

96-255, §1, May 30, 1980, 94 Stat. 420; Pub. L. 99-272, title VI, §6075, Apr. 7, 1986, 100 Stat. 135; Pub. L. 100-636, §1(8), Nov. 8, 1988, 102 Stat. 3324, authorized appropriations to carry out this chapter.

SHORT TITLE

Section 1 of Pub. L. 95-273, as amended by Pub. L. 96-255, §3, May 30, 1980, 94 Stat. 420, which provided that this chapter could be cited as the "National Ocean Pollution Planning Act of 1978", was repealed by Pub. L. 102-567, title II, §204, Oct. 29, 1992, 106 Stat. 4282.

CHAPTER 32—INLAND WATERWAYS TRUST FUND

Sec.

1801, 1802. Repealed.

1803. Study with respect to inland waterway user taxes and charges.

- (a) Study directed.
- (b) Considerations relating to the taxing mechanism.
- (c) Considerations relating to economic effects.
- (d) Considerations relating to economic feasibility of waterway improvement projects; level of benefits from waterway expenditures.
- (e) Considerations relating to Federal assistance.
- (f) Considerations relating to policy and future development.
- (g) "Inland waterway user taxes and charges" defined.
- (h) Report.
 - (i) Authorization of appropriations.

1804. Inland and intracoastal waterways of the United States.

§§ 1801, 1802. Repealed. Pub. L. 99-662, title XIV, § 1405(b), Nov. 17, 1986, 100 Stat. 4271

Section 1801, Pub. L. 95-502, title II, §203, Oct. 21, 1978, 92 Stat. 1697, established Inland Waterways Trust Fund. See section 9506 of Title 26, Internal Revenue Code.

Section 1802, Pub. L. 95-502, title II, §204, Oct. 21, 1978, 92 Stat. 1698, made Inland Waterways Trust Fund available for expenditures for navigation construction and rehabilitation projects on inland waterways. See section 9506 of Title 26.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1987, see section 1405(d)(1) of Pub. L. 99-662, set out as an Effective Date note under section 9506 of Title 26, Internal Revenue Code.

§ 1803. Study with respect to inland waterway user taxes and charges

(a) Study directed

The Secretary of Transportation, and the Secretary of Commerce, in consultation with the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Energy, the Attorney General of the United States, the Secretary of the Army, the Chairman of the Water Resources Council, and the Director of the Office of Management and Budget, shall—

- (1) make a full and complete study with respect to inland waterway user taxes and charges, and
- (2) make findings and policy recommendations with respect thereto.

Such study shall include (but shall not be limited to) a consideration of the matters listed in subsections (b), (c), (d), (e), and (f) of this section.

(b) Considerations relating to the taxing mechanism

(1) The extent to which the Federal Government should seek to recover some or all of Federal expenditures for the benefit of inland waterway transportation from the users of the facilities for which such expenditures are made.

(2) The various forms of inland waterway user taxes and charges which could be established.

(3) The various methods of collecting inland waterway user taxes and charges, and the administrative costs of such taxes and charges.

(4) The classes and categories of users and other persons on whom inland waterway user taxes and charges should be imposed.

(5) The waterways of the United States (including the Great Lakes, deep draft channels, and coastal ports) which should be included in any system of user taxes and charges, together with the economic effects of such taxes and charges.

(6) The use of revenues derived from inland waterway user taxes and charges, including consideration of changes in, or alternatives to, the Trust Fund mechanism.

(c) Considerations relating to economic effects

The economic effects of waterway user taxes and charges on—

(1) Carriers and users

On—

(A) carriers and shippers using the inland waterways, and

(B) users (including ultimate consumers) of commodities which are transported on the inland waterways.

(2) Regions, etc.

On—

(A) existing investment in industrial plants, agricultural interests, and commercial enterprises, and on related employment, in regions of the country served by inland water transportation directly or in combination with other modes, and

(B) future economic growth prospects in such regions, including anticipated shifts of industry and employment to other areas together with an evaluation of effects on regional economies and their development, including consistency with Federal policies as set forth in other legislation.

(3) Small business and industrial concentration and competition

On—

(A) small business enterprise, and

(B) industrial concentration and competition, both within the transportation industry and in any line of commerce (within the meaning of the antitrust laws).

(4) Competitors

On the freight rates charged by other modes of transportation and the extent of short-term and long-term diversion of traffic from the inland waterways to such other modes. In considering such diversion of traffic, there shall also be considered the effects of such diversion on—

(A) the development of alternative sources of supply and on alternative modes of transportation and alternative routing to market,

(B) the comparative safety of the handling and transportation of hazardous materials, and

(C) the comparative energy efficiency of the modes and routes of the transportation involved.

(5) Prices

On prices of commodities shipped by inland waterways and by competing modes, including the costs of energy materials and the effects on electric power rates.

(6) Balance of payments

On the balance of payments of the United States based on our international trade.

(d) Considerations relating to economic feasibility of waterway improvement projects; level of benefits from waterway expenditures

(1) The effects of inland waterway user taxes and charges on the economic feasibility of inland waterway improvement projects.

(2) The comparative levels of benefits received from Federal expenditures on inland waterways for—

(A) commercial uses, and

(B) other uses, including (but not limited to) recreation, reclamation, water supply, low-flow augmentation, fish and wildlife enhancement, hydroelectric power, flood control, and irrigation uses.

(e) Considerations relating to Federal assistance

(1) The extent of past, present, and expected future Federal assistance to the several modes of freight transportation. Such consideration shall include an evaluation and comparison of the public benefits resulting from such assistance to each of the several transportation modes in terms of adequacy, efficiency, and economy of service, safety, technological progress, and energy conservation. The Federal assistance considered under this paragraph shall include all forms of such assistance, such as tax advantages, direct grants, rate adjustments for improvement purposes, assumption of pension fund liabilities, loans, guarantees, capital participation, revenues from land grants, and provision of right-of-way operation, maintenance, and improvement.

(2) The competitive effects of past, present, and expected future Federal expenditures on inland waterways on competitive modes of transportation.

(3) The need for Federal assistance to agricultural, industrial, and other interests affected by inland waterway user taxes and charges.

(f) Considerations relating to policy and future development

The effects of inland waterway user taxes and charges on—

(1) The achievement of the objectives of the National Transportation Policy as set forth in sections 10101 and 13101 of title 49.

(2) The expansion and improvement of the inland waterways determined to be necessary

by the Secretary of the Army under section 158 of the Water Resources Development Act of 1976 (Public Law 94-587) or estimated to be necessary under paragraph (3).

(3) The requirements of the Nation through the year 2000 for transportation service, the portion thereof which should be provided by inland waterway carriers, and an estimate of the expansion and improvement of inland waterway capacity necessary to meet such requirements.

(g) “Inland waterway user taxes and charges” defined

For purposes of this section, the term “inland waterway user taxes and charges” means taxes imposed on the use of the inland and intra-coastal waterways of the United States and all alternatives to such taxes.

(h) Report

Not later than September 30, 1981, the Secretary of Transportation shall transmit to Congress a final report of the study required by this section, together with his findings and recommendations (including necessary legislation) and the findings and recommendations of the Secretary of Commerce, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Energy, the Attorney General of the United States, the Secretary of the Army, the Chairman of the Water Resources Council, and the Director of the Office of Management and Budget.

(i) Authorization of appropriations

There are hereby authorized to be appropriated from time to time to the Secretary of Transportation such sums, not to exceed \$8,000,000 in the aggregate, as may be necessary to carry out the study required by this section.

(Pub. L. 95-502, title II, §205, Oct. 21, 1978, 92 Stat. 1698; Pub. L. 104-88, title III, §338, Dec. 29, 1995, 109 Stat. 954.)

REFERENCES IN TEXT

The antitrust laws, referred to in subsec. (c)(3)(B), are classified generally to chapter 1 (§1 et seq.) of Title 15, Commerce and Trade.

CODIFICATION

Section 158 of the Water Resources Development Act of 1976 (Public Law 94-587), referred to in subsec. (f)(2), is section 158 of Pub. L. 94-587, Oct. 22, 1976, 90 Stat. 2933, which is set out as a note under section 540 of this title.

AMENDMENTS

1995—Subsec. (f)(1). Pub. L. 104-88 substituted “as set forth in sections 10101 and 13101 of title 49” for “as set forth in the preamble to the Transportation Act of 1940”.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

SHORT TITLE

For short title of title II of Pub. L. 95-502 as the “Inland Waterways Revenue Act of 1978”, see section 201 of Pub. L. 95-502, set out as a Short Title of 1978 Amendment note under section 1 of Title 26, Internal Revenue Code.

§ 1804. Inland and intracoastal waterways of the United States

For purposes of section 4042 of title 26 (relating to tax on fuel used in commercial transportation on inland waterways) and for purposes of section 1802¹ of this title, the following inland and intracoastal waterways of the United States are described in this section:

(1) Alabama-Coosa Rivers: From junction with the Tombigbee River at river mile (hereinafter referred to as RM) 0 to junction with Coosa River at RM 314.

(2) Allegheny River: From confluence with the Monongahela River to form the Ohio River at RM 0 to the head of the existing project at East Brady, Pennsylvania, RM 72.

(3) Apalachicola-Chattahoochee and Flint Rivers: Apalachicola River from mouth at Apalachicola Bay (intersection with the Gulf Intracoastal Waterway) RM 0 to junction with Chattahoochee² and Flint Rivers at RM 107.8. Chattahoochee² River from junction with Apalachicola and Flint Rivers at RM 0 to Columbus, Georgia, at RM 155 and Flint River, from junction with Apalachicola and Chattahoochee Rivers at RM 0 to Bainbridge, Georgia, at RM 28.

(4) Arkansas River (McClellan-Kerr Arkansas River Navigation System): From junction with Mississippi River at RM 0 to port of Catoosa, Oklahoma, at RM 448.2.

(5) Atchafalaya River: From RM 0 at its intersection with the Gulf Intracoastal Waterway at Morgan City, Louisiana, upstream to junction with Red River at RM 116.8.

(6) Atlantic Intracoastal Waterway: Two inland water routes approximately paralleling the Atlantic coast between Norfolk, Virginia, and Miami, Florida, for 1,192 miles via both the Albemarle³ and Chesapeake Canal and Great Dismal Swamp Canal routes.

(7) Black Warrior-Tombigbee-Mobile Rivers: Black Warrior River System from RM 2.9, Mobile River (at Chickasaw Creek) to confluence with Tombigbee River at RM 45. Tombigbee River (to Demopolis at RM 215.4) to port of Birmingham, RM's 374-411 and upstream to head of navigation on Mulberry Fork (RM 429.6), Locust Fork (RM 407.8), and Sipsey Fork (RM 430.4).

(8) Columbia River (Columbia-Snake Rivers Inland Waterways): From The Dalles at RM 191.5 to Pasco, Washington (McNary Pool), at RM 330, Snake River from RM 0 at the mouth to RM 231.5 at Johnson Bar Landing, Idaho.

(9) Cumberland River: Junction with Ohio River at RM 0 to head of navigation, upstream to Carthage, Tennessee, at RM 313.5.

(10) Green and Barren Rivers: Green River from junction with the Ohio River at RM 0 to head of navigation at RM 149.1.

(11) Gulf Intracoastal Waterway: From St. Mark's River, Florida, to Brownsville, Texas, 1,134.5 miles.

(12) Illinois Waterway (Calumet-Sag Channel): From the junction of the Illinois River with the Mississippi River RM 0 to Chicago

Harbor at Lake Michigan, approximately RM 350.

(13) Kanawha River: From junction with Ohio River at RM 0 to RM 90.6 at Deepwater, West Virginia.

(14) Kaskaskia River: From junction with the Mississippi River at RM 0 to RM 36.2 at Fayetteville, Illinois.

(15) Kentucky River: From junction with Ohio River at RM 0 to confluence of Middle and North Forks at RM 258.6.

(16) Lower Mississippi River: From Baton Rouge, Louisiana, RM 233.9 to Cairo, Illinois, RM 953.8.

(17) Upper Mississippi River: From Cairo, Illinois, RM 953.8 to Minneapolis, Minnesota, RM 1,811.4.

(18) Missouri River: From junction with Mississippi River at RM 0 to Sioux City, Iowa, at RM 734.8.

(19) Monongahela River: From junction with Allegheny River to form the Ohio River at RM 0 to junction of the Tygart and West Fork Rivers, Fairmont, West Virginia, at RM 128.7.

(20) Ohio River: From junction with the Mississippi River at RM 0 to junction of the Allegheny and Monongahela Rivers at Pittsburgh, Pennsylvania, at RM 981.

(21) Ouachita-Black Rivers: From the mouth of the Black River at its junction with the Red River at RM 0 to RM 351 at Camden, Arkansas.

(22) Pearl River: From junction of West Pearl River with the Rigolets at RM 0 to Bogalusa, Louisiana, RM 58.

(23) Red River: From RM 0 to the mouth of Cypress Bayou at RM 236.

(24) Tennessee River: From junction with Ohio River at RM 0 to confluence with Holstein and French Rivers at RM 652.

(25) White River: From RM 9.8 to RM 255 at Newport, Arkansas.

(26) Willamette River: From RM 21 upstream of Portland, Oregon, to Harrisburg, Oregon, at RM 194.

(27) Tennessee-Tombigbee Waterway: From its confluence with the Tennessee River to the Warrior River at Demopolis, Alabama.

(Pub. L. 95-502, title II, § 206, Oct. 21, 1978, 92 Stat. 1700; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-662, title XIV, § 1404(b), Nov. 17, 1986, 100 Stat. 4270.)

REFERENCES IN TEXT

Section 1802 of this title, referred to in text, was repealed by Pub. L. 99-662, title XIV, § 1405(b), Nov. 17, 1986, 100 Stat. 4271.

AMENDMENTS

1986—Pub. L. 99-514, in introductory provisions, substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Par. (27). Pub. L. 99-662 added par. (27).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-662 effective Jan. 1, 1987, see section 1404(c) of Pub. L. 99-662 set out as a note under section 4042 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 sections 4042, 9506.

¹ See References in Text note below.

² So in original. Probably should be "Chattahoochee".

³ So in original. Probably should be "Albemarle".

CHAPTER 33—PREVENTION OF POLLUTION FROM SHIPS

- Sec. 1901. Definitions.
- 1902. Ships subject to preventive measures.
 - (a) Included vessels.
 - (b) Excluded vessels.
 - (c) Discharges in special areas.
 - (d) Regulations.
 - (e) Compliance by excluded vessels.
 - (f) Waiver authority.
 - (g) Noncommercial shipping standards.
- 1903. Administration and enforcement.
 - (a) Duty of Secretary; Annexes of Convention applicable to seagoing vessels.
 - (b) Regulations; refuse record books; waste management plans; notification of crew and passengers.
 - (c) Utilization of personnel, facilities, or equipment of other Federal departments and agencies.
- 1904. Certificates.
 - (a) Issuance by authorized designees; restriction on issuance.
 - (b) Validity of foreign certificates.
 - (c) Location onboard vessel; inspection of vessels subject to jurisdiction of the United States.
 - (d) Onboard inspections; other Federal inspection authority unaffected.
 - (e) Detention orders; duration of detention; shipyard option.
 - (f) Ship clearance or permits; refusal or revocation.
 - (g) Review of detention orders; petition; determination by Secretary.
 - (h) Compensation for loss or damage.
- 1905. Pollution reception facilities.
 - (a) Adequacy; criteria.
 - (b) Traffic considerations.
 - (c) Certificate; issuance; validity; inspection; review of suspension or revocation by Secretary.
 - (d) Publication of list of certificated ports or terminals.
 - (e) Entry; denial.
 - (f) Surveys.
- 1906. Incidents involving ships.
 - (a) Requirement to report incident.
 - (b) Requirement to report discharge, probable discharge, or presence of oil.
- 1907. Violations.
 - (a) General prohibition; cooperation and enforcement; detection and monitoring measures; reports; evidence.
 - (b) Investigations; subpoenas; issuance by Secretary, enforcement; action by Secretary; information to party.
 - (c) Ship inspections; reports to Secretary; additional action.
 - (d) Garbage disposal inspections; covered ships; enforcement actions.
 - (e) Harmful substance or garbage disposal inspections; covered ships; enforcement actions.
 - (f) Supplemental remedies and requirements; other provisions and available remedies unaffected.
- 1908. Penalties for violations.
 - (a) Criminal penalties; payment for information leading to conviction.
 - (b) Civil penalties; separate violations; assessment notice; considerations affecting amount; payment for information leading to assessment of penalty.
 - (c) Abatement of civil penalties; collection by Attorney General.

- Sec. (d) Liability in rem; district court jurisdiction.
- (e) Ship clearance or permits; refusal or revocation; bond or other surety.
- (f) Referrals for appropriate action by foreign country.
- 1909. MARPOL Protocol; proposed amendments.
 - (a) Acceptance of certain amendments by the President.
 - (b) Action on certain amendments by the Secretary of State.
 - (c) Declaration of nonacceptance by the Secretary of State.
- 1910. Legal actions.
 - (a) Persons with adversely affected interests as plaintiffs; defendants.
 - (b) Commencement conditions.
 - (c) Venue.
 - (d) Costs; attorney fees; witness fees.
 - (e) Federal intervention.
- 1911. Authority of Secretary under port and tanker safety program unaffected.
- 1912. International law.
- 1913. Compliance reports.
 - (a) In general.
 - (b) Report on inability to comply.
 - (c) Congressional action.
- 1914. Coordination.
 - (a) Establishment of Marine Debris Coordinating Committee.
 - (b) Membership.
 - (c) Meetings.
 - (d) Monitoring.
- 1915. Plastic pollution public education program.
 - (a) Outreach program.
 - (b) Citizen Pollution Patrols.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1913, 1914, 1915 of this title; title 16 sections 2403, 2405; title 18 section 1956.

§ 1901. Definitions

- (a) Unless the context indicates otherwise, as used in this chapter—
 - (1) “Antarctica” means the area south of 60 degrees south latitude;
 - (2) “Antarctic Protocol” means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, and includes any future amendments thereto which have entered into force;
 - (3) “MARPOL Protocol” means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention;
 - (4) “Convention” means the International Convention for the Prevention of Pollution from Ships, 1973, including Protocols I and II and Annexes I, II, and V thereto, including any modification or amendments to the Convention, Protocols, or Annexes which have entered into force for the United States;
 - (5) “discharge” and “garbage” and “harmful substance” and “incident” shall have the meanings provided in the Convention;
 - (6) “owner” means any person holding title to, or in the absence of title, any other indicia of ownership of, a ship or terminal, but does not include a person who, without participating in the management or operation of a ship or terminal, holds indicia of ownership primarily to protect a security interest in the ship or terminal;