subsection (d) of this section, and other such materials as are considered necessary and appropriate in carrying out the purposes of this subchapter. After reasonable notice by the Administrator to the State or the recipient of a loan from a water pollution control revolving fund, the State or loan recipient shall make available to the Administrator such records as the Administrator reasonably requires to review and determine compliance with this subchapter.

(f) Applicability of subchapter II provisions

Except to the extent provided in this subchapter, the provisions of subchapter II of this chapter shall not apply to grants under this subchapter.

(June 30, 1948, ch. 758, title VI, § 606, as added Pub. L. 100–4, title II, § 212(a), Feb. 4, 1987, 101 Stat. 25; amended Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

§ 1387. Authorization of appropriations

There is authorized to be appropriated to carry out the purposes of this subchapter the following sums:

(1) $1,200,000,000 per fiscal year for each of fiscal years 1989 and 1990;

(2) $2,400,000,000 for fiscal year 1991;

(3) $1,800,000,000 for fiscal year 1992;

(4) $1,200,000,000 for fiscal year 1993; and

(5) $600,000,000 for fiscal year 1994.

(June 30, 1948, ch. 758, title VI, § 607, as added Pub. L. 100–4, title II, § 212(a), Feb. 4, 1987, 101 Stat. 26.)

CHAPTER 27—OCEAN DUMPING

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§ 1401. Congressional finding, policy, and declaration of purpose

(a) Dangers of unregulated dumping

Unregulated dumping of material into ocean waters endangers human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities.

(b) Policy of regulation and prevention or limitation

The Congress declares that it is the policy of the United States to regulate the dumping of all types of materials into ocean waters and to prevent or strictly limit the dumping into ocean waters of any material which would adversely affect human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

(c) Regulation of dumping and transportation for dumping purposes

It is the purpose of this Act to regulate (1) the transportation by any person of material from the United States and, in the case of United States vessels, aircraft, or agencies, the transportation of material from a location outside the United States, when in either case the transportation is for the purpose of dumping the material into ocean waters, and (2) the dumping of material transported by any person from a location outside the United States, if the dumping occurs in the territorial sea or the contiguous zone of the United States.

(Pub. L. 92–532, § 2, Oct. 23, 1972, 86 Stat. 1052; Pub. L. 93–254, § 1(1), Mar. 22, 1974, 88 Stat. 50.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), means Pub. L. 92–532, which is classified generally to this chapter, chapter 41 (§ 2801 et seq.) of this title, and chapters 32 (§ 1431 et seq.) and 32A (§ 1447 et seq.) of Title 16, Conservation.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–254 struck out statement of the purpose of this Act as being the regulation of transportation of material from the United States for dumping into ocean waters, and the dumping of material, transported from outside the United States, if the dumping occurs in ocean waters over which the United States has jurisdiction or over which it may exercise control, under accepted principles of international law, in order to protect its territory or territorial sea, now covered by subsec. (c) of this section.

Subsec. (c). Pub. L. 93–254 added subsec. (c).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2 of Pub. L. 93–254 provided in part that amendment of subsecs. (b) and (c) of this section and

sections 1402, 1411, and 1412(a), other than last sentence of subsec. (a), of this title, by Pub. L. 93–254 shall become effective Mar. 22, 1974.

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–688, title I, § 1001, Nov. 18, 1988, 102 Stat. 4139, provided that: ''This title [enacting sections 1414b and 1414c of this title, amending sections 1268, 1412a, and 1414a of this title, and amending provisions set out as a note under section 2267 of this title] may be cited as the 'Ocean Dumping Ban Act of 1988'.''

SHORT TITLE

Section 1 of Pub. L. 92–532 provided: ''That this Act [enacting this chapter, chapter 41 (§ 2801 et seq.) of this title, and chapters 32 (§ 1431 et seq.) and 32A (§ 1447 et seq.) of Title 16, Conservation] may be cited as the 'Marine Protection, Research, and Sanctuaries Act of 1972'.''

TERRITORIAL SEA AND CONTIGUOUS ZONE OF UNITED STATES

For extension of territorial sea and contiguous zone of United States, see Proc. No. 5928 and Proc. No. 7219, respectively, set out as notes under section 1331 of Title 43, Public Lands.

ENVIRONMENTAL EFFECTS ABROAD OF MAJOR FEDERAL ACTIONS

For provisions relating to environmental effects abroad of major federal actions, see Ex. Ord. No. 12114, Jan. 4, 1979, 44 F.R. 1957, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

§ 1402. Definitions

For the purposes of this Act the term—

(a) ''Administrator'' means the Administrator of the Environmental Protection Agency.

(b) ''Ocean waters'' means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

(c) ''Material'' means matter of any kind or description, including, but not limited to, dredged material, solid waste, incinerator residue, garbage, sewage, sewage sludge, munitions, radiological, chemical, and biological warfare agents, radioactive materials, chemicals, biological and laboratory waste, wreck or discarded equipment, rock, sand, excavation debris, and industrial, municipal, agricultural, and other waste; but such term does not mean sewage from vessels within the meaning of section 1322 of this title. Oil within the meaning of section 1321 of this title shall be included only to the extent that such oil is taken on board a vessel or aircraft for the purpose of dumping.

(d) ''United States'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(e) ''Person'' means any private person or entity, or any officer, employee, agent, department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

(f) ''Dumping'' means a disposition of material: *Provided*, That it does not mean a disposition of any effluent from any outfall structure to the extent that such disposition is regulated under the provisions of the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], under the provisions of section 407 of this title, or under the provisions of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], nor does it mean a routine discharge of effluent incidental to the propulsion of, or operation of motor-driven equipment on, vessels: *Provided, further*, That it does not mean the construction of any fixed structure or artificial island nor the intentional placement of any device in ocean waters or on or in the submerged land beneath such waters, for a purpose other than disposal, when such construction or such placement is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program: *And provided further*, That it does not include the deposit of oyster shells, or other materials when such deposit is made for the purpose of developing, maintaining, or harvesting fisheries resources and is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program.

(g) ''District court of the United States'' includes the District Court of Guam, the District Court of the Virgin Islands, the District Court of Puerto Rico, the District Court of the Canal Zone, and in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii, which court shall have jurisdiction over actions arising therein.

(h) ''Secretary'' means the Secretary of the Army.

(i) ''Dredged material'' means any material excavated or dredged from the navigable waters of the United States.

(j) ''High-level radioactive waste'' means the aqueous waste resulting from the operation of the first cycle solvent extraction system, or equivalent and the concentrated waste from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuels, or irradiated fuel from nuclear power reactors.

(k) ''Medical waste'' means isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes and potentially contaminated laboratory wastes; dialysis wastes; and such additional medical items as the Administrator shall prescribe by regulation.

(*l*) ''Transport'' or ''transportation'' refers to the carriage and related handling of any material by a vessel, or by any other vehicle, including aircraft.

(m) ''Convention'' means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter.

(Pub. L. 92–532, § 3, Oct. 23, 1972, 86 Stat. 1052; Pub. L. 93–254, § 1(2), Mar. 22, 1974, 88 Stat. 50; Pub. L. 100–688, title III, § 3201(a), Nov. 18, 1988, 102 Stat. 4153.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 92–532, which is classified generally to this chapter, chapter 41 (§ 2801 et seq.) of this title, and chapters 32 (§ 1431 et seq.) and 32A (§ 1447 et seq.) of Title 16, Conservation.

For definition of Canal Zone, referred to in subsec. (d), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

The Federal Water Pollution Control Act, as amended, referred to in subsec. (f), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

The Atomic Energy Act of 1954, as amended, referred to in subsec. (f), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended, which is classified generally to chapter 23 (§ 2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

AMENDMENTS

1988—Subsecs. (k) to (m). Pub. L. 100–688 added subsec. (k) and redesignated former subsecs. (k) and (*l*) as (*l*) and (m), respectively.

1974—Subsec. (c). Pub. L. 93–254, § 1(2)(A), substituted ''sewage from vessels within the meaning of section 1322 of this title. Oil within the meaning of section 1321 of this title shall be included only to the extent that such oil is taken on board a vessel or aircraft for the purpose of dumping.'' for ''oil within the meaning of section 11 of the Federal Water Pollution Control Act and does not mean sewage from vessels within the meaning of section 13 of such Act.''

Subsec. (*l*). Pub. L. 93–254, § 1(2)(C), added subsec. (*l*).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–254 effective Mar. 22, 1974, see section 2 of Pub. L. 93–254, set out in part as a note under section 1401 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

TERMINATION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE CANAL ZONE

For termination of the United States District Court for the District of the Canal Zone at end of the ''transition period'', being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96–70, title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

TERRITORIAL SEA AND CONTIGUOUS ZONE OF UNITED STATES

For extension of territorial sea and contiguous zone of United States, see Proc. No. 5928 and Proc. No. 7219, respectively, set out as notes under section 1331 of Title 43, Public Lands.

SUBCHAPTER I—REGULATION

§ 1411. Prohibited acts

(a) Except as may be authorized by a permit issued pursuant to section 1412 or section 1413 of this title, and subject to regulations issued pursuant to section 1418 of this title,

(1) no person shall transport from the United States, and

(2) in the case of a vessel or aircraft registered in the United States or flying the United States flag or in the case of a United States department, agency, or instrumentality, no person shall transport from any location

any material for the purpose of dumping it into ocean waters.

(b) Except as may be authorized by a permit issued pursuant to section 1412 of this title, and subject to regulations issued pursuant to section 1418 of this title, no person shall dump any material transported from a location outside the United States (1) into the territorial sea of the United States, or (2) into a zone contiguous to the territorial sea of the United States, extending to a line twelve nautical miles seaward from the base line from which the breadth of the territorial sea is measured, to the extent that it may affect the territorial sea or the territory of the United States.

(Pub. L. 92–532, title I, § 101, Oct. 23, 1972, 86 Stat. 1053; Pub. L. 93–254, § 1(3), Mar. 22, 1974, 88 Stat. 51.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–254 incorporated existing provisions in introductory text, substituting reference to permits issued under section 1412 or section 1413 of this title for prior reference to such issuance under this subchapter; incorporated existing provisions in item designated (1); added item (2); and substituted prohibition against transportation of any material for ocean dumping for former prohibition against such dumping of any radiological, chemical, or biological warfare agent or any high-level radioactive waste, or any other material.

Subsec. (b). Pub. L. 93–254 substituted reference to permits issued under section 1412 of this title for former reference to such issuance under this subchapter, made any ocean dumping subject to regulations issued under section 1418 of this title, and substituted prohibition against dumping of any material for former prohibition against dumping of any radiological, chemical, or biological warfare agent or any high-level radioactive waste, or any other material.

Subsec. (c). Pub. L. 93–254 struck out subsec. (c) which prohibited any officer, employee, agent, department, agency, or instrumentality of the United States from transporting from any location outside the United States any radiological, chemical, or biological warfare agent or any high-level radioactive waste, or, except as may be authorized in a permit, any other material for purpose of dumping in ocean waters. See subsec. (b) of this section.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–254 effective Mar. 22, 1974, see section 2 of Pub. L. 93–254, set out in part as a note under section 1401 of this title.

EFFECTIVE DATE

Section 110(a) of title I of Pub. L. 92–532 provided that: ''This title [this subchapter] shall take effect six months after the date of the enactment of this Act [Oct. 23, 1972].''

SAVINGS PROVISION

Section 110(b) of title I of Pub. L. 92–532 provided that: ''No legal action begun, or right of action accrued, prior to the effective date of this title [this subchapter] shall be affected by any provision of this title [this subchapter].''

TERRITORIAL SEA AND CONTIGUOUS ZONE OF UNITED STATES

For extension of territorial sea and contiguous zone of United States, see Proc. No. 5928 and Proc. No. 7219, respectively, set out as notes under section 1331 of Title 43, Public Lands.

§ 1412. Dumping permit program

(a) Environmental Protection Agency permits

Except in relation to dredged material, as provided for in section 1413 of this title, and in relation to radiological, chemical, and biological warfare agents, high-level radioactive waste, and medical waste, for which no permit may be issued, the Administrator may issue permits, after notice and opportunity for public hearings, for the transportation from the United States or, in the case of an agency or instrumentality of the United States, or in the case of a vessel or aircraft registered in the United States or flying the United States flag, for the transportation from a location outside the United States, of material for the purpose of dumping it into ocean waters, or for the dumping of material into the waters described in section 1411(b) of this title, where the Administrator determines that such dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The Administrator shall establish and apply criteria for reviewing and evaluating such permit applications, and, in establishing or revising such criteria, shall consider, but not be limited in his consideration to, the following :

(A) The need for the proposed dumping.

(B) The effect of such dumping on human health and welfare, including economic, esthetic, and recreational values.

(C) The effect of such dumping on fisheries resources, plankton, fish, shellfish, wildlife, shore lines and beaches.

(D) The effect of such dumping on marine ecosystems, particularly with respect to—

(i) the transfer, concentration, and dispersion of such material and its byproducts through biological, physical, and chemical processes.

(ii) potential changes in marine ecosystem diversity, productivity, and stability, and

(iii) species and community population dynamics.

(E) The persistence and permanence of the effects of the dumping.

(F) The effect of dumping particular volumes and concentrations of such materials.

(G) Appropriate locations and methods of disposal or recycling, including land-based alternatives and the probable impact of requiring use of such alternate locations or methods upon considerations affecting the public interest.

(H) The effect on alternate uses of oceans, such as scientific study, fishing, and other living resource exploitation, and non-living resource exploitation.

(I) In designating recommended sites, the Administrator shall utilize wherever feasible locations beyond the edge of the Continental Shelf.

In establishing or revising such criteria, the Administrator shall consult with Federal, State, and local officials, and interested members of the general public, as may appear appropriate to the Administrator. With respect to such criteria as may affect the civil works program of the Department of the Army, the Administrator shall also consult with the Secretary. In reviewing applications for permits, the Administrator shall make such provision for consultation with interested Federal and State agencies as he deems useful or necessary. No permit shall be issued for a dumping of material which will violate applicable water quality standards. To the extent that he may do so without relaxing the requirements of this subchapter, the Administrator, in establishing or revising such criteria, shall apply the standards and criteria binding upon the United States under the Convention, including its Annexes.

(b) Permit categories

The Administrator may establish and issue various categories of permits, including the general permits described in section 1414(c) of this title.

(c) Designation of sites

(1) In general

The Administrator shall, in a manner consistent with the criteria established pursuant to subsection (a) of this section, designate sites or time periods for dumping. The Administrator shall designate sites or time periods for dumping that will mitigate adverse impact on the environment to the greatest extent practicable.

(2) Prohibitions regarding site or time period

In any case where the Administrator determines that, with respect to certain materials, it is necessary to prohibit dumping at a site or during a time period, the Administrator shall prohibit the dumping of such materials in such site or during such time period. This prohibition shall apply to any dumping at the site or during such time period. This prohibition shall apply to any dumping at the site or during the time period, including any dumping under section 1413(e) of this title.

(3) Dredged material disposal sites

In the case of dredged material disposal sites, the Administrator, in conjunction with the Secretary, shall develop a site management plan for each site designated pursuant to this section. In developing such plans, the Administrator and the Secretary shall provide opportunity for public comment. Such plans shall include, but not be limited to—

(A) a baseline assessment of conditions at the site;

(B) a program for monitoring the site;

(C) special management conditions or practices to be implemented at each site that are necessary for protection of the environment;

(D) consideration of the quantity of the material to be disposed of at the site, and the presence, nature, and bioavailability of the contaminants in the material;

(E) consideration of the anticipated use of the site over the long term, including the

anticipated closure date for the site, if applicable, and any need for management of the site after the closure of the site; and

(F) a schedule for review and revision of the plan (which shall not be reviewed and revised less frequently than 10 years after adoption of the plan, and every 10 years thereafter).

(4) General site management plan requirement; prohibitions

After January 1, 1995, no site shall receive a final designation unless a management plan has been developed pursuant to this section. Beginning on January 1, 1997, no permit for dumping pursuant to this Act or authorization for dumping under section 1413(e) of this title shall be issued for a site (other than the site located off the coast of Newport Beach, California, which is known as ''LA–3'') unless such site has received a final designation pursuant to this subsection or an alternative site has been selected pursuant to section 1413(b) of this title. Beginning January 1, 2011, no permit for dumping pursuant to this Act or authorization for dumping under section 1413(e) of this title shall be issued for the site located off the coast of Newport Beach, California, which is known as ''LA–3'', unless such site has received a final designation pursuant to this subsection or an alternative site has been selected pursuant to section 1413(b) of this title.

(5) Management plans for previously designated sites

The Administrator shall develop a site management plan for any site designated prior to January 1, 1995, as expeditiously as practicable, but not later than January 1, 1997, giving priority consideration to management plans for designated sites that are considered to have the greatest impact on the environment.

(d) Fish wastes

No permit is required under this subchapter for the transportation for dumping or the dumping of fish wastes, except when deposited in harbors or other protected or enclosed coastal waters, or where the Administrator finds that such deposits could endanger health, the environment, or ecological systems in a specific location. Where the Administrator makes such a finding, such material may be deposited only as authorized by a permit issued by the Administrator under this section.

(e) Foreign State permits; acceptance

In the case of transportation of material, by an agency or instrumentality of the United States or by a vessel or aircraft registered in the United States or flying the United States flag, from a location in a foreign State Party to the Convention, a permit issued pursuant to the authority of that foreign State Party, in accordance with Convention requirements, and which otherwise could have been issued pursuant to subsection (a) of this section, shall be accepted, for the purposes of this subchapter, as if it were issued by the Administrator under the authority of this section: *Provided*, That in the case of an agency or instrumentality of the United States, no application shall be made for a permit to be issued pursuant to the authority of a foreign State Party to the Convention unless the Administrator concurs in the filing of such application.

(Pub. L. 92–532, title I, §102, Oct. 23, 1972, 86 Stat. 1054; Pub. L. 93–254, §1(4), Mar. 22, 1974, 88 Stat. 51; Pub. L. 96–572, §3, Dec. 22, 1980, 94 Stat. 3345; Pub. L. 100–688, title III, §3201(b), Nov. 18, 1988, 102 Stat. 4153; Pub. L. 102–580, title V, §506(a), Oct. 31, 1992, 106 Stat. 4868; Pub. L. 104–303, title V, §582, Oct. 12, 1996, 110 Stat. 3791; Pub. L. 106–53, title V, §562, Aug. 17, 1999, 113 Stat. 355; Pub. L. 110–114, title V, §5046, Nov. 8, 2007, 121 Stat. 1209.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(4), means Pub. L. 92–532, which is classified generally to this chapter, chapter 41 (§2801 et seq.) of this title, and chapters 32 (§1431 et seq.) and 32A (§1447 et seq.) of Title 16, Conservation.

AMENDMENTS

2007—Subsec. (c)(4). Pub. L. 110–114 substituted ''January 1, 2011'' for ''January 1, 2003'' in third sentence.

1999—Subsec. (c)(4). Pub. L. 106–53 substituted ''January 1, 2003'' for ''January 1, 2000'' in third sentence.

1996—Subsec. (e)(4). Pub. L. 104–303 inserted ''(other than the site located off the coast of Newport Beach, California, which is known as 'LA–3')'' after ''for a site'' and inserted at end ''Beginning January 1, 2000, no permit for dumping pursuant to this Act or authorization for dumping under section 1413(e) of this title shall be issued for the site located off the coast of Newport Beach, California, which is known as 'LA–3', unless such site has received a final designation pursuant to this subsection or an alternative site has been selected pursuant to section 1413(b) of this title.''

1992—Subsec. (c). Pub. L. 102–580 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The Administrator may, considering the criteria established pursuant to subsection (a) of this section, designate recommended sites or times for dumping and, when he finds it necessary to protect critical areas, shall, after consultation with the Secretary, also designate sites or times within which certain materials may not be dumped.''

1988—Subsec. (a). Pub. L. 100–688 substituted ''agents, high-level'' for ''agents and high-level'' and inserted ''and medical waste,'' after ''radioactive waste,''.

1980—Subsec. (e). Pub. L. 96–572 inserted applicability to United States agency or instrumentality, and proviso respecting such agency or instrumentality.

1974—Subsec. (a). Pub. L. 93–254, §1(4)(A), substituted ''for which no permit may be issued,'' for ''as provided for in section 1411 of this title,'', inserted ''or in the case of a vessel or aircraft registered in the United States or flying the United States flag,'' after ''instrumentality of the United States,'', and required the Administrator to apply the standards and criteria binding upon the United States under the Convention, including its Annexes.

Subsec. (e). Pub. L. 93–254, §1(4)(B), added subsec. (e).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2 of Pub. L. 93–254 provided in part that: ''The amendments made by subparagraph 1(4)(A)(iii) and paragraph 1(4)(B) of this Act [enacting provision of subsec. (a) respecting application of standards by Administrator and subsec. (e) of this section] shall become effective on the date that the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters enters into force for the United States.'' [The Convention entered into force for the United States Aug. 30, 1975.]

Amendment of subsec. (a) of this section, other than last sentence, by Pub. L. 93–254 effective Mar. 22, 1974,

see section 2 of Pub. L. 93–254, set out in part as a note under section 1401 of this title.

§ 1412a. Emergency dumping of industrial waste

(a) Issuance of emergency permits

Notwithstanding section 104B of the Marine Protection, Research, and Sanctuaries Act of 1972 [33 U.S.C. 1414b], after December 31, 1981, the Administrator may issue emergency permits under title I of such Act [33 U.S.C. 1411 et seq.] for the dumping of industrial waste into ocean waters, or into waters described in such section 101(b) [33 U.S.C. 1411(b)], if the Administrator determines that there has been demonstrated to exist an emergency, requiring the dumping of such waste, which poses an unacceptable risk relating to human health and admits of no other feasible solution. As used herein, ''emergency'' refers to situations requiring action with a marked degree of urgency.

(b) "Industrial waste" defined

For purposes of this section, the term ''industrial waste'' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant.

(Pub. L. 95–153, § 4, Nov. 4, 1977, 91 Stat. 1255; Pub. L. 96–572, § 2, Dec. 22, 1980, 94 Stat. 3344; Pub. L. 100–688, title I, § 1003(a), Nov. 18, 1988, 102 Stat. 4149.)

REFERENCES IN TEXT

The Marine Protection, Research, and Sanctuaries Act of 1972, referred to in subsec. (a), is Pub. L. 92–532, Oct. 23, 1972, 86 Stat. 1052, as amended. Title I of the Act is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of this title and Tables.

Such section 101(b), referred to in subsec. (b), means section 101(b) of the Marine Protection, Research, and Sanctuaries Act of 1972.

CODIFICATION

Section was not enacted as part of the Marine Protection, Research, and Sanctuaries Act of 1972 which comprises this chapter.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–688, § 1003(a)(1), (3)–(5), redesignated subsec. (c) as (a), substituted ''Notwithstanding section 104B of the Marine Protection, Research, and Sanctuaries Act of 1972 after'' for ''After'', and ''title I of such Act'' for ''such title I''. Former subsec. (a), which related to cessation of dumping, with exceptions, was struck out.

Subsec. (b). Pub. L. 100–688, § 1003(a)(2), (7), added subsec. (b). Former subsec. (b), which related to issuance of permits for dumping of industrial waste, was struck out.

Subsec. (c). Pub. L. 100–688, § 1003(a)(3), redesignated subsec. (c) as (a).

Subsec. (d). Pub. L. 100–688, § 1003(a)(6), struck out subsec. (d) which related to definitions.

1980—Subsec. (a). Pub. L. 96–572, § 2(1), inserted applicability to industrial waste, exceptions respecting subsecs. (b) and (c) of this section, and conforming changes in phraseology.

Subsec. (b). Pub. L. 96–572, § 2(2), added subsec. (b). Former subsec. (b), defining ''sewage sludge'', was struck out.

Subsecs. (c), (d). Pub. L. 96–572, § 2(2), added subsecs. (c) and (d).

§ 1413. Dumping permit program for dredged material

(a) Issuance by Secretary of the Army

Subject to the provisions of subsections (b), (c), and (d) of this section, the Secretary may issue permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it into ocean waters, where the Secretary determines that the dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

(b) Independent determination of need for dumping, other methods of disposal, and appropriate locations; alternative sites

In making the determination required by subsection (a) of this section, the Secretary shall apply those criteria, established pursuant to section 1412(a) of this title, relating to the effects of the dumping. Based upon an evaluation of the potential effect of a permit denial on navigation, economic and industrial development, and foreign and domestic commerce of the United States, the Secretary shall make an independent determination as to the need for the dumping. The Secretary shall also make an independent determination as to other possible methods of disposal and as to appropriate locations for the dumping. In considering appropriate locations, he shall, to the maximum extent feasible, utilize the recommended sites designated by the Administrator pursuant to section 1412(c) of this title. In any case in which the use of a designated site is not feasible, the Secretary may, with the concurrence of the Administrator, select an alternative site. The criteria and factors established in section 1412(a) of this title relating to site selection shall be used in selecting the alternative site in a manner consistent with the application of such factors and criteria pursuant to section 1412(c) of this title. Disposal at or in the vicinity of an alternative site shall be limited to a period of not greater than 5 years unless the site is subsequently designated pursuant to section 1412(c) of this title; except that an alternative site may continue to be used for an additional period of time that shall not exceed 5 years if—

(1) no feasible disposal site has been designated by the Administrator;

(2) the continued use of the alternative site is necessary to maintain navigation and facilitate interstate or international commerce; and

(3) the Administrator determines that the continued use of the site does not pose an unacceptable risk to human health, aquatic resources, or the environment.

(c) Concurrence by Administrator

(1) Notification

Prior to issuing a permit to any person under this section, the Secretary shall first notify the Administrator of the Secretary's intention to do so and provide necessary and appropriate information concerning the permit to the Administrator. Within 30 days of receiving such information, the Administrator shall

review the information and request any additional information the Administrator deems necessary to evaluate the proposed permit.

(2) Concurrence by Administrator

Within 45 days after receiving from the Secretary all information the Administrator considers to be necessary to evaluate the proposed permit, the Administrator shall, in writing, concur with (either entirely or with conditions) or decline to concur with the determination of the Secretary as to compliance with the criteria, conditions, and restrictions established pursuant to sections 1412(a) and 1412(c) of this title relating to the environmental impact of the permit. The Administrator may request one 45-day extension in writing and the Secretary shall grant such request on receipt of the request.

(3) Effect of concurrence

In any case where the Administrator makes a determination to concur (with or without conditions) or to decline to concur within the time period specified in paragraph (2) the determination shall prevail. If the Administrator declines to concur in the determination of the Secretary no permit shall be issued. If the Administrator concurs with conditions the permit shall include such conditions. The Administrator shall state in writing the reasons for declining to concur or for the conditions of the concurrence.

(4) Failure to act

If no written documentation is made by the Administrator within the time period provided for in paragraph (2), the Secretary may issue the permit.

(5) Compliance with criteria and restrictions

Unless the Administrator grants a waiver pursuant to subsection (d) of this section, any permit issued by the Secretary shall require compliance with such criteria and restrictions.

(d) Waiver of requirements

If, in any case, the Secretary finds that, in the disposition of dredged material, there is no economically feasible method or site available other than a dumping site the utilization of which would result in non-compliance with the criteria established pursuant to section 1412(a) of this title relating to the effects of dumping or with the restrictions established pursuant to section 1412(c) of this title relating to critical areas, he shall so certify and request a waiver from the Administrator of the specific requirements involved. Within thirty days of the receipt of the waiver request, unless the Administrator finds that the dumping of the material will result in an unacceptably adverse impact on municipal water supplies, shell-fish beds, wildlife, fisheries (including spawning and breeding areas), or recreational areas, he shall grant the waiver.

(e) Federal projects involving dredged material

In connection with Federal projects involving dredged material, the Secretary may, in lieu of the permit procedure, issue regulations which will require the application to such projects of the same criteria, other factors to be evaluated, the same procedures, and the same requirements which apply to the issuance of permits under subsections (a), (b), (c), and (d) of this section and section 1414(a) and (d) of this title.

(Pub. L. 92–532, title I, § 103, Oct. 23, 1972, 86 Stat. 1055; Pub. L. 102–580, title V, §§ 504, 506(b), Oct. 31, 1992, 106 Stat. 4866, 4869.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–580, § 506(b), inserted ''maximum'' before ''extent feasible'' and inserted three sentences at end.

Subsec. (c). Pub. L. 102–580, § 504(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''Prior to issuing any permit under this section, the Secretary shall first notify the Administrator of his intention to do so. In any case in which the Administrator disagrees with the determination of the Secretary as to compliance with the criteria established pursuant to section 1412(a) of this title relating to the effects of the dumping or with the restrictions established pursuant to section 1412(c) of this title relating to critical areas, the determination of the Administrator shall prevail. Unless the Administrator grants a waiver pursuant to subsection (d) of this section, the Secretary shall not issue a permit which does not comply with such criteria and with such restrictions.''

Subsec. (e). Pub. L. 102–580, § 504(b), inserted before period at end ''and section 1414(a) and (d) of this title''.

§ 1414. Permit conditions

(a) Designated and included conditions

Permits issued under this subchapter shall designate and include (1) the type of material authorized to be transported for dumping or to be dumped; (2) the amount of material authorized to be transported for dumping or to be dumped; (3) the location where such transport for dumping will be terminated or where such dumping will occur; (4) such requirements, limitations, or conditions as are necessary to assure consistency with any site management plan approved pursuant to section 1412(c) of this title; (5) any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, after consultation with the Secretary of the Department in which the Coast Guard is operating, for the monitoring and surveillance of the transportation or dumping; and (6) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate. Permits issued under this subchapter shall be issued for a period of not to exceed 7 years.

(b) Permit processing fees; reporting requirements

The Administrator or the Secretary, as the case may be, may prescribe such processing fees for permits and such reporting requirements for actions taken pursuant to permits issued by him under this subchapter as he deems appropriate.

(c) General permits

Consistent with the requirements of sections 1412 and 1413 of this title, but in lieu of a requirement for specific permits in such case, the Administrator or the Secretary, as the case may be, may issue general permits for the transportation for dumping, or dumping, or both, of specified materials or classes of materials for which he may issue permits, which he deter-

mines will have a minimal adverse environmental impact.

(d) Review

Any permit issued under this subchapter shall be reviewed periodically and, if appropriate, revised. The Administrator or the Secretary, as the case may be, may limit or deny the issuance of permits, or he may alter or revoke partially or entirely the terms of permits issued by him under this subchapter, for the transportation for dumping, or for the dumping, or both, of specified materials or classes of materials, where he finds, based upon monitoring data from the dump site and surrounding area, that such materials cannot be dumped consistently with the criteria and other factors required to be applied in evaluating the permit application. No action shall be taken under this subsection unless the affected person or permittee shall have been given notice and opportunity for a hearing on such action as proposed.

(e) Information for review and evaluation of applications

The Administrator or the Secretary, as the case may be, shall require an applicant for a permit under this subchapter to provide such information as he may consider necessary to review and evaluate such application.

(f) Public information

Information received by the Administrator or the Secretary, as the case may be, as a part of any application or in connection with any permit granted under this subchapter shall be available to the public as a matter of public record, at every stage of the proceeding. The final determination of the Administrator or the Secretary, as the case may be, shall be likewise available.

(g) Display of issued permits

A copy of any permit issued under this subchapter shall be placed in a conspicuous place in the vessel which will be used for the transportation or dumping authorized by such permit, and an additional copy shall be furnished by the issuing official to the Secretary of the department in which the Coast Guard is operating, or its designee.

(h) Low-level radioactive waste; research purposes

Notwithstanding any provision of this subchapter to the contrary, during the two-year period beginning on January 6, 1983, no permit may be issued under this subchapter that authorizes the dumping of any low-level radioactive waste unless the Administrator of the Environmental Protection Agency determines—

(1) that the proposed dumping is necessary to conduct research—

(A) on new technology related to ocean dumping, or

(B) to determine the degree to which the dumping of such substance will degrade the marine environment;

(2) that the scale of the proposed dumping is limited to the smallest amount of such material and the shortest duration of time that is necessary to fulfill the purposes of the research, such that the dumping will have minimal adverse impact upon human health, welfare, and amenities, and the marine environment, ecological systems, economic potentialities, and other legitimate uses;

(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact; and

(4) that the proposed dumping will be preceded by appropriate baseline monitoring studies of the proposed dump site and its surrounding environment.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping.

(i) Radioactive Material Disposal Impact Assessment; Congressional approval

(1) Two years after January 6, 1983, the Administrator may not issue a permit under this subchapter for the disposal of radioactive waste material until the applicant, in addition to complying with all other requirements of this subchapter, prepares, with respect to the site at which the disposal is proposed, a Radioactive Material Disposal Impact Assessment which shall include—

(A) a listing of all radioactive materials in each container to be disposed, the number of containers to be dumped, the structural diagrams of each container, the number of curies of each material in each container, and the exposure levels in rems at the inside and outside of each container;

(B) an analysis of the environmental impact of the proposed action, at the site at which the applicant desires to dispose of the material, upon human health and welfare and marine life;

(C) any adverse environmental effects at the site which cannot be avoided should the proposal be implemented;

(D) an analysis of the resulting environmental and economic conditions if the containers fail to contain the radioactive waste material when initially deposited at the specific site;

(E) a plan for the removal or containment of the disposed nuclear material if the container leaks or decomposes;

(F) a determination by each affected State whether the proposed action is consistent with its approved Coastal Zone Management Program;

(G) an analysis of the economic impact upon other users of marine resources;

(H) alternatives to the proposed action;

(I) comments and results of consultation with State officials and public hearings held in the coastal States that are nearest to the affected areas;

(J) a comprehensive monitoring plan to be carried out by the applicant to determine the full effect of the disposal on the marine environment, living resources, or human health, which plan shall include, but not be limited to, the monitoring of exterior container radiation samples, the taking of water and sedi-

ment samples, and fish and benthic animal samples, adjacent to the containers, and the acquisition of such other information as the Administrator may require; and

(K) such other information which the Administrator may require in order to determine the full effects of such disposal.

(2) The Administrator shall include, in any permit to which paragraph (1) applies, such terms and conditions as may be necessary to ensure that the monitoring plan required under paragraph (1)(J) is fully implemented, including the analysis by the Administrator of the samples required to be taken under the plan.

(3) The Administrator shall submit a copy of the assessment prepared under paragraph (1) with respect to any permit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(4)(A) Upon a determination by the Administrator that a permit to which this subsection applies should be issued, the Administrator shall transmit such a recommendation to the House of Representatives and the Senate.

(B) No permit may be issued by the Administrator under this Act for the disposal of radioactive materials in the ocean unless the Congress, by approval of a resolution described in paragraph (D) within 90 days of continuous session of the Congress beginning on the date after the date of receipt by the Senate and the House of Representatives of such recommendation, authorizes the Administrator to grant a permit to dispose of radioactive material under this Act.

(C) For purposes of this subsection—

(1) continuity of session of the Congress is broken only by an adjournment sine die;

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 90 day calendar period.

(D) For the purposes of this subsection, the term ''resolution'' means a joint resolution, the resolving clause of which is as follows: ''That the House of Representatives and the Senate approve and authorize the Administrator of the Environmental Protection Agency to grant a permit to _____ under the Marine Protection, Research, and Sanctuaries Act of 1972 to dispose of radioactive materials in the ocean as recommended by the Administrator to the Congress on _____, 19__.''; the first blank space therein to be filled with the appropriate applicant to dispose of nuclear material and the second blank therein to be filled with the date on which the Administrator submits the recommendation to the House of Representatives and the Senate.

(Pub. L. 92–532, title I, §104, Oct. 23, 1972, 86 Stat. 1056; Pub. L. 97–424, title IV, §424(a), Jan. 6, 1983, 96 Stat. 2165; Pub. L. 100–17, title I, §133(c)(1), Apr. 2, 1987, 101 Stat. 172; Pub. L. 102–580, title V, §507, Oct. 31, 1992, 106 Stat. 4869.)

REFERENCES IN TEXT

This Act and the Marine Protection, Research, and Sanctuaries Act of 1972, referred to in subsec. (i)(4)(B), (D), is Pub. L. 92–532, Oct. 23, 1972, 86 Stat. 1052, as amended, which is classified generally to this chapter, chapter 41 (§2801 et seq.) of this title, and chapters 32 (§1431 et seq.) and 32A (§1447 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of this title and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–580, §507(b), inserted at end ''Permits issued under this subchapter shall be issued for a period of not to exceed 7 years.''

Pub. L. 102–580, §507(a), amended cl. (4) generally. Prior to amendment, cl. (4) read as follows: ''the length of time for which the permits are valid and their expiration date;''.

Subsec. (d). Pub. L. 102–580, §507(c), inserted '', based upon monitoring data from the dump site and surrounding area,'' after ''where he finds''.

1987—Subsec. (i)(4)(D). Pub. L. 100–17 inserted ''to _____ '' after ''grant a permit''.

1983—Subsecs. (h), (i). Pub. L. 97–424 added subsecs. (h) and (i).

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. For treatment of references to Committee on Merchant Marine and Fisheries, see section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

§1414a. Special provisions regarding certain dumping sites

(a) New York Bight Apex

(1) For purposes of this subsection—

(A) The term ''Apex'' means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

(B) The term ''Apex site'' means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

(C) The term ''eligible authority'' means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

(2) No person may apply for a permit under this subchapter in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

(3) The Administrator may not issue, or renew, any permit under this subchapter that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after the earlier of—

(A) December 15, 1987; or

(B) the day determined by the Administrator to be the first day on which municipal sludge

generated by eligible authorities can reasonably be dumped at a site designated under section 1412 of this title other than a site within the Apex.

(b) Restriction on use of 106-mile site

The Administrator may not issue or renew any permit under this subchapter which authorizes any person, other than a person that is an eligible authority within the meaning of subsection (a)(1)(C) of this section, to dump, or to transport for the purposes of dumping, municipal sludge within the site designated under section 1412(c) of this title by the Administrator and known as the ''106-Mile Ocean Waste Dump Site'' (as described in 49 F.R. 19005).

(Pub. L. 92–532, title I, § 104A, as added Pub. L. 99–662, title XI, § 1172(b), Nov. 17, 1986, 100 Stat. 4259; Pub. L. 100–4, title V, § 508(b), Feb. 4, 1987, 101 Stat. 79; Pub. L. 100–688, title I, § 1002, Nov. 18, 1988, 102 Stat. 4139.)

AMENDMENTS

1988—Pub. L. 100–688 repealed the second of two identical sections 104A of Pub. L. 92–532, both classified to this section and enacted by Pub. L. 99–662 and Pub. L. 100–4, thereby involving no change in text.

NEW YORK BIGHT APEX NOT SUITABLE FOR DUMPING

Section 1172(a) of Pub. L. 99–662 provided that: ''The Congress finds that the New York Bight Apex is no longer a suitable location for the ocean dumping of municipal sludge.''

An identical provision was enacted by Pub. L. 100–4, title V, § 508(a), Feb. 4, 1987, 101 Stat. 79.

§ 1414b. Ocean dumping of sewage sludge and industrial waste

(a) Termination of dumping

(1) Prohibitions on dumping

Notwithstanding any other provision of law—

(A) on and after the 270th day after November 18, 1988, no person (including a person described in section 1414a(a)(1)(C) of this title) shall dump into ocean waters, or transport for the purpose of dumping into ocean waters, sewage sludge or industrial waste, unless such person—

(i) has entered into a compliance agreement or enforcement agreement which meets the requirements of subsection (c)(2) or (3) of this section, as applicable; and

(ii) has obtained a permit issued under section 1412 of this title which authorizes such transportation and dumping; and

(B) after December 31, 1991, it shall be unlawful for any person to dump into ocean waters, or to transport for the purposes of dumping into ocean waters, sewage sludge or industrial waste.

(2) Prohibition on new entrants

The Administrator shall not issue any permit under this Act which authorizes a person to dump into ocean waters, or to transport for the purposes of dumping into ocean waters, sewage sludge or industrial waste, unless that person was authorized by a permit issued under section 1412 of this title or by a court order to dump into ocean waters, or to transport for the purpose of dumping into ocean waters, sewage sludge or industrial waste on September 1, 1988.

(b) Special dumping fees

(1) In general

Subject to paragraph (4), any person who dumps into ocean waters, or transports for the purpose of dumping into ocean waters, sewage sludge or industrial waste shall be liable for a fee equal to—

(A) $100 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after the 270th day after November 18, 1988, and before January 1, 1990;

(B) $150 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1990, and before January 1, 1991; and

(C) $200 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1991, and before January 1, 1992.

(2) Payment of fees

Of the amount of fees under paragraph (1) for which a person is liable, such person—

(A) shall pay into a trust account established by the person in accordance with subsection (e) of this section a sum equal to 85 percent of such amount;

(B) shall pay to the Administrator a sum equal to $15 per dry ton (or equivalent) of sewage sludge and industrial waste transported or dumped by such person, for use for agency activities as provided in subsection (f)(1) of this section;

(C) subject to paragraph (5), shall pay into the Clean Oceans Fund established by the State in which the person is located a sum equal to 50 percent of the balance of such amount after application of subparagraphs (A) and (B); and

(D) subject to paragraph (5), shall pay to the State in which the person is located a sum equal to the balance of such amount after application of subparagraphs (A), (B), and (C), for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act [33 U.S.C. 1381 et seq.], as provided in subsection (f)(2) of this section.

(3) Schedule for payment

Fees under this subsection shall be paid on a quarterly basis.

(4) Waiver of fees

(A) The Administrator shall waive all fees under this subsection, other than the portion of fees required to be paid to the Administrator under paragraph (2)(B) for agency activities, for any person who has entered into a compliance agreement which meets the requirements of subsection (c)(2) of this section.

(B) The Administrator shall reimpose fees under this subsection for a person for whom such fees are waived under subparagraph (A) if the Administrator determines that—

(i) the person has failed to comply with the terms of a compliance agreement which the person entered into under subsection (c)(2) of this section; and

(ii) such failure is likely to result in the person not being able to terminate by December 31, 1991, dumping of sewage sludge or industrial waste into ocean waters.

(C) The Administrator may waive fees reimposed for a person under subparagraph (B) if the Administrator determines that the person has returned to compliance with a compliance agreement which the person entered into under subsection (c)(2) of this section.

(5) Payments prior to establishment of account

(A) In any case in which a State has not established a Clean Oceans Fund or a water pollution control revolving fund under title VI of the Federal Water Pollution Control Act [33 U.S.C. 1381 et seq.], fees required to be paid by a person in that State under paragraph (2)(C) or (D), as applicable, shall be paid to the Administrator.

(B) Amounts paid to the Administrator pursuant to this paragraph shall be held by the Administrator in escrow until the establishment of the fund into which such amounts are required to be paid under paragraph (2), or until the last day of the 1-year period beginning on the date of such payment, whichever is earlier, and thereafter—

(i) if such fund has been established, shall be paid by the Administrator into the fund; or

(ii) if such fund has not been established, shall revert to the general fund of the Treasury.

(c) Compliance agreements and enforcement agreements

(1) In general

As a condition of issuing a permit under section 1412 of this title which authorizes a person to transport or dump sewage sludge or industrial waste, the Administrator shall require that, before the issuance of such permit, the person and the State in which the person is located enter into with the Administrator—

(A) a compliance agreement which meets the requirements of paragraph (2); or

(B) an enforcement agreement which meets the requirements of paragraph (3).

(2) Compliance agreements

An agreement shall be a compliance agreement for purposes of this section only if—

(A) it includes a plan negotiated by the person, the State in which the person is located, and the Administrator that will, in the opinion of the Administrator, if adhered to by the person in good faith, result in the phasing out and termination of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person by not later than December 31, 1991, through the design, construction, and full implementation of an alternative system for the management of sewage sludge and industrial waste transported or dumped by the person;

(B) it includes a schedule which—

(i) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the alternative system referred to in subparagraph (A); and

(ii) meets the requirements of paragraph (4);

(C) it requires the person to notify in a timely manner the Administrator and the Governor of the State of any problems the person has in complying with the schedule referred to in subparagraph (B);

(D) it requires the Administrator and the Governor of the State to evaluate on an ongoing basis the compliance of the person with the schedule referred to in subparagraph (B);

(E) it requires the person to pay in accordance with this section all fees and penalties the person is liable for under this section; and

(F) it authorizes the person to use interim measures before completion of the alternative system referred to in subparagraph (A).

(3) Enforcement agreements

An agreement shall be an enforcement agreement for purposes of this section only if—

(A) it includes a plan negotiated by the person, the State in which the person is located, and the Administrator that will, in the opinion of the Administrator, if adhered to by the person in good faith, result in the phasing out and termination of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person through the design, construction, and full implementation of an alternative system for the management of sewage sludge and industrial waste transported or dumped by the person;

(B) it includes a schedule which—

(i) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the alternative system referred to in subparagraph (A); and

(ii) meets the requirements of paragraph (4);

(C) it requires the person to notify in a timely manner the Administrator and the Governor of the State of any problems the person has in complying with the schedule referred to in subparagraph (B);

(D) it requires the Administrator and the Governor of the State to evaluate on an ongoing basis the compliance of the person with the schedule referred to in subparagraph (B);

(E) it requires the person to pay in accordance with this section all fees and penalties the person is liable for under this section; and

(F) it authorizes the person to use interim measures before completion of the alter-

native system referred to in subparagraph (A).

(4) Schedules

A schedule included in a compliance agreement pursuant to paragraph (2)(B) or an enforcement agreement pursuant to paragraph (3)(B) shall establish deadlines for—

(A) preparation of engineering designs and related specifications for the alternative system referred to in paragraph (2)(A) or paragraph (3)(A), as applicable;

(B) compliance with appropriate Federal, State, and local statutes, regulations, and ordinances;

(C) site and equipment acquisitions for such alternative system;

(D) construction and testing of such alternative system;

(E) operation of such alternative system at full capacity; and

(F) any other activities, including interim measures, that the Administrator considers necessary or appropriate.

(5) Clean oceans funds

(A) Each State that is a party to a compliance agreement or an enforcement agreement under this subsection shall establish an interest bearing account, to be known as a Clean Oceans Fund, into which a person shall pay fees and penalties in accordance with subsections (b)(2)(C) and (d)(2)(C)(i) of this section, respectively.

(B) A State which establishes a Clean Oceans Fund pursuant to this paragraph shall allocate and pay from the fund each year, to each person in the State which has entered into a compliance agreement or enforcement agreement under this subsection, a portion of amounts in the fund on the last day of that year which is equal to the sum of—

(i) amounts paid by the person into the fund in that year as fees pursuant to subsection (b)(2)(C) of this section and as penalties pursuant to subsection (d)(2)(C)(i) of this section;

(ii) amounts paid by the Administrator into the fund in that year as fees held in escrow for the person pursuant to subsection (b)(5)(B) of this section; and

(iii) interest on such amounts.

(C) Amounts allocated and paid to a person pursuant to subparagraph (B)—

(i) shall be used for the purposes described in subsection (e)(2)(B) of this section; and

(ii) may be used for matching Federal grants.

(D) A Clean Oceans Fund established by a State pursuant to this paragraph shall be subject to such accounting, reporting, and other requirements as may be established by the Administrator to assure accountability of payments into and out of the fund.

(6) Public participation

The Administrator shall provide an opportunity for public comment regarding the establishment and implementation of compliance agreements and enforcement agreements entered into pursuant to this section.

(d) Penalties

(1) In general

In lieu of any other civil penalty under this Act, any person who has entered into a compliance agreement or enforcement agreement under subsection (c) of this section and who dumps or transports sewage sludge or industrial waste in violation of subsection (a)(1)(B) of this section shall be liable for a civil penalty, to be assessed by the Administrator, as follows:

(A) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in calendar year 1992, $600.

(B) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in any year after calendar year 1992, a sum equal to—

(i) the amount of penalty per dry ton (or equivalent) for a violation occurring in the preceding calendar year, plus

(ii) a percentage of such amount equal to 10 percent of such amount, plus an additional 1 percent of such amount for each full calendar year since December 31, 1991.

(2) Payment of penalty

Of the amount of penalties under paragraph (1) for which a person is liable, such person—

(A) shall pay into a trust account established by the person in accordance with subsection (e) of this section a sum which is a percentage of such amount equal to—

(i) 90 percent of such amount, reduced by

(ii) 5 percent of such amount for each full calendar year since December 31, 1991;

(B) shall pay to the Administrator a sum equal to $15 per dry ton (or equivalent) of sewage sludge and industrial waste transported or dumped by such person in that year, for use for agency activities as provided in subsection (f)(1) of this section;

(C) for violations in any year before calendar year 1995—

(i) subject to paragraph (4), shall pay into the Clean Oceans Fund established by the State in which the person is located a sum equal to 50 percent of the balance of such amount; and

(ii) subject to paragraph (4), shall pay to the State in which the person is located a sum equal to the portion of such amount which is not paid as provided in subparagraphs (A), (B), and (C), for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act [33 U.S.C. 1381 et seq.], as provided in subsection (f)(2) of this section; and

(D) for violations in any year after calendar year 1994, shall pay to the State in which the person is located a sum equal to the balance of such amount, for use by the State for providing assistance under subsection (f)(3) of this section.

(3) Schedule for payment

Penalties under this subsection shall be paid on a quarterly basis.

(4) Payments prior to establishment of account

In any case in which a State has not established a Clean Oceans Fund or a water pollution control revolving fund under title VI of the Federal Water Pollution Control Act, penalties required to be paid by a person in that State under paragraph (2)(C)(i) or (ii), as applicable, shall be paid to the Administrator for holding and payment or reversion, as applicable, in the same manner as fees are held and paid or revert under subsection (b)(5) of this section.

(e) Trust account

(1) In general

A person who enters into a compliance agreement or an enforcement agreement under subsection (c) of this section shall establish a trust account for the payment and use of fees and penalties under this section.

(2) Trust account requirements

An account shall be a trust account for purposes of this subsection only if it meets, to the satisfaction of the Administrator, the following requirements:

(A) Amounts in the account may be used only with the concurrence of the person who establishes the account and the Administrator; except that the person may use amounts in the account for a purpose authorized by subparagraph (B) after 60 days after notification of the Administrator if the Administrator does not disapprove such use before the end of such 60-day period.

(B) Amounts in the account may be used only for projects which will identify, develop, and implement—

(i) an alternative system, and any interim measures, for the management of sewage sludge and industrial waste, including but not limited to any such system or measures utilizing resource recovery, recycling, thermal reduction, or composting techniques; or

(ii) improvements in pretreatment, treatment, and storage techniques for sewage sludge and industrial waste to facilitate the implementation of such alternative system or interim measures.

(C) Upon a finding by the Administrator that a person did not pay fees or penalties into an account as required by this section, or did not use amounts in the account in accordance with this subsection, the balance of the amounts in the account shall be paid to the State in which the person is located, for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act [33 U.S.C. 1381 et seq.], as provided in subsection (f)(2) of this section.

(3) Use of unexpended amounts

Upon a determination by the Administrator that a person has terminated ocean dumping of sewage sludge or industrial waste, the balance of amounts in an account established by the person under this subsection shall be paid to the person for use—

(A) for debts incurred by the person in complying with this Act or the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.];

(B) in meeting the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) which apply to the person, including operations and maintenance; and

(C) for matching Federal grants.

(4) Use for matching Federal grants

Amounts in a trust account under this subsection may be used for matching Federal grants.

(f) Use of fees and penalties

(1) Agency activities

Of the total amount of fees and penalties paid to the Administrator in a fiscal year pursuant to subsections (b)(2)(B) and (d)(2)(B) of this section, respectively—

(A) not to exceed one-third of such total amount shall be used by the Administrator for—

(i) costs incurred or expected to be incurred in undertaking activities directly associated with the issuance under this Act of permits for the transportation or dumping of sewage sludge and industrial waste, including the costs of any environmental assessment of the direct effects of dumping under the permits;

(ii) preparation of reports under subsection (i) of this section; and

(iii) such other research, studies, and projects the Administrator considers necessary for, and consistent with, the development and implementation of alternative systems for the management of sewage sludge and industrial waste;

(B) not to exceed one-third of such total amount shall be transferred to the Secretary of the department in which the Coast Guard is operating for use for—

(i) Coast Guard surveillance of transportation and dumping of sewage sludge and industrial waste subject to this Act; and

(ii) such enforcement activities conducted by the Coast Guard with respect to such transportation and dumping as may be necessary to ensure to the maximum extent practicable complete compliance with the requirements of this Act; and

(C) not to exceed one-third of such total amount shall be transferred to the Under Secretary of Commerce for Oceans and Atmosphere for use for—

(i) monitoring, research, and related activities consistent with the program developed pursuant to subsection (j)(1) of this section; and

(ii) preparing annual reports to the Congress pursuant to subsection (j)(4)[1] of this section which describe the results of such monitoring, research, and activities.

(2) Deposits into State water pollution control revolving fund

(A) Amounts paid to a State pursuant to subsection (b)(2)(D), (d)(2)(C)(ii), or (e)(2)(C) of

[1] See References in Text note below.

this section shall be deposited into the water pollution control revolving fund established by the State pursuant to title VI of the Federal Water Pollution Control Act [33 U.S.C. 1381 et seq.].

(B) Amounts deposited into a State water pollution control revolving fund pursuant to this paragraph—

(i) shall not be used by the State to provide assistance to the person who paid such amounts for development or implementation of any alternative system;

(ii) shall not be considered to be State matching amounts under title VI of the Federal Water Pollution Control Act; and

(iii) shall not be subject to State matching requirements under such title.

(3) Penalty payments to States after 1994

(A) Amounts paid to a State as penalties pursuant to subsection (d)(2)(D) of this section may be used by the State—

(i) for providing assistance to any person in the State—

(I) for implementing a management program under section 319 of the Federal Water Pollution Control Act [33 U.S.C. 1329];

(II) for developing and implementing a conservation and management plan under section 320 of such Act [33 U.S.C. 1330]; or

(III) for implementing technologies and management practices necessary for controlling pollutant inputs adversely affecting the New York Bight, as such inputs are identified in the New York Bight Restoration Plan prepared under section 2301 of the Marine Plastic Pollution Research and Control Act of 1987; and

(ii) for providing assistance to any person in the State who was not required to pay such penalties for construction of treatment works (as defined in section 212 of the Federal Water Pollution Control Act [33 U.S.C. 1292]) which are publicly owned.

(B) Amounts paid to a State as penalties pursuant to subsection (d)(2)(D) of this section which are not used in accordance with subparagraph (A) shall be deposited into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act. Amounts deposited into such a fund pursuant to this subparagraph—

(i) shall not be used by the State to provide assistance to the person who paid such amounts;

(ii) shall not be considered to be State matching amounts under title VI of the Federal Water Pollution Control Act; and

(iii) shall not be subject to State matching requirements under such title.

(4) Deposits into Treasury as offsetting collections

Amounts of fees and penalties paid to the Administrator pursuant to subsection (b)(2)(B) or (d)(2)(B) of this section which are used by an agency in accordance with paragraph (1) shall be deposited into the Treasury as offsetting collections of the agency.

(g) Enforcement

(1) In general

Whenever, on the basis of any information available, the Administrator finds that a person is dumping or transporting sewage sludge or industrial waste in violation of subsection (a)(1) of this section, the Administrator shall issue an order requiring such person to terminate such dumping or transporting (as applicable) until such person—

(A) enters into a compliance agreement or an enforcement agreement under subsection (c) of this section; and

(B) obtains a permit under section 1412 of this title which authorizes such dumping or transporting.

(2) Requirements of order

Any order issued by the Administrator under this subsection—

(A) shall be delivered by personal service to the person named in the order;

(B) shall state with reasonable specificity the nature of the violation for which the order is issued; and

(C) shall require that the person named in the order, as a condition of dumping into ocean waters, or transporting for the purpose of dumping into ocean waters, sewage sludge or industrial waste—

(i) shall enter into a compliance agreement or an enforcement agreement under subsection (c) of this section; and

(ii) shall obtain a permit under section 1412 of this title which authorizes such dumping or transporting.

(3) Actions

The Administrator may request the Attorney General to commence a civil action for appropriate relief, including a temporary or permanent injunction and the imposition of civil penalties authorized by subsection (d)(1) of this section, for any violation of subsection (a)(1) of this section or of an order issued by the Administrator under this section. Such an action may be brought in the district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to restrain such violation and require compliance with subsection (a)(1) of this section and any such order.

(h) State progress reports

(1) In general

The Governor of each State that is a party to a compliance agreement or an enforcement agreement under subsection (c) of this section shall submit to the Administrator on September 30 of 1989 and of every year thereafter until the Administrator determines that ocean dumping of sewage sludge and industrial waste by persons located in that State has terminated, a report which describes—

(A) the efforts of each person located in the State to comply with a compliance agreement or enforcement agreement entered into by the person pursuant to subsection (c) of this section, including the extent to which such person has complied with

deadlines established by the schedule included in such agreement;

(B) activity of the State regarding permits for the construction and operation of each alternative system; and

(C) an accounting of amounts paid into and withdrawn from a Clean Oceans Fund established by the State.

(2) Failure to submit report

If a State fails to submit a report in accordance with this subsection, the Administrator shall withhold funds reserved for such State under section 205(g) of the Federal Water Pollution Control Act (33 U.S.C. 1285(g)). Funds withheld pursuant to this paragraph may, at the discretion of the Administrator, be restored to a State upon compliance with this subsection.

(i) EPA progress reports

(1) In general

Not later than December 31 of 1989 and of each year thereafter until the Administrator determines that ocean dumping of sewage sludge and industrial waste has terminated, the Administrator shall prepare and submit to the Congress a report on—

(A) progress being made by persons issued permits under section 1412 of this title for transportation or dumping of sewage sludge or industrial waste in developing alternative systems for managing sewage sludge and industrial waste;

(B) the efforts of each such person to comply with a compliance agreement or enforcement agreement entered into by the person pursuant to subsection (c) of this section, including the extent to which such person has complied with deadlines established by the schedule included in such agreement;

(C) progress being made by the Administrator and others in identifying and implementing alternative systems for the management of sewage sludge and industrial waste; and

(D) progress being made toward the termination of ocean dumping of sewage sludge and industrial waste.

(2) Referral to Congressional committees

Each report submitted to the Congress under this subsection shall be referred to each standing committee of the House of Representatives and of the Senate having jurisdiction over any part of the subject matter of the report.

(j) Environmental monitoring

(1) In general

The Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall design a program for monitoring environmental conditions—

(A) at the Apex site (as that term is defined in section 1414a of this title);

(B) at the site designated by the Administrator under section 1412(c) of this title and known as the ''106-Mile Ocean Waste Dump Site'' (as described in 49 F.R. 19005);

(C) at the site at which industrial waste is dumped; and

(D) within the potential area of influence of the sewage sludge and industrial waste dumped at those sites.

(2) Program requirements

The program designed under paragraph (1) shall include, but is not limited to—

(A) sampling of an appropriate number of fish and shellfish species and other organisms to assess the effects of environmental conditions on living marine organisms in these areas; and

(B) use of satellite and other advanced technologies in conducting the program.

(3) Monitoring activities

The Administrator and the Under Secretary of Commerce for Oceans and Atmosphere shall each conduct monitoring activities consistent with the program designed under paragraph (1).

(4) Omitted

(k) Definitions

For purposes of this section—

(1) the term ''alternative system'' means any method for the management of sewage sludge or industrial waste which does not require a permit under this Act;

(2) the term ''Clean Oceans Fund'' means such a fund established by a State in accordance with subsection (c)(5) of this section;

(3) the term ''excluded material'' means—

(A) any dredged material discharged by the United States Army Corps of Engineers or discharged pursuant to a permit issued by the Secretary in accordance with section 1413 of this title; and

(B) any waste from a tuna cannery operation located in American Samoa or Puerto Rico discharged pursuant to a permit issued by the Administrator under section 1412 of this title;

(4) the term ''industrial waste'' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant, other than an excluded material;

(5) the term ''interim measure'' means any short-term method for the management of sewage sludge or industrial waste, which—

(A) is used before implementation of an alternative system; and

(B) does not require a permit under this Act; and

(6) the term ''sewage sludge'' means any solid, semisolid, or liquid waste generated by a wastewater treatment plant, other than an excluded material.

(Pub. L. 92–532, title I, § 104B, as added Pub. L. 100–688, title I, § 1002, Nov. 18, 1988, 102 Stat. 4139.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(2), (d)(1), (e)(3)(A), (f)(1)(A)(i), (B), and (k)(1), (5)(B), means Pub. L. 92–532, which is classified generally to this chapter, chapter 41 (§ 2801 et seq.) of this title, and chapters 32 (§ 1431 et seq.) and 32A (§ 1447 et seq.) of Title 16, Conservation.

The Federal Water Pollution Control Act, referred to in subsecs. (b)(2)(D), (5)(A), (d)(2)(C)(ii), (4), (e)(2)(C), (3)(A), (B), (f)(2)(A), (B)(ii), (iii), and (3)(B), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of this title. Title VI of that Act is classified to subchapter VI (§ 1381 et seq.) of chapter 26 of this title. For complete classification

of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

Subsection (j)(4) of this section, referred to in subsec. (f)(1)(C)(ii), was omitted from the Code. See Codification note below.

Section 2301 of the Marine Plastic Pollution Research and Control Act of 1987, referred to in subsec. (f)(3)(A)(i)(III), is section 2301 of Pub. L. 100–220 which is set out as a note under section 2267 of this title.

CODIFICATION

Subsec. (j)(4)(A) of this section directed the Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, to submit to Congress a report describing the program designed pursuant to subsec. (j)(1) of this section not later than one year after Nov. 18, 1988.

Subsec. (j)(4)(B) of this section, which required the Administrator and the Under Secretary of Commerce for Oceans and Atmosphere to report annually to Congress on monitoring activities conducted under the program designed pursuant to subsec. (j)(1) of this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 148 of House Document No. 103–7.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1414c. Prohibition on disposal of sewage sludge at landfills on Staten Island

(a) In general

No person shall dispose of sewage sludge at any landfill located on Staten Island, New York.

(b) Exclusion from penalties

(1) In general

Subject to paragraph (2), a person who violates this section shall not be subject to any penalty under this Act.

(2) Injunction

Paragraph (1) shall not prohibit the bringing of an action for, or the granting of, an injunction under section 1415 of this title with respect to a violation of this section.

(c) "Sewage sludge" defined

For purposes of this section, the term ''sewage sludge'' has the meaning such term has in section 1414b of this title.

(Pub. L. 92–532, title I, § 104C, as added Pub. L. 100–688, title I, § 1005, Nov. 18, 1988, 102 Stat. 4150.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1), means Pub. L. 92–532, which is classified generally to this chapter, chapter 41 (§ 2801 et seq.) of this title, and chapters 32 (§ 1431 et seq.) and 32A (§ 1447 et seq.) of Title 16, Conservation.

§ 1415. Penalties

(a) Assessment of civil penalty by Administrator; remission or mitigation; court action for appropriate relief

Any person who violates any provision of this subchapter, or of the regulations promulgated under this subchapter, or a permit issued under this subchapter shall be liable to a civil penalty of not more than $50,000 for each violation to be assessed by the Administrator. In addition, any person who violates this subchapter or any regulation issued under this subchapter by engaging in activity involving the dumping of medical waste shall be liable for a civil penalty of not more than $125,000 for each violation, to be assessed by the Administrator after written notice and an opportunity for a hearing. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing of such violation. In determining the amount of the penalty, the gravity of the violation, prior violations, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation shall be considered by said Administrator. For good cause shown, the Administrator may remit or mitigate such penalty. Upon failure of the offending party to pay the penalty, the Administrator may request the Attorney General to commence an action in the appropriate district court of the United States for such relief as may be appropriate.

(b) Criminal penalties

In addition to any action that may be brought under subsection (a) of this section—

(1) any person who knowingly violates any provision of this subchapter, any regulation promulgated under this subchapter, or a permit issued under this subchapter, shall be fined under title 18 or imprisoned for not more than 5 years, or both; and

(2) any person who is convicted of such a violation pursuant to paragraph (1) shall forfeit to the United States—

(A) any property constituting or derived from any proceeds that the person obtained, directly or indirectly, as a result of such violation; and

(B) any of the property of the person which was used, or intended to be used in any manner or part, to commit or to facilitate the commission of the violation.

(c) Separate offenses

For the purpose of imposing civil penalties and criminal fines under this section, each day of a continuing violation shall constitute a separate offense as shall the dumping from each of several vessels, or other sources.

(d) Injunctive relief

The Attorney General or his delegate may bring actions for equitable relief to enjoin an imminent or continuing violation of this subchapter, of regulations promulgated under this subchapter, or of permits issued under this subchapter, and the district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

(e) Liability of vessels in rem

A vessel, except a public vessel within the meaning of section 13 of the Federal Water Pollution Control Act, as amended, used in a violation, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the

United States having jurisdiction thereof; but no vessel shall be liable unless it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation a consenting party or privy to such violation.

(f) Revocation and suspension of permits

If the provisions of any permit issued under section 1412 or 1413 of this title are violated, the Administrator or the Secretary, as the case may be, may revoke the permit or may suspend the permit for a specified period of time. No permit shall be revoked or suspended unless the permittee shall have been given notice and opportunity for a hearing on such violation and proposed suspension or revocation.

(g) Civil suits by private persons

(1) Except as provided in paragraph (2) of this subsection any person may commence a civil suit on his own behalf to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any prohibition, limitation, criterion, or permit established or issued by or under this subchapter. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such prohibition, limitation, criterion, or permit, as the case may be.

(2) No action may be commenced—

(A) prior to sixty days after notice of the violation has been given to the Administrator or to the Secretary, and to any alleged violator of the prohibition, limitation, criterion, or permit; or

(B) if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the prohibition, limitation, criterion, or permit; or

(C) if the Administrator has commenced action to impose a penalty pursuant to subsection (a) of this section, or if the Administrator, or the Secretary, has initiated permit revocation or suspension proceedings under subsection (f) of this section; or

(D) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of this subchapter.

(3)(A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Administrator or Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Administrator, the Secretary, or a State agency).

(h) Emergencies

No person shall be subject to a civil penalty or to a criminal fine or imprisonment for dumping materials from a vessel if such materials are dumped in an emergency to safeguard life at sea. Any such emergency dumping shall be reported to the Administrator under such conditions as he may prescribe.

(i) Seizure and forfeiture

(1) In general

Any vessel used to commit an act for which a penalty is imposed under subsection (b) of this section shall be subject to seizure and forfeiture to the United States under procedures established for seizure and forfeiture of conveyances under sections 853 and 881 of title 21.

(2) Limitation on application

This subsection does not apply to an act committed substantially in accordance with a compliance agreement or enforcement agreement entered into by the Administrator under section 1414b(c) of this title.

(Pub. L. 92–532, title I, § 105, Oct. 23, 1972, 86 Stat. 1057; Pub. L. 100–688, title III, § 3201(c), (d), Nov. 18, 1988, 102 Stat. 4153; Pub. L. 102–580, title V, § 508, Oct. 31, 1992, 106 Stat. 4869.)

REFERENCES IN TEXT

Section 13 of the Federal Water Pollution Control Act, referred to in subsec. (e), is section 13 of act June 30, 1948, ch. 758, as added by act Apr. 3, 1970, Pub. L. 91–224, title I, § 102, 84 Stat. 100, which was classified to section 1163 of this title and was superseded by Pub. L. 92–500, Oct. 18, 1972, 86 Stat. 816. See section 1322 of this title.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–580, § 508(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(1) In addition to any action which may be brought under subsection (a) of this section, a person who knowingly violates this subchapter, regulations promulgated under this subchapter, or a permit issued under this subchapter shall be fined not more than $50,000, or imprisoned for not more than one year, or both.

''(2) In addition to any action which may be brought under subsection (a) of this section, any person—

''(A) who knowingly violates any provision of this subchapter by engaging in activity involving the dumping into ocean waters of medical waste shall upon conviction be fined not more than $250,000, or imprisoned for not more than 5 years, or both; and

''(B) convicted of a violation involving such activity shall forfeit to the United States any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation, and any of the property of the person which was used, or intended to be used in any manner or part, to commit or to facilitate the commission of the violation.''

Subsec. (i). Pub. L. 102–508, § 508(b), added subsec. (i).

1988—Subsec. (a). Pub. L. 100–688, § 3201(c), inserted provisions relating to civil penalty of not more than $125,000 for engaging in activity involving dumping of medical waste.

Subsec. (b). Pub. L. 100–688, § 3201(d), designated existing provisions as par. (1) and added par. (2).

§ 1416. Relationship to other laws

(a) Voiding of preexisting licenses

After the effective date of this subchapter, all licenses, permits, and authorizations other than those issued pursuant to this subchapter shall be void and of no legal effect, to the extent that they purport to authorize any activity regulated by this subchapter, and whether issued before or after the effective date of this subchapter.

(b) Actions under authority of Rivers and Harbors Act

The provisions of subsection (a) of this section shall not apply to actions taken before the effective date of this subchapter under the authority of the Rivers and Harbors Act of 1899 (30 Stat. 1151), as amended (33 U.S.C. 401 et seq.).

(c) Impairment of navigation

Prior to issuing any permit under this subchapter, if it appears to the Administrator that the disposition of material, other than dredged material, may adversely affect navigation in the territorial sea of the United States, or in the approaches to any harbor of the United States, or may create an artificial island on the Outer Continental Shelf, the Administrator shall consult with the Secretary and no permit shall be issued if the Secretary determines that navigation will be unreasonably impaired.

(d) State programs

(1) State rights preserved

Except as expressly provided in this subsection, nothing in this subchapter shall preclude or deny the right of any State to adopt or enforce any requirements respecting dumping of materials into ocean waters within the jurisdiction of the State.

(2) Federal projects

In the case of a Federal project, a State may not adopt or enforce a requirement that is more stringent than a requirement under this subchapter if the Administrator finds that such requirement—

(A) is not supported by relevant scientific evidence showing the requirement to be protective of human health, aquatic resources, or the environment;

(B) is arbitrary or capricious; or

(C) is not applicable or is not being applied to all projects without regard to Federal, State, or private participation and the Secretary of the Army concurs in such finding.

(3) Exemption from State requirements

The President may exempt a Federal project from any State requirement respecting dumping of materials into ocean waters if it is in the paramount interest of the United States to do so.

(4) Consideration of site of origin prohibited

Any requirement respecting dumping of materials into ocean waters applied by a State shall be applied without regard to the site of origin of the material to be dumped.

(e) Existing conservation programs not affected

Nothing in this subchapter shall be deemed to affect in any manner or to any extent any provision of the Fish and Wildlife Coordination Act as amended (16 U.S.C. 661–666c).

(f) Dumping of dredged material in Long Island Sound from any Federal, etc., project

In addition to other provisions of law and not withstanding the specific exclusion relating to dredged material in the first sentence in section 1412(a) of this title, the dumping of dredged material in Long Island Sound from any Federal project (or pursuant to Federal authorization) or from a dredging project by a non-Federal applicant exceeding 25,000 cubic yards shall comply with the requirements of this subchapter.

(g) Savings clause

Nothing in this Act shall restrict, affect or modify the rights of any person (1) to seek damages or enforcement of any standard or limitation under State law, including State common law, or (2) to seek damages under other Federal law, including maritime tort law, resulting from noncompliance with any requirement of this Act or any permit under this Act.

(Pub. L. 92–532, title I, § 106, Oct. 23, 1972, 86 Stat. 1058; Pub. L. 96–572, § 4, Dec. 22, 1980, 94 Stat. 3345; Pub. L. 99–499, title I, § 127(d), Oct. 17, 1986, 100 Stat. 1693; Pub. L. 101–596, title II, § 203, Nov. 16, 1990, 104 Stat. 3006; Pub. L. 102–580, title V, § 505, Oct. 31, 1992, 106 Stat. 4867.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsecs. (a) and (b), means the effective date of title I of Pub. L. 92–532, which is six months after Oct. 23, 1972. See section 110(a) of Pub. L. 92–532, set out as an Effective Date note under section 1411 of this title.

The Rivers and Harbors Act of 1899, referred to in subsec. (b), is act Mar. 3, 1899, ch. 425, 30 Stat. 1151, as amended, which enacted sections 401, 403, 404, 406 to 409, 411 to 416, 418, 502, 549, 686, and 687 of this title. For complete classification of this Act to the Code, see Tables.

The Fish and Wildlife Coordination Act referred to in subsec. (e), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, as amended, which is classified generally to sections 661 to 666c of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 16 and Tables.

This Act, referred to in subsec. (g), means Pub. L. 92–532, which is classified generally to this chapter, chapter 41 (§ 2801 et seq.) of this title, and chapters 32 (§ 1431 et seq.) and 32A (§ 1447 et seq.) of Title 16.

AMENDMENTS

1992—Subsec. (d). Pub. L. 102–580 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "After the effective date of this subchapter, no State shall adopt or enforce any rule or regulation relating to any activity regulated by this subchapter. Any State may, however, propose to the Administrator criteria relating to the dumping of materials into ocean waters within its jurisdiction, or into other ocean waters to the extent that such dumping may affect waters within the jurisdiction of such State, and if the Administrator determines, after notice and opportunity for hearing, that the proposed criteria are not inconsistent with the purposes of this subchapter, may adopt those criteria and may issue regulations to implement such criteria. Such determination shall be made by the Administrator within one hundred and twenty days of receipt of the proposed criteria. For the purposes of this subsection, the term 'State' means any State, interstate or regional authority, Federal territory or Commonwealth or the District of Columbia."

1990—Subsec. (f). Pub. L. 101–596, which directed the substitution of "the requirements of this subchapter"

for all after ''shall comply with'' in ''subsection 116(g) of the Marine Protection Research and Sanctuaries Act (33 U.S.C. 1416(g))'', was executed by making the substitution for ''the criteria established pursuant to the second sentence of section 1412(a) of this title relating to the effects of dumping. Subsection (d) of this section shall not apply to this subsection.'' which followed ''shall comply with'' in section 106(f) of the Marine Protection Research and Sanctuaries Act of 1972, which is classified to subsec. (f) of this section, to reflect the probable intent of Congress.

1986—Subsec. (g). Pub. L. 99–499 added subsec. (g).

1980—Subsec. (f). Pub. L. 96–572 added subsec. (f).

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 1417. Enforcement

(a) Utilization of other departments, agencies, and instrumentalities

The Administrator or the Secretary, as the case may be, may, whenever appropriate, utilize by agreement, the personnel, services and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis, in carrying out his responsibilities under this subchapter.

(b) Delegation of review and evaluation authority

The Administrator or the Secretary may delegate responsibility and authority for reviewing and evaluating permit applications, including the decision as to whether a permit will be issued, to an officer of his agency, or he may delegate, by agreement, such responsibility and authority to the heads of other Federal departments or agencies, whether on a reimbursable or nonreimbursable basis.

(c) Surveillance and other enforcement activity

The Secretary of the department in which the Coast Guard is operating shall conduct surveillance and other appropriate enforcement activity to prevent unlawful transportation of material for dumping, or unlawful dumping. Such enforcement activity shall include, but not be limited to, enforcement of regulations issued by him pursuant to section 1418 of this title, relating to safe transportation, handling, carriage, storage, and stowage. The Secretary of the Department in which the Coast Guard is operating shall supply to the Administrator and to the Attorney General, as appropriate, such information of enforcement activities and such evidentiary material assembled as they may require in carrying out their duties relative to penalty assessments, criminal prosecutions, or other actions involving litigation pursuant to the provisions of this subchapter.

(Pub. L. 92–532, title I, § 107, Oct. 23, 1972, 86 Stat. 1059.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1418. Regulations

In carrying out the responsibilities and authority conferred by this subchapter, the Administrator, the Secretary, and the Secretary of the department in which the Coast Guard is operating are authorized to issue such regulations as they may deem appropriate.

(Pub. L. 92–532, title I, § 108, Oct. 23, 1972, 86 Stat. 1059.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1419. International cooperation

The Secretary of State, in consultation with the Administrator, shall seek effective international action and cooperation to insure protection of the marine environment, and may, for this purpose, formulate, present, or support specific proposals in the United Nations and other component international organizations for the development of appropriate international rules and regulations in support of the policy of this Act.

(Pub. L. 92–532, title I, § 109, Oct. 23, 1972, 86 Stat. 1060.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 92–532, which is classified generally to this chapter, chapter 41 (§ 2801 et seq.) of this title, and chapters 32 (§ 1431 et seq.) and 32A (§ 1447 et seq.) of Title 16, Conservation.

§ 1420. Authorization of appropriations

There are authorized to be appropriated, for purposes of carrying out this subchapter, not to exceed $12,000,000 for fiscal year 1993 and not to exceed $14,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997, to remain available until expended.

(Pub. L. 92–532, title I, § 111, Oct. 23, 1972, 86 Stat. 1060; Pub. L. 93–472, Oct. 26, 1974, 88 Stat. 1430; Pub. L. 94–62, § 1, July 25, 1975, 89 Stat. 303; Pub. L. 94–326, § 1, June 30, 1976, 90 Stat. 725; Pub. L. 95–153, § 1, Nov. 4, 1977, 91 Stat. 1255; Pub. L. 96–572, § 1, Dec. 22, 1980, 94 Stat. 3344; Pub. L. 97–16, June 23, 1981, 95 Stat. 100; Pub. L. 100–536, Oct. 28, 1988, 102 Stat. 2710; Pub. L. 102–580, title V, § 509(a), Oct. 31, 1992, 106 Stat. 4870.)

AMENDMENTS

1992—Pub. L. 102–580 substituted ''for fiscal year 1993 and not to exceed $14,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997, to remain available until expended'' for ''for each of fiscal years 1989, 1990, and 1991''.

1988—Pub. L. 100–536 amended section generally, substituting provisions authorizing appropriations not to exceed $12,000,000 for each of fiscal years 1989, 1990, and

1991, for provisions authorizing appropriations for fiscal years 1973 to 1982.

1981—Pub. L. 97–16 increased to $4,213,000 from $2,000,000 the authorization of appropriation for fiscal year 1982.

1980—Pub. L. 96–572 inserted provisions authorizing appropriations for fiscal years 1980, 1981, and 1982.

1977—Pub. L. 95–153 inserted provision authorizing appropriations not to exceed $4,800,000 for fiscal year 1978.

1976—Pub. L. 94–326 inserted provision authorizing appropriations not to exceed $4,800,000 for fiscal year 1977.

1975—Pub. L. 94–62 substituted ''not to exceed $5,500,000 for each of the fiscal years 1974 and 1975'' for ''and not to exceed $5,500,000 for fiscal years 1974 and 1975'', and inserted provisions authorizing appropriation of an amount not to exceed $5,300,000 for fiscal year 1976, and not to exceed $1,325,000 for the transition period (July 1 through Sept. 30, 1976).

1974—Pub. L. 93–472 substituted ''fiscal years 1974 and 1975,'' for ''fiscal year 1974,''.

§ 1421. Omitted

CODIFICATION

Section, Pub. L. 92–532, title I, § 112, Oct. 23, 1972, 86 Stat. 1060; Pub. L. 94–326, § 2, June 30, 1976, 90 Stat. 725; Pub. L. 96–470, title II, § 209(f), Oct. 19, 1980, 94 Stat. 2245; Pub. L. 102–580, title V, § 510, Oct. 31, 1992, 106 Stat. 4870, which required the Administrator of the Environmental Protection Agency to report annually to Congress on the administration of this subchapter, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 163 of House Document No. 103–7.

SUBCHAPTER II—RESEARCH

§ 1441. Monitoring and research program

The Secretary of Commerce, in coordination with the Secretary of the Department in which the Coast Guard is operating and with the Administrator shall, within six months of October 23, 1972, initiate a comprehensive and continuing program of monitoring and research regarding the effects of the dumping of material into ocean waters or other coastal waters where the tide ebbs and flows or into the Great Lakes or their connecting waters.

(Pub. L. 92–532, title II, § 201, Oct. 23, 1972, 86 Stat. 1060; Pub. L. 99–272, title VI, § 6061, Apr. 7, 1986, 100 Stat. 131.)

AMENDMENTS

1986—Pub. L. 99–272 struck out provision which had required the Secretary of Commerce to report from time to time, not less frequently than annually, his findings under this section (including an evaluation of the short-term ecological effects and the social and economic factors involved) to the Congress.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1442. Research program respecting possible long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems

(a) Secretary of Commerce

(1) The Secretary of Commerce, in close consultation with other appropriate Federal departments, agencies, and instrumentalities shall, within six months of October 23, 1972, initiate a comprehensive and continuing program of research with respect to the possible long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems. These responsibilities shall include the scientific assessment of damages to the natural resources from spills of petroleum or petroleum products. In carrying out such research, the Secretary of Commerce shall take into account such factors as existing and proposed international policies affecting oceanic problems, economic considerations involved in both the protection and the use of the oceans, possible alternatives to existing programs, and ways in which the health of the oceans may best be preserved for the benefit of succeeding generations of mankind.

(2) The Secretary of Commerce shall ensure that the program under this section complements, when appropriate, the activities undertaken by other Federal agencies pursuant to subchapter I of this chapter and section 1443 of this title. That program shall include but not be limited to—

(A) the development and assessment of scientific techniques to define and quantify the degradation of the marine environment;

(B) the assessment of the capacity of the marine environment to receive materials without degradation;

(C) continuing monitoring programs to assess the health of the marine environment, including but not limited to the monitoring of bottom oxygen concentrations, contaminant levels in biota, sediments, and the water column, diseases in fish and shellfish, and changes in types and abundance of indicator species;

(D) the development of methodologies, techniques, and equipment for disposal of waste materials to minimize degradation of the marine environment.

(3) The Secretary of Commerce shall ensure that the comprehensive and continuing research program conducted under this subsection is consistent with the comprehensive plan for ocean pollution research and development and monitoring prepared under section 1703[1] of this title.

(b) Action with other nations

In carrying out his responsibilities under this section, the Secretary of Commerce, under the foreign policy guidance of the President and pursuant to international agreements and treaties made by the President with the advice and consent of the Senate, may act alone or in conjunction with any other nation or group of nations, and shall make known the results of his activities by such channels of communication as may appear appropriate.

[1] See References in Text note below.

(c) Cooperation of other departments, agencies, and independent instrumentalities

Each department, agency, and independent instrumentality of the Federal Government is authorized and directed to cooperate with the Secretary of Commerce in carrying out the purposes of this section and, to the extent permitted by law, to furnish such information as may be requested.

(d) Utilization of personnel, services, and facilities; inter-agency agreements

The Secretary of Commerce, in carrying out his responsibilities under this section, shall, to the extent feasible utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities (including those of the Coast Guard for monitoring purposes), and is authorized to enter into appropriate inter-agency agreements to accomplish this action.

(Pub. L. 92–532, title II, § 202, Oct. 23, 1972, 86 Stat. 1060; Pub. L. 94–62, § 2, July 25, 1975, 89 Stat. 303; Pub. L. 96–381, § 3, Oct. 6, 1980, 94 Stat. 1524; Pub. L. 96–470, title II, § 201(f), Oct. 19, 1980, 94 Stat. 2242; Pub. L. 99–272, title VI, § 6062, Apr. 7, 1986, 100 Stat. 131; Pub. L. 100–627, title I, § 101, Nov. 7, 1988, 102 Stat. 3213.)

REFERENCES IN TEXT

Section 1703 of this title, referred to in subsec. (a)(3), was repealed by Pub. L. 102–567, title II, § 204, Oct. 29, 1992, 106 Stat. 4282.

AMENDMENTS

1988—Subsec. (a)(3). Pub. L. 100–627 added par. (3).

1986—Subsec. (a). Pub. L. 99–272, § 6062(1)–(3), designated existing provisions as par. (1), substituted ''in close consultation'' for ''in consultation'', and added par. (2).

Subsec. (c). Pub. L. 99–272, § 6062(4), redesignated subsec. (d) as (c), and struck out former subsec. (c) which required the Secretary of Commerce to make an annual report to Congress, in March of each year, on the results of activities undertaken by him pursuant to this section during the previous fiscal year, and to include in that report the report to Congress required by section 665 of title 16 on activities of the Department of Commerce under that section.

Subsecs. (d), (e). Pub. L. 99–272, § 6062(4), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

1980—Subsec. (a). Pub. L. 96–381 inserted provision including within the responsibilities of the Secretary the scientific assessment of damages to natural resources from spills of petroleum or petroleum products.

Subsec. (c). Pub. L. 96–470 inserted provision requiring the Secretary to include in his annual report the report on activities of the Department of Commerce under section 665 of title 16.

1975—Subsec. (c). Pub. L. 94–62 substituted ''March'' for ''January''.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1443. Research program respecting ocean dumping and other methods of waste disposal

(a) Cooperation with public authorities, agencies, and institutions, private agencies and institutions, and individuals

The Administrator of the Environmental Protection Agency shall—

(1) conduct research, investigations, experiments, training, demonstrations, surveys, and studies for the purpose of—

(A) determining means of minimizing or ending, as soon as possible after October 6, 1980, the dumping into ocean waters, or waters described in section 1411(b) of this title, of material which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities, and

(B) developing disposal methods as alternatives to the dumping described in subparagraph (A); and

(2) encourage, cooperate with, promote the coordination of, and render financial and other assistance to appropriate public authorities, agencies, and institutions (whether Federal, State, interstate, or local) and appropriate private agencies, institutions, and individuals in the conduct of research and other activities described in paragraph (1).

(b) Termination date for ocean dumping of sewage sludge not affected

Nothing in this section shall be construed to affect in any way the December 31, 1981, termination date, established in section 1412a of this title, for the ocean dumping of sewage sludge.

(c) Regional management plans for waste disposal

The Administrator, in cooperation with the Secretary, the Secretary of Commerce, and other officials of appropriate Federal, State, and local agencies, shall assess the feasibility in coastal areas of regional management plans for the disposal of waste materials. Such plans should integrate where appropriate Federal, State, regional, and local waste disposal activities into a comprehensive regional disposal strategy. These plans should address, among other things—

(1) the sources, quantities, and types of materials that require and will require disposal;

(2) the environmental, economic, social, and human health factors (and the methods used to assess these factors) associated with disposal alternatives;

(3) the improvements in production processes, methods of disposal, and recycling to reduce the adverse effects associated with such disposal alternatives;

(4) the applicable laws and regulations governing waste disposal; and

(5) improvements in permitting processes to reduce administrative burdens.

(d) Report on sewage disposal in New York metropolitan area

The Administrator, in cooperation with the Secretary of Commerce, shall submit to the Congress and the President, not later than one

year after April 7, 1986, a report on sewage sludge disposal in the New York City metropolitan region. The report shall—

(1) consider the factors listed in subsection (c) of this section as they relate to landfilling, incineration, ocean dumping, or any other feasible disposal or reuse/recycling option;

(2) include an assessment of the cost of these alternatives; and

(3) recommend such regulatory or legislative changes as may be necessary to reduce the adverse impacts associated with sewage sludge disposal.

(Pub. L. 92–532, title II, § 203, Oct. 23, 1972, 86 Stat. 1061; Pub. L. 96–381, § 1, Oct. 6, 1980, 94 Stat. 1523; Pub. L. 99–272, title VI, § 6063, Apr. 7, 1986, 100 Stat. 131.)

CODIFICATION

In subsec. (a)(1)(A), October 6, 1980, was substituted for ''the date of the enactment of this section'', which has been translated to reflect the probable intent of Congress as meaning the date of enactment of Pub. L. 96–381 which amended this section generally and which was approved Oct. 6, 1980.

AMENDMENTS

1986—Subsecs. (c), (d). Pub. L. 99–272 added subsecs. (c) and (d).

1980—Pub. L. 96–381 substituted provision authorizing the Administrator of the Environmental Protection Agency to conduct research, etc., and to encourage and cooperate with public authorities, etc., for the purpose of determining means of minimizing or ending, as soon as possible after Oct. 6, 1980, dumping in ocean waters, or waters described in section 1411(b) of this title, of materials which may unreasonably degrade or endanger human health or the marine environment and to develop disposal methods as alternatives to dumping for provision authorizing the Secretary of Commerce to conduct research, etc., and to encourage and cooperate with public authorities, etc., for the purpose of minimizing or ending all dumping of materials within five years after the effective date of Pub. L. 92–532, which was approved Oct. 23, 1972, and inserted provision directing that nothing in this section be construed to affect in any way the Dec. 31, 1981, termination date, established by section 1412a of this title for ocean dumping of sewage sludge.

§ 1444. Annual reports

(a) Report by Secretary of Commerce

In March of each year, the Secretary of Commerce shall report to the Congress on his activities under this subchapter during the previous fiscal year. The report shall include—

(1) the Secretary's findings made under section 1441 of this title, including an evaluation of the short-term ecological effects and the social and economic factors involved with the dumping;

(2) the results of activities undertaken pursuant to section 1442 of this title;

(3) with the concurrence of the Administrator and after consulting with officials of other appropriate Federal agencies, an identification of the short- and long-term research requirements associated with activities under subchapter I of this chapter, and a description of how Federal research under this subchapter and subchapter I of this chapter will meet those requirements; and

(4) activities of the Department of Commerce under section 665 of title 16.

(b) Report by Administrator

In March of each year, the Administrator shall report to the Congress on his activities during the previous fiscal year under section 1443 of this title.

(c) Report by Under Secretary

On October 31 of each year, the Under Secretary shall report to the Congress the specific programs that the National Oceanic and Atmospheric Administration and the Environmental Protection Agency carried out pursuant to this subchapter in the previous fiscal year, specifically listing the amount of funds allocated to those specific programs in the previous fiscal year.

(Pub. L. 92–532, title II, § 204, formerly § 205, as added Pub. L. 96–572, § 5, Dec. 22, 1980, 94 Stat. 3345; renumbered § 204 and amended Pub. L. 99–272, title VI, § 6065, Apr. 7, 1986, 100 Stat. 132; Pub. L. 100–627, title I, § 102, Nov. 7, 1988, 102 Stat. 3213.)

PRIOR PROVISIONS

A prior section 204 of Pub. L. 92–532, which was classified to this section, was renumbered section 205 and is classified to section 1445 of this title.

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–627 added subsec. (c).

1986—Pub. L. 99–272 amended section generally. Prior to amendment, section read as follows: ''The Administrator of the Environmental Protection Agency is authorized to conduct a study to assist the city of New York in evaluating the technological options available for the removal of heavy metals and other toxic organic materials from the sewage sludge of the city of New York. The study shall also examine options available to reduce the amount of such pollutants entering the sewage system. The study is to be completed by July 1, 1981.''

§ 1445. Authorization of appropriations

There are authorized to be appropriated for the first fiscal year after October 23, 1972, and for the next two fiscal years thereafter such sums as may be necessary to carry out this subchapter, but the sums appropriated for any such fiscal year may not exceed $6,000,000. There are authorized to be appropriated not to exceed $1,500,000 for the transition period (July 1 through September 30, 1976), not to exceed $5,600,000 for fiscal year 1977, and not to exceed $6,500,000 for fiscal year 1978, not to exceed $11,396,000 for fiscal year 1981, not to exceed $12,000,000 for fiscal year 1982, not to exceed $10,635,000 for fiscal year 1986, not to exceed $11,114,000 for fiscal year 1987, not to exceed $13,500,000 for fiscal year 1989, and not to exceed $14,500,000 for fiscal year 1990.

(Pub. L. 92–532, title II, § 205, formerly § 204, Oct. 23, 1972, 86 Stat. 1061; Pub. L. 94–62, § 3, July 25, 1975, 89 Stat. 303; Pub. L. 94–326, § 3, June 30, 1976, 90 Stat. 725; Pub. L. 95–153, § 2, Nov. 4, 1977, 91 Stat. 1255; Pub. L. 96–381, § 2, Oct. 6, 1980, 94 Stat. 1523; renumbered § 205 and amended Pub. L. 99–272, title VI, § 6064, Apr. 7, 1986, 100 Stat. 132; Pub. L. 100–627, title I, § 103, Nov. 7, 1988, 102 Stat. 3213.)

PRIOR PROVISIONS

A prior section 205 of Pub. L. 92–532, which was classified to this section, was renumbered section 204 and is classified to section 1444 of this title.

AMENDMENTS

1988—Pub. L. 100–627 inserted provision authorizing appropriations not to exceed $13,500,000 for fiscal year 1989 and not to exceed $14,500,000 for fiscal year 1990.

1986—Pub. L. 99–272 inserted provision authorizing appropriations not to exceed $10,635,000 for fiscal year 1986 and not to exceed $11,114,000 for fiscal year 1987.

1980—Pub. L. 96–381 inserted provision authorizing appropriations not to exceed $11,396,000 for fiscal year 1981 and not to exceed $12,000,000 for fiscal year 1982.

1977—Pub. L. 95–153 inserted provision authorizing appropriations not to exceed $6,500,000 for fiscal year 1978.

1976—Pub. L. 94–326 inserted provision authorizing appropriations not to exceed $5,600,000 for fiscal year 1977.

1975—Pub. L. 94–62 inserted provision authorizing appropriations not to exceed $1,500,000 for the transition period (July 1, through Sept. 30, 1976).

CHAPTER 28—POLLUTION CASUALTIES ON THE HIGH SEAS: UNITED STATES INTERVENTION

Sec.
1471. Definitions.
1472. Grave and imminent danger from oil pollution casualties to coastline or related interests of United States; Federal nonliability for Federal preventive measures on the high seas.
1473. Consultations and determinations respecting creation of hazards to human health, etc.; criteria for determinations respecting grave and imminent dangers of major harmful consequences to United States coastline or related interests.
1474. Federal intervention actions.
1475. Consultation procedure.
1476. Emergencies.
1477. Reasonable measures; considerations.
1478. Personal, flag state, and foreign state considerations.
1479. Federal liability for unreasonable damages.
1480. Notification by Secretary of State.
1481. Violations; penalties.
1482. Consultation for nomination and nomination of experts, negotiators, etc.; proposal of amendments to list of substances other than convention oil; Presidential acceptance of amendments.
1483. Foreign government ships; immunity.
1484. Interpretation and administration; other right, duty, privilege, or immunity and other remedy unaffected.
1485. Rules and regulations.
1486. Oil Spill Liability Trust Fund.
1487. Effective date.

§ 1471. Definitions

As used in this chapter—

(1) ''a substance other than convention oil'' means those oils, noxious substances, liquefied gases, and radioactive substances—

(A) enumerated in the protocol, or

(B) otherwise determined to be hazardous under section 1473(a) of this title;

(2) ''convention'' means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, including annexes thereto;

(3) ''convention oil'' means crude oil, fuel oil, diesel oil, and lubricating oil;

(4) ''Secretary'' means the Secretary of the department in which the Coast Guard is operating;

(5) ''ship'' means—

(A) a seagoing vessel of any type whatsoever, and

(B) any floating craft, except an installation or device engaged in the exploration and exploitation of the resources of the seabed and the ocean floor and the subsoil thereof;

(6) ''protocol'' means the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil, 1973, including annexes thereto; and

(7) ''United States'' means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.

(Pub. L. 93–248, § 2, Feb. 5, 1974, 88 Stat. 8; Pub. L. 95–302, § 1(1), June 26, 1978, 92 Stat. 344.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in par. (7), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1978—Pub. L. 95–302 in cl. (1) substituted definition of ''a substance other than convention oil'' for definition of ''ship'', in cl. (2) substituted definition of ''convention'' for definition of ''oil'', in cl. (3) substituted definition of ''convention oil'' for definition of ''convention'', in cl. (5) substituted definition of ''ship'' for definition of ''United States'', and added cls. (6) and (7).

EFFECTIVE DATE OF 1978 AMENDMENT

For effective date of amendment by Pub. L. 95–302, see section 2 of Pub. L. 95–302, set out as a note under section 1487 of this title.

SHORT TITLE

Section 1 of Pub. L. 93–248 provided: ''That this Act [enacting this chapter] may be cited as the 'Intervention on the High Seas Act'.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 1472. Grave and imminent danger from oil pollution casualties to coastline or related interests of United States; Federal nonliability for Federal preventive measures on the high seas

Whenever a ship collision, stranding, or other incident of navigation or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to the ship or her cargo creates, as determined by the Secretary, a grave and imminent danger to the coastline or related interests