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 Albemarle 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 497.8), 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 0.

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.

§ 1901. Definitions

(a) Unless the context indicates otherwise, as used in this chapter—

(1) “Administrator” means the Administrator of the Environmental Protection Agency;

(2) “Antarctica” means the area south of 60 degrees south latitude;

(3) “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;


8So in original. Probably should be “Albemarle”.
(5) "Convention" means the International Convention for the Prevention of Pollution from Ships, 1973, including Protocols I and II and Annexes I, II, V, and VI thereto, including any modification or amendments to the Convention, Protocols, or Annexes which have entered into force for the United States;

(6) "discharge", "emission", "garbage", "harmful substance", and "incident" shall have the meanings provided in the Convention;

(7) "navigable waters" includes the territorial sea of the United States (as defined in Presidential Proclamation 5928 of December 27, 1988) and the internal waters of the United States;

(8) "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;

(9) "operator" means—

(a) in the case of a ship, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(b) in the case of a terminal, any person, except the owner, responsible for the operation of the terminal by agreement with the owner;

(10) "person" means an individual, firm, public or private corporation, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body;

(11) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(12) "ship" means a vessel of any type whatsoever, including hydrofoils, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating platforms;

(13) "submersible" means a submarine, or any other vessel designed to operate under water; and

(14) "terminal" means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

(b) For purposes of this chapter, the requirements of Annex V shall apply to the navigable waters of the United States, as well as to all other waters and vessels over which the United States has jurisdiction.

(c) For the purposes of this chapter, the requirements of Annex IV to the Antarctic Protocol shall apply in Antarctica to all vessels over which the United States has jurisdiction.

(6) "harmful substance", and "incident" shall have the meanings provided in the Convention;

(7) "navigable waters" includes the territorial sea of the United States (as defined in Presidential Proclamation 5928 of December 27, 1988) and the internal waters of the United States;

(8) "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;

(9) "operator" means—

(a) in the case of a ship, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(b) in the case of a terminal, any person, except the owner, responsible for the operation of the terminal by agreement with the owner;

(10) "person" means an individual, firm, public or private corporation, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body;

(11) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(12) "ship" means a vessel of any type whatsoever, including hydrofoils, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating platforms;

(13) "submersible" means a submarine, or any other vessel designed to operate under water; and

(14) "terminal" means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

(b) For purposes of this chapter, the requirements of Annex V shall apply to the navigable waters of the United States, as well as to all other waters and vessels over which the United States has jurisdiction.

(c) For the purposes of this chapter, the requirements of Annex IV to the Antarctic Protocol shall apply in Antarctica to all vessels over which the United States has jurisdiction.

‘‘(c) The Secretary is authorized to promulgate regulations to implement and enforce a program to regulate incidental discharges from vessels of residues of non-hazardous and non-toxic dry bulk cargo into the waters of the Great Lakes, which takes into account the finding in the study required under subsection (b). This program shall be consistent with the Policy.’’

**Certain Alaskan Cruise Ship Operations**


‘‘SEC. 1401. PURPOSE.

‘‘The purpose of this title is:

‘‘(1) Ensure that cruise vessels operating in the waters of the Alexander Archipelago and the navigable waters of the United States within the State of Alaska and within the Kachemak Bay National Estuarine Research Reserve comply with all applicable environmental laws, including, but not limited to, the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Act to Prevent Pollution from Ships, as amended (33 U.S.C. 1901 et seq.), and the protections contained within this title.

‘‘(2) Ensure that cruise vessels do not discharge untreated sewage into the waters of the Alexander Archipelago, the navigable waters of the United States in the State of Alaska, or within the Kachemak Bay National Estuarine Research Reserve.

‘‘(3) Prevent the unregulated discharge of treated sewage and graywater while in ports in the State of Alaska or traveling near the shore in the Alexander Archipelago and the navigable waters of the United States in the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve.

‘‘(4) Ensure that discharges of sewage and graywater from cruise vessels operating in the Alexander Archipelago and the navigable waters of the United States in the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve can be monitored for compliance with the requirements contained in this title.

**SEC. 1402. APPLICABILITY.

‘‘This title applies to all cruise vessels authorized to carry 500 or more passengers for hire.

**SEC. 1403. PROHIBITION ON DISCHARGE OF UNTREATED SEWAGE.

‘‘No person shall discharge any untreated sewage from a cruise vessel into the waters of the Alexander..."
Archipelago or the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve.

"SEC. 1404. LIMITATIONS ON DISCHARGE OF TREATED SEWAGE OR GRAYWATER.

"(a) No person shall discharge any treated sewage or graywater from a cruise vessel into the waters of the Alexander Archipelago or the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve unless—

"(1) the cruise vessel is underway and proceeding at a speed of not less than six knots;

"(2) the cruise vessel is not less than one nautical mile from the nearest shore, except in areas designated by the Secretary, in consultation with the State of Alaska;

"(3) the discharge complies with all applicable cruise vessel effluent standards established pursuant to this title and any other applicable law; and

"(4) the cruise vessel is not in an area where the discharge of treated sewage or graywater is prohibited.

"(b) The Administrator, in consultation with the Secretary, may promulgate regulations allowing the discharge of treated sewage or graywater, otherwise prohibited under paragraphs (a)(1) and (a)(2) of this section, where the discharge meets effluent standards determined by the Administrator as appropriate for discharges into the marine environment. In promulgating such regulations, the Administrator shall take into account the best available scientific information on the environmental effects of the regulated discharges. The effluent discharge standards promulgated under this section shall, at a minimum, be consistent with all relevant State of Alaska water quality standards in force on the date of enactment of this title [Dec. 21, 2000].

"(c) Until such time as the Administrator promulgates regulations under paragraph (b) of this section, treated sewage and graywater may be discharged from vessels subject to this title in circumstances otherwise prohibited under paragraphs (a)(1) and (a)(2) of this section, provided that—

"(1) the discharge satisfies the minimum level of effluent quality specified in 40 CFR 131.102, as in effect on the date of enactment of this section [Dec. 21, 2000];

"(2) the geometric mean of the samples from the discharge during any 30-day period does not exceed 20 fecal coliform/100 ml and not more than 10 percent of the samples exceed 40 fecal coliform/100 ml;

"(3) concentrations of total residual chlorine may not exceed 10.0 µg/l; and

"(4) prior to any such discharge occurring, the owner, operator or master, or other person in charge of a cruise vessel, can demonstrate test results from at least five samples taken from the vessel representing the effluent to be discharged, on different days over a 30-day period, conducted in accordance with the guidelines promulgated by the Administrator in 40 CFR Part 136, which confirm that the water quality of the effluents proposed for discharge is in compliance with paragraphs (1), (2), and (3) of this subsection. To the extent not otherwise being done by the owner, operator, master or other person in charge of a cruise vessel pursuant to section 1406, the owner, operator, master or other person in charge of a cruise vessel shall demonstrate continued compliance through periodic sampling. Such sampling and test results shall be considered environmental compliance records that must be made available for inspection pursuant to section 1406(d) of this title.

"SEC. 1405. SAFETY EXCEPTION.

"Sections 1403 and 1404 of this title shall not apply to discharges made for the purpose of securing the safety of the cruise vessel or saving life at sea, provided that all reasonable precautions have been taken for the purpose of minimizing the discharge.

"SEC. 1406. INSPECTION AND SAMPLING REGIME.

"(a) The Secretary shall incorporate into the commercial vessel examination program an inspection regime sufficient to verify that cruise vessels visiting ports in the State of Alaska or operating in the waters of the Alexander Archipelago or the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve are in full compliance with this title, the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], as amended, and any regulations issued thereunder, all applicable Federal laws and regulations, and all applicable international treaty requirements.

"(b) The inspection regime shall, at a minimum, include—

"(1) examination of environmental compliance records and procedures; and

"(2) inspection of the functionality and proper operation of installed equipment for abatement and control of any discharge.

"(c) The inspection regime may—

"(1) include unannounced inspections of any aspect of cruise vessel operations, equipment or discharges pertinent to the verification under subsection (a) of this section; and

"(2) require the owner, operator or master, or other person in charge of a cruise vessel subject to this title to maintain and produce a logbook detailing the times, types, volumes or flow rates and locations of any discharges of sewage or graywater under this title.

"(d) The inspection regime shall incorporate a plan for sampling and testing cruise vessel discharges to ensure that any discharges of sewage or graywater are in compliance with this title, the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], as amended, and any other applicable laws and regulations, and may require the owner, operator or master, or other person in charge of a cruise vessel subject to this title to conduct such samples or tests, and to produce any records of such sampling or testing at the request of the Secretary or Administrator.

"SEC. 1407. CRUISE VESSEL EFFLUENT STANDARDS.

"Pursuant to this title and the authority of the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], as amended, the Administrator may promulgate effluent standards for treated sewage and graywater from cruise vessels operating in the waters of the Alexander Archipelago or the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve. Regulations implementing such standards shall take into account the best available scientific information on the environmental effects of the regulated discharges and the availability of new technologies for wastewater treatment. Until such time as the Administrator promulgates such effluent standards, treated sewage effluent discharges shall not have a fecal coliform bacterial count of greater than 200 per 100 milliliters nor suspended solids greater than 150 milligrams per liter.

"SEC. 1408. REPORTS.

"(a) Any owner, operator or master, or other person in charge of a cruise vessel who has knowledge of a discharge from the cruise vessel in violation of section 1403 or 1404 or pursuant to section 1405 of this title, or any regulations promulgated thereunder, shall immediately report that discharge to the Secretary, who shall provide a copy to the Administrator upon request.

"(b) The Secretary may prescribe the form of reports required under this section.

"SEC. 1409. ENFORCEMENT.

"(a) Administrative Penalties.—

"(1) Violations.—Any person who violates section 1403, 1404, 1408, or 1413 of this title, or any regulations promulgated pursuant to this title may be assessed a civil penalty sufficient to verify that cruise vessels visiting ports in the State of Alaska or operating in the waters of the Alexander Archipelago or the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve are in full compliance with this title, the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], as amended, and any regulations issued thereunder, all applicable Federal laws and regulations, and all applicable international treaty requirements.

"(2) Classes of Penalties.—

"(A) Class I.—The amount of a class I civil penalty under this section may not exceed $10,000 per
violation, except that the maximum amount of any class I civil penalty under this section shall not exceed $25,000. Before assessing a civil penalty under this clause, the Secretary or Administrator, as the case may be, shall give to the person to be assessed such penalty written notice of the Secretary's or Administrator's proposal to assess the penalty and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed penalty. Such hearing shall not be subject to section 554 or 556 of title 5, but shall provide a reasonable opportunity to be heard and to present evidence.

"(B) CLASS II.—The amount of a class II civil penalty under this section may not exceed $10,000 per day for each day during which the violation continues, except that the maximum amount of any class II civil penalty under this section shall not exceed $125,000. Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions as in the case of civil penalties assessed and collected after notice and an opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. The Secretary and Administrator may issue rules for discovery procedures for hearings under this paragraph.

"(3) RIGHTS OF INTERESTED PERSONS TO A HEARING.—An order assessing a class II civil penalty under this section shall be given notice of any hearing held under this paragraph and of the order assessing such penalty. In any hearing held under this paragraph, such person shall have a reasonable opportunity to be heard and present evidence.

"(C) RIGHTS OF INTERESTED PERSONS TO A HEARING.—If no hearing is held under subsection (2) before issuance of an order assessing a class II civil penalty under this section, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such order, the Administrator or Secretary, as the case may be, to set aside such order and to provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not obtained in the issuance of the order, the Administrator or Secretary shall immediately set aside such order and provide a hearing in accordance with subsection (2)(B). If the Administrator or Secretary denies a hearing under this clause, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for such denial.

"(4) FINALITY OF ORDER.—An order assessing a class II civil penalty under this paragraph shall become final 30 days after its issuance unless a petition for judicial review is filed under subsection (6) or a hearing is requested under subsection (3)(C). If such a hearing is denied, such order shall become final 30 days after such denial.

"(5) EFFECT OF ACTION ON COMPLIANCE.—No action by the Administrator or Secretary under this paragraph shall affect any person's obligation to comply with any section of this title.

"(6) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under this paragraph or who commented on the proposed assessment of such penalty in accordance with subsection (3) may obtain review of such assessment—

"(A) in the case of assessment of a class I civil penalty, in the United States District Court for the District of Columbia or in the District of Alaska; or

"(B) in the case of assessment of a class II civil penalty, in the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business, by filing a notice of appeal in such court within the 30-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice to the Administrator or Secretary, as the case may be, and the Attorney General. The Administrator or Secretary shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation and class II civil penalty under this section shall not be subject to review.

"(7) COLLECTION.—If any person fails to pay an assessment of a civil penalty—

"(A) after the assessment has become final, or

"(B) after a court in an action brought under subsection (6) has entered a final judgment in favor of the Administrator or Secretary, as the case may be, the Administrator or Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount of such penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of any such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this subparagraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

"(8) SUBPOENA.—The Administrator or Secretary, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this section. In case of contumacy or refusal to obey a subpoena issued pursuant to this subsection and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, by filing a notice of appeal in such court within the 30-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice to the Administrator or Secretary, as the case may be, or both, and any failure to appear and produce documents before the Administrator or Secretary, as the case may be, and to give testimony before the Administrator or Secretary or to appear and produce documents before the Administrator or Secretary to such court may be punished by such court as a contempt of court.

"(9) CIVIL PENALTIES.—

"(1) IN GENERAL.—Any person who violates section 1403, 1404, 1406, or 1413 of this title, or any regulations promulgated pursuant to this title shall be subject to a civil penalty not to exceed $25,000 per day for each violation. Each day a violation continues constitutes a separate violation.

"(2) JURISDICTION.—An action to impose a civil penalty under this section may be brought in the district court of the United States for the district in which the defendant is located, resides, or transacts business, and such court shall have jurisdiction to assess such penalty.

"(3) LIMITATION.—A person is not liable for a civil judicial penalty under this paragraph for a violation if the person has been assessed a civil administrative penalty under paragraph (a) for the violation.
§ 1901

(1) Determination of Amount.—In determining the amount of a civil penalty under paragraphs (a) or (b) of this section, the court, the Secretary or the Administrator, as the case may be, shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with applicable requirements, the economic impact of the penalty on the violator, and other such matters as justice may require.

(2) Criminal Penalties.—

(a) Negligent Violations.—Any person who negligently violates section 1403, 1404, 1406, or 1413 of this title, or any regulations promulgated pursuant to this title commits a Class A misdemeanor.

(b) Knowing Violations.—Any person who knowingly violates section 1403, 1404, 1406, or 1413 of this title, or any regulations promulgated pursuant to this title commits a Class D felony.

(3) False Statements.—Any person who knowingly makes any false statement, representation, or certification in any record, report or other document filed or required to be maintained under this title or the regulations issued thereunder, or who falsifies, tampers with, or knowingly renders inaccurate any testing or monitoring device or method required to be maintained under this title, or the regulations issued thereunder, commits a Class D felony.

(4) Awards.—

(a) The Secretary, the Administrator, or the court, when assessing any fines or civil penalties, as the case may be, may pay from any fines or civil penalties collected under this section an amount not to exceed one-half of the penalty or fine collected, to any individual who furnishes information which leads to the payment of the penalty or fine. If several individuals provide such information, the amount shall be divided equitably among such individuals. No officer or employee of the United States, the State of Alaska or any federally recognized Tribe who furnishes information or renders service in the performance of his or her official duties shall be eligible for payment under this subsection.

(b) The Secretary, Administrator or the court, when assessing any fines or civil penalties, as the case may be, may pay, from any fines or civil penalties collected under this section, to the State of Alaska or to any federally recognized Tribe providing information or investigative assistance which leads to the payment of the penalty or fine. If several individuals provide such information, the amount shall be divided equitably among such individuals. No officer or employee of the United States, the State of Alaska or any federal recognized Tribe who furnishes information or renders service in the performance of his or her official duties shall be eligible for payment under this subsection.

(c) The Secretary, the Administrator, or the court, when assessing any fines or civil penalties, as the case may be, may pay, from any fines or civil penalties collected under this section, to the State of Alaska or any federal recognized Tribe providing information or investigative assistance leading to the assessment or payment of any fine, to the State of Alaska or any political subdivision of the State of Alaska.

(d) The Secretary, the Administrator, or the court, when assessing any fines or civil penalties, as the case may be, may pay, from any fines or civil penalties collected under this section, to the State of Alaska or any political subdivision of the State of Alaska, to any federally recognized Tribe providing information or investigative assistance leading to the assessment or payment of any fine, the amount which reflects the level of information or investigative assistance provided.

(e)LIABILITY IN REM.—A cruise vessel operated in violation of this title or the regulations issued thereunder is liable in rem for any fine imposed under subsection (d) of this section or for any civil penalty imposed under subsections (a) or (b) of this section, and may be proceeded against in the United States district court of any district in which the cruise vessel may be found.

(f) Compliance Orders.—

(1) In General.—Whenever on the basis of any information available to him the Administrator finds that any person in violation of section 1403, 1404, 1406, or 1413 of this title, or any regulations promulgated pursuant to this title, the Administrator shall issue an order requiring such person to comply with such section or requirement, or shall bring a civil action in accordance with subsection (b).

(2) Copies of Orders, Service.— Copy of any order issued under this subsection shall be served immediately by the Administrator to the State of Alaska. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be served on any appropriate corporate officer. Any order issued under this subsection shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed 30 days in the case of a violation of an interim compliance schedule or operation and maintenance requirement and not to exceed a time the Administrator determines to be reasonable in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(2) CIVIL ACTIONS.—The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under this subsection. Any action under subsection (b) may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the State of Alaska.

SEC. 1410. DESIGNATION OF CRUISE VESSEL NO-DISCHARGE ZONES.

"If the State of Alaska determines that the protection and enhancement of the quality of some or all of the waters of the Alexander Archipelago or the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve require greater environmental protection, the State of Alaska may petition the Administrator to prohibit the discharge of graywater and sewage from cruise vessels operating in such waters. The establishment of such a prohibition shall be achieved in the same manner as the petitioning process and prohibition of the discharge of sewage pursuant to section 312(f) of the Federal Water Pollution Control Act (33 U.S.C. 1322(f)), as amended, and the regulations promulgated thereunder.

SEC. 1411. SAVINGS CLAUSE.

(a) Nothing in this title shall be construed as restricting, affecting, or amending any other law or the authority of any department, instrumentality, or agency of the United States.

(b) Nothing in this title shall in any way affect or restrict, or be construed to affect or restrict, the authority of the State of Alaska or any political subdivision thereof—

(1) to impose additional liability or additional requirements; or

(2) to impose, determine the amount of a fine or penalty (whether criminal or civil in nature) for any violation of law relating to the discharge of sewage (whether treated or untreated) or graywater in the navigable waters of the United States within the State of Alaska or within the Kachemak Bay National Estuarine Research Reserve.

SEC. 1412. REGULATIONS.

The Secretary and the Administrator each may prescribe any regulations necessary to carry out the provisions of this title.

SEC. 1413. INFORMATION GATHERING AUTHORITY.

The authority of sections 308(a) and (b) of the Federal Water Pollution Control Act (33 U.S.C. 1328(a), (b)), as amended, shall be available to the Administrator to carry out the provisions of this title. The Administrator and the Secretary shall minimize, to the extent practicable, duplication of or inconsistency with the inspection, sampling, testing, recordkeeping, and reporting requirements established by the Secretary under section 1406 of this title.

SEC. 1414. DEFINITIONS.

In this title:

(a) The term 'Administrator' means the Administrator of the United States Environmental Protection Agency.
§ 1902. Ships subject to preventive measures

(a) Included vessels

This chapter shall apply—

(1) to a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;
(2) with respect to Annexes I and II to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters of the United States;
(3) with respect to the requirements of Annex V to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters or the exclusive economic zone of the United States;
(4) with respect to regulations prescribed under section 1905 of this title, any port or terminal in the United States; and
(5) with respect to Annex VI to the Convention, and other than with respect to a ship referred to in paragraph (1)—

(A) to a ship that is in a port, shipyard, offshore terminal, or the internal waters of the United States;
(B) to a ship that is bound for, or departing from, a port, shipyard, offshore terminal, or the internal waters of the United States, and is in—

(i) the navigable waters or the exclusive economic zone of the United States;
(ii) an emission control area designated pursuant to section 1903 of this title; or
(iii) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment;

(C) to a ship that is entitled to fly the flag of, or operating under the authority of, a party to Annex VI, and is in—

(i) the navigable waters or the exclusive economic zone of the United States;
(ii) an emission control area designated under section 1903 of this title; or
(iii) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment; and

(D) to any other ship, to the extent that, and in the same manner as, such ship may be boarded by the Secretary to implement or enforce any other law of the United States or Annex I, II, or V of the Convention, and is in—

(i) the exclusive economic zone of the United States;
(ii) the navigable waters of the United States;
(iii) an emission control area designated under section 1903 of this title; or
(iv) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protec-
tion of public health, welfare, or the environment.

(b) Excluded vessels; discharge requirements

(1) Except as provided in paragraph (3), this chapter shall not apply to—
(A) a ship of the Armed Forces described in paragraph (2); or
(B) any other ship specifically excluded by the MARPOL Protocol or the Antarctic Protocol.

(2) A ship described in this paragraph is a ship that is owned or operated by the Secretary, with respect to the Coast Guard, or by the Secretary of a military department, and that, as determined by the Secretary concerned—
(A) has unique military design, construction, manning, or operating requirements; and
(B) cannot fully comply with the discharge requirements of Annex V to the Convention because compliance is not technologically feasible or would impair the operations or operational capability of the ship.

(3)(A) Notwithstanding any provision of the MARPOL Protocol, the requirements of Annex V to the Convention shall apply to all ships referred to in subsection (a) other than those described in paragraph (2).

(B) A ship that is described in paragraph (2) shall limit the discharge into the sea of garbage as follows:

(i) The discharge into the sea of plastics, including synthetic ropes, synthetic fishing nets, plastic garbage bags, and incinerator ashes from plastic products that may contain toxic chemicals or heavy metals, or the residues thereof, is prohibited.

(ii) Garbage consisting of the following material may be discharged into the sea, subject to subparagraph (C):

(1) A non-floating slurry of seawater, paper, cardboard, or food waste that is capable of passing through a screen with openings no larger than 12 millimeters in diameter.

(2) Metal and glass that have been shredded and bagged (in compliance with clause (i)) so as to ensure negative buoyancy.

(3) Ash from incinerators or other thermal destruction systems not containing toxic chemicals, heavy metals, or incompletely burned plastics.

(C)(i) Garbage described in subparagraph (B)(i)(I) may not be discharged within 3 nautical miles of land.

(ii) Garbage described in subclauses (II), (III), and (IV) of subparagraph (B)(ii) may not be discharged within 12 nautical miles of land.

(D) Notwithstanding subparagraph (C), a ship described in paragraph (2) that is not equipped with garbage-processing equipment sufficient to meet the requirements of subparagraph (B)(ii) may discharge garbage that has not been processed in accordance with subparagraph (B)(ii) if such discharge occurs as far as practicable from the nearest land, but in any case not less than—

(i) 12 nautical miles from the nearest land, in the case of food wastes and non-floating garbage, including paper products, cloth, glass, metal, bottles, crockery, and similar refuse; and

(ii) 25 nautical miles from the nearest land, in the case of all other garbage.

(E) This paragraph shall not apply when discharge of any garbage is necessary for the purpose of securing the safety of the ship, the health of the ship’s personnel, or saving life at sea. In the event that there is such a discharge, the discharge shall be reported to the Secretary, with respect to the Coast Guard, or the Secretary concerned.

(F) This paragraph shall not apply during time of war or a national emergency declared by the President or Congress.

(c) Application to other persons

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

(d) Discharges in special areas

(1) Except as provided in paragraphs (2) and (3), not later than December 31, 2000, all surface ships owned or operated by the Department of the Navy, and not later than December 31, 2008, all submersibles owned or operated by the Department of the Navy, shall comply with the special area requirements of Regulation 5 of Annex V to the Convention.

(2)(A) Subject to subparagraph (B), any ship described in subparagraph (C) may discharge, without regard to the special area requirements of Regulation 5 of Annex V to the Convention, the following non-plastic, non-floating garbage:

(i) A slurry of seawater, paper, cardboard, or food waste that is capable of passing through a screen with openings no larger than 12 millimeters in diameter.

(ii) Metal and glass that have been shredded and bagged (in compliance with clause (i)) so as to ensure negative buoyancy.

(iii) With regard to a submersible, non-plastic garbage that has been compacted and weighted to ensure negative buoyancy.

(iv) Ash from incinerators or other thermal destruction systems not containing toxic chemicals, heavy metals, or incompletely burned plastics.

(B)(i) Garbage described in subparagraph (A)(i) may not be discharged within 3 nautical miles of land.

(ii) Garbage described in clauses (ii) and (iii) of subparagraph (A) may not be discharged within 12 nautical miles of land.

(C) This paragraph applies to any ship that is owned or operated by the Department of the Navy that, as determined by the Secretary of the Navy—

(i) has unique military design, construction, manning, or operating requirements; and

(ii) cannot fully comply with the special area requirements of Regulation 5 of Annex V to the Convention because compliance is not technologically feasible or would impair the operations or operational capability of the ship.

(3)(A) Not later than December 31, 2000, the Secretary of the Navy shall prescribe and publish in the Federal Register standards to ensure that each ship described in subparagraph (B) is, to the maximum extent practicable without impairing the operations or operational capabilities of the ship, operated in a manner that is
consistent with the special area requirements of Regulation 5 of Annex V to the Convention.

(B) Subparagraph (A) applies to surface ships that are owned or operated by the Department of the Navy that the Secretary plans to decommission during the period beginning on January 1, 2001, and ending on December 31, 2005.

(C) At the same time that the Secretary publishes standards under subparagraph (A), the Secretary shall publish in the Federal Register a list of the ships covered by subparagraph (B).

(e) Regulations

The Secretary or the Administrator, consistent with section 1903 of this title, shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol (or the applicable Annex), including regulations conforming to and giving effect to the requirements of Annex V and Annex VI as they apply under subsection (a) of this section, to ensure that their treatment is not more favorable than that accorded ships to parties to the MARPOL Protocol.

(f) Compliance by excluded vessels

(1) The Secretary of the Navy shall develop and, as appropriate, support the development of technologies and practices for solid waste management aboard ships owned or operated by the Department of the Navy, including technologies and practices for the reduction of the waste stream generated aboard such ships, that are necessary to ensure the compliance of such ships with subsection (b) of this section.

(2) Notwithstanding any effective date of the application of this section to a ship, the provisions of Annex V to the Convention and subsection (b)(1)(A) of this section with respect to the disposal of plastic shall apply to ships equipped with plastic processors required for the long-term collection and storage of plastic aboard ships of the Navy upon the installation of such processors in such ships.

(3) Except when necessary for the purpose of securing the safety of the ship, the health of the ship's personnel, or saving life at sea, it shall be a violation of this chapter for a ship referred to in subsection (b)(1)(A) of this section that is owned or operated by the Department of the Navy:

(A) With regard to a submersible, to discharge buoyant garbage or plastic.

(B) With regard to a surface ship, to discharge plastic contaminated by food during the last 3 days before the ship enters port.

(C) With regard to a surface ship, to discharge plastic, except plastic that is contaminated by food, during the last 20 days before the ship enters port.

(4) The Secretary of Defense shall publish in the Federal Register:

(A) Each year, the amount and nature of the discharges in special areas, not otherwise authorized under this chapter, during the preceding year from ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy.

(B) Beginning on October 1, 1996, and each year thereafter until October 1, 1998, a list of the names of such ships equipped with plastic processors pursuant to section 1003(e) of the National Defense Authorization Act for Fiscal Year 1994.

(g) Waiver authority

The President may waive the effective dates of the requirements set forth in subsection (c) of this section and in subsection 1003(e) of the National Defense Authorization Act for Fiscal Year 1994 if the President determines it to be in the paramount interest of the United States to do so. Any such waiver shall be for a period not in excess of one year. The President shall submit to the Congress each January a report on all waivers from the requirements of this section granted during the preceding calendar year, together with the reasons for granting such waivers.

(h) Noncommercial shipping standards

The heads of Federal departments and agencies shall prescribe standards applicable to ships excluded from this chapter by subsection (b)(1) of this section and for which they are responsible. Standards prescribed under this subsection shall ensure, so far as is reasonable and practicable without impairing the operations or operational capabilities of such ships, that such ships act in a manner consistent with the MARPOL Protocol.

(i) Savings clause

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

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original "this Act", meaning Pub. L. 96–478, Oct. 21, 1980, 94 Stat. 2297, known as the "Act to Prevent Pollution from Ships" which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

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

Subsection (c) of this section, referred to in subsec. (g), was redesignated subsection (d) by Pub. L. 110–280, §4(d), July 21, 2008, 122 Stat. 2611.

AMENDMENTS

2011—Subsec. (b). Pub. L. 112–81, §313(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to excluded vessels.

Subsec. (f)(1). Pub. L. 112–81, §313(b)(1), substituted "subsection (b)") for "subsection (b)(2)(A) and (c)(1)"

See References in Text note below.


Subsecs. (c), (d). Pub. L. 110–280, § 4(3), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e). Subsec. (e). Pub. L. 110–280, § 4(4)(C), substituted “Protocol” (or the applicable Annex, including regulations conforming to and giving effect to the requirements of Annex V” for “Protocol, including regulations conforming to and giving effect to the requirements of Annex V”.

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


1996—Subsec. (b)(1)(B). Pub. L. 104–227 inserted “or the Antarctic Protocol” after “MARPOL Protocol”. Subsec. (c)(2)(p) to (4), Pub. L. 104–201, § 324(a)(2), added paras. (2) and (3) and struck out former paras. (2) to (4) which required the Secretary of the Navy to submit to Congress a plan for compliance of Navy ships with the requirements set forth in par. (1) of this subsection, and provided for modification of the applicability of par. (1) as appropriate.

Subsec. (e)(4)(A). Pub. L. 104–201, § 324(d), amended subsec. (e) generally. Prior to amendment, subpar. (A) read as follows: “Beginning on October 1, 1994, and each year thereafter until October 1, 2000, the amount and nature of the discharges in special areas, not otherwise authorized under Annex V to the Convention, during the preceding year from ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy...” 1995—Subsec. (b)(2)(A). Pub. L. 103–160, § 1003(a), substituted “as follows:” and cls. (1) to (11) for “after 5 years after the effective date of this paragraph to a ship referred to in paragraph (1)(A);”.

Subsecs. (c), (d), Pub. L. 103–160, § 1003(b), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (g). Pub. L. 103–160, § 1003(b)(1), redesignated subsec. (d) as (g). 1993—Subsec. (a). Pub. L. 100–220, § 2102(b), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “This chapter applies to—

‘‘(1) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located; and

‘‘(2) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States; and

‘‘(3) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States; and

‘‘(4) not later than July 1, 1997, the Secretary shall complete the installation of plastics processors on board not less than 25 percent of the ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section.

‘‘(1) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located; and

‘‘(2) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, or one operated under the authority of a country party to the MARPOL Protocol, while in the navigable waters of the United States; and

‘‘(3) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States; and

‘‘(4) not later than July 1, 1997, the Secretary shall complete the installation of plastics processors on board not less than 25 percent of the ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section.

‘‘(1) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located; and

‘‘(2) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States; and

‘‘(3) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States; and

‘‘(4) not later than July 1, 1997, the Secretary shall complete the installation of plastics processors on board not less than 25 percent of the ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section.

‘‘(1) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located; and

‘‘(2) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States; and

‘‘(3) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States; and

‘‘(4) not later than July 1, 1997, the Secretary shall complete the installation of plastics processors on board not less than 25 percent of the ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section.

‘‘(1) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located; and

‘‘(2) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States; and

‘‘(3) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States; and

‘‘(4) not later than July 1, 1997, the Secretary shall complete the installation of plastics processors on board not less than 25 percent of the ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section.

‘‘(1) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located; and

‘‘(2) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States; and

‘‘(3) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States; and

‘‘(4) not later than July 1, 1997, the Secretary shall complete the installation of plastics processors on board not less than 25 percent of the ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section.

‘‘(1) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located; and

‘‘(2) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States; and

‘‘(3) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States; and

‘‘(4) not later than July 1, 1997, the Secretary shall complete the installation of plastics processors on board not less than 25 percent of the ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section.
“(b) Not later than July 1, 1998, the Secretary shall complete the installation of plastics processors on board not less than 75 percent of the ships owned or operated by the Navy that require processors to comply with section 3 of such Act, as amended by subsections (a), (b), and (c) of this section.

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

§ 1902a. Discharge of agricultural cargo residue

Notwithstanding any other provision of law, the discharge from a vessel of any agricultural cargo residue material in the form of hold washings shall be governed exclusively by the provisions of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) that implement Annex V to the International Convention for the Prevention of Pollution from Ships.


REFERENCES IN TEXT

The Act to Prevent Pollution from Ships, referred to in text, is Pub. L. 96–478, Oct. 21, 1980, 94 Stat. 2297, as amended, which is classified principally to this chapter (§1901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

CODIFICATION

Section was enacted as part of the Maritime Policy Improvement Act of 2002 and as part of the Maritime Transportation Security Act of 2002, and not as part of the Act to Prevent Pollution from Ships which comprises this chapter.

§ 1903. Administration and enforcement

(a) Duty of Secretary; Annexes of Convention applicable to seagoing vessels

Unless otherwise specified in this chapter, the Secretary shall administer and enforce the MARPOL Protocol, Annex IV to the Antarctic Protocol, and this chapter. In the administration and enforcement of the MARPOL Protocol and this chapter, Annexes I and II of the Convention apply only to seagoing ships.

(b) Duty of the Administrator

In addition to other duties specified in this chapter, the Administrator and the Secretary, respectively, shall have the following duties and authorities:

(1) The Administrator shall, and no other person may, issue Engine International Air Pollution Prevention certificates in accordance with Annex VI and the International Maritime Organization’s Technical Code on Control of Emissions of Nitrogen Oxides from Marine Diesel Engines, on behalf of the United States for a vessel of the United States as that term is defined in section 116 of title 46. The issuance of Engine International Air Pollution Prevention certificates shall be consistent with any applicable requirements of the Clean Air Act [42 U.S.C. 7401 et seq.] or regulations prescribed under that Act.

(2) The Administrator shall have authority to administer regulations 12, 13, 14, 15, 16, 17, 18, and 19 of Annex VI to the Convention.

(3) The Administrator shall, only as specified in section 1907(f) of this title, have authority to enforce Annex VI of the Convention.

(c) Regulations; refuse record books; waste management plans; notification of crew and passengers

(1) The Secretary shall prescribe any necessary or desired regulations to carry out the provisions of the MARPOL Protocol, Annex IV to the Antarctic Protocol, or this chapter.

(2) In addition to the authority the Secretary has to prescribe regulations under this chapter, the Administrator shall also prescribe any necessary or desired regulations to carry out the provisions of regulations 12, 13, 14, 15, 16, 17, 18, and 19 of Annex VI to the Convention.

(3) In prescribing any regulations under this section, the Secretary and the Administrator shall consult with each other, and with respect to regulation 19, with the Secretary of the Interior.

(4) The Secretary of the department in which the Coast Guard is operating shall—

(A) prescribe regulations which—

(i) require certain ships described in section 1902(a)(1) of this title to maintain refuse record books and shipboard management plans, and to display placards which notify the crew and passengers of the requirements of Annex V to the Convention and of Annex IV to the Antarctic Protocol; and

(ii) specify the ships described in section 1902(a)(1) of this title to which the regulations apply;

(B) seek an international agreement or international agreements which apply requirements equivalent to those described in subparagraph (A) to all vessels subject to Annex V to the Convention; and

(C) within 2 years after the effective date of this paragraph, report to the Congress—

(i) regarding activities of the Secretary under subparagraph (B); and

(ii) if the Secretary has not obtained agreements pursuant to subparagraph (B) regarding the desirability of applying the requirements described in subparagraph (A) to all vessels described in section 1902(a) of this title which call at United States ports.

(5) No standard issued by any person or Federal authority, with respect to emissions from tank vessels subject to regulation 15 of Annex VI to the Convention, shall be effective until 6 months after the required notification to the International Maritime Organization by the Secretary.

(d) Utilization of personnel, facilities, or equipment of other Federal departments and agencies

The Secretary may utilize by agreement, with or without reimbursement, personnel, facilities, or equipment of other Federal departments and agencies in administering the MARPOL Protocol, this chapter, or the regulations thereunder.

§ 1904

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (b)(1), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 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 7401 of Title 42 and Tables.

The effective date of this paragraph, referred to in subsec. (c)(4)(C), is Dec. 31, 1988, the effective date of section 2002(a) of Pub. L. 100–220. See Effective Date of 1987 Amendment note below.

AMENDMENTS


Subsec. (c). Pub. L. 110–280 redesignated subsec. (b) as (c), added pars. (2), (3), and (5), and redesignated former par. (2) as (4). Former subsec. (c) redesignated (d).


1987—Subsec. (a). Pub. L. 100–220, §2107(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Unless otherwise specified herein, the Secretary shall administer and enforce the MARPOL Protocol and this chapter. In the administration and enforcement of the MARPOL Protocol and this chapter, Annexes I and II of the MARPOL Protocol shall be applicable only to seagoing ships."

Subsec. (b). Pub. L. 100–220, §2107(b), designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1987 AMENDMENT


EFFECTIVE DATE

Subsec. (b) of this section effective Oct. 21, 1980, see section 14(h) of Pub. L. 96–473, set out as a note under section 1901 of this title.

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.

§ 1904. Certificates

(a) Issuance by authorized designee; restriction on issuance

Except as provided in section 1903(b)(1) of this title, the Secretary shall designate those persons authorized to issue on behalf of the United States the certificates required by the MARPOL Protocol. A certificate required by the MARPOL Protocol shall not be issued to a ship which is registered in or of the nationality of a country which is not a party to the MARPOL Protocol.

(b) Validity of foreign certificates

A certificate issued by a country which is a party to the MARPOL Protocol has the same validity as a certificate issued by the Secretary or the Administrator under the authority of this chapter.

(c) Location onboard vessel; inspection of vessels subject to jurisdiction of the United States

A ship required by the MARPOL Protocol to have a certificate—

(1) shall carry a valid certificate onboard in the manner prescribed by the authority issuing the certificate; and

(2) is subject to inspection while in a port or terminal under the jurisdiction of the United States.

(d) Onboard inspections; other Federal inspection authority unaffected

An inspection conducted under subsection (c)(2) of this section is limited to verifying whether or not a valid certificate is onboard, unless clear grounds exist which reasonably indicate that the condition of the ship or its equipment does not substantially agree with the particulars of its certificate. This section shall not limit the authority of any official or employee of the United States under any other treaty, law, or regulation to board and inspect a ship or its equipment.

(e) Detention orders; duration of detention; shipyard option

In addition to the penalties prescribed in section 1908 of this title, a ship required by the MARPOL Protocol to have a certificate—

(1) which does not have a valid certificate onboard; or

(2) whose condition or whose equipment’s condition does not substantially agree with the particulars of the certificate onboard;

shall be detained by order of the Secretary at the port or terminal where the violation is discovered until, in the opinion of the Secretary, the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment or the public health and welfare. The detention order may authorize the ship to proceed to the nearest appropriate available shipyard rather than remaining at the place where the violation was discovered.

(f) Ship clearance or permits; refusal or revocation

If a ship is under a detention order under this section, the Secretary of the Treasury, upon the request of the Secretary, may refuse or revoke—

(1) the clearance required by section 60105 of title 46; or

(2) a permit to proceed under section 4367 of the Revised Statutes of the United States (46 U.S.C. 333)1 or section 14432 of title 19.

(g) Review of detention orders; petition; determination by Secretary

A person whose ship is subject to a detention order under this section may petition the Secretary, in the manner prescribed by regulation.

1 See References in Text note below.

2 See Codification note below.
to review the detention order. Upon receipt of a petition under this subsection, the Secretary shall affirm, modify, or withdraw the detention order within the time prescribed by regulation.

(h) Compensation for loss or damage

A ship unreasonably detained or delayed by the Secretary acting under the authority of this chapter is entitled to compensation for any loss or damage suffered thereby.


REFERENCES IN TEXT

Section 4367 of the Revised Statutes of the United States (46 U.S.C. 313), referred to in subsec. (f)(2), was classified to section 14(b) of Pub. L. 96–478, set out as a note under Tariff Act of 1930, June 17, 1930, ch. 497, title IV, 46 Stat. 576, as amended (19 U.S.C. 1443). Although section 442 of the title VI, § 690(b)(6), Dec. 8, 1993, 107 Stat. 2223, was classified to section 443 of the Tariff Act of 1930, which was classified to section 1903(b)(1) of this title, the reference was translated as meaning section 443 of the Tariff Act of 1930, which was classified to section 490(a)21, Dec. 8, 1993, 107 Stat. 2223.

CODIFICATION


AMENDMENTS

2008—Subsec. (a). Pub. L. 110–280, § 6(1), substituted “Except as provided in section 1903(b)(1) of this title, the Secretary” for “The Secretary”. Subsec. (b). Pub. L. 110–280, § 6(2), substituted “Secretary or the Administrator under the authority of this chapter,” for “Secretary under the authority of the MARPOL Protocol.” Subsec. (e). Pub. L. 110–280, § 6(3), substituted “environment or the public health and welfare,” for “environment.” in concluding provisions.

EFFECTIVE DATE

Subsec. (a) of this section effective Oct. 21, 1980, see section 14(b) of Pub. L. 96–478, set out as a note under section 1901 of this title.

§ 1905. Pollution reception facilities

(a) Adequacy; criteria

(1) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall establish regulations setting criteria for determining the adequacy of a port’s or terminal’s reception facilities for mixtures containing oil or noxious liquid substances and shall establish procedures whereby a person in charge of a port or terminal may request the Secretary to certify that the port’s or terminal’s facilities for receiving the residues and mixtures containing oil or noxious liquid substance from seagoing ships are adequate.

(2) The Secretary, after consulting with appropriate Federal agencies, shall establish regulations setting criteria for determining the adequacy of reception facilities for garbage at a port or terminal, and stating such additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that such facilities are available, for receiving garbage in accordance with those regulations.

(3) The Secretary and the Administrator, after consulting with appropriate Federal agencies, shall jointly prescribe regulations setting criteria for determining the adequacy of reception facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues at a port or terminal, and stating any additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that such facilities are available, in accordance with those regulations. The Secretary and the Administrator may jointly prescribe regulations to certify, and may issue certificates to the effect, that a port’s or terminal’s facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues from ships are adequate.

(b) Traffic considerations

In determining the adequacy of reception facilities required by the MARPOL Protocol or the Antarctic Protocol at a port or terminal, and in establishing regulations under subsection (a) of this section, the Secretary or the Administrator may consider, among other things, the number and types of ships or seagoing ships using the port or terminal, including their principal trades.

(c) Certificate; issuance; validity; inspection; review of suspension or revocation by Secretary

(1) If reception facilities of a port or terminal meet the requirements of Annex I and Annex II to the Convention and the regulations prescribed under subsection (a)(1) of this section, the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.

(2)(A) Subject to subparagraph (B), if reception facilities of a port or terminal meet the requirements of Annex V to the Convention and the regulations prescribed under subsection (a)(2) of this section, the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect to the person in charge of the port or terminal.

(B) The Secretary may not issue a certificate attesting to the adequacy of reception facilities under this paragraph unless, prior to the issuance of the certificate, the Secretary conducts an inspection of the reception facilities at the port or terminal that is the subject of the certificate.

(C) The Secretary may, with respect to certificates issued under this paragraph prior to October 19, 1996, prescribe by regulation differing periods of validity for such certificates.

(3) A certificate issued under this subsection—

(A) is valid for the 5-year period beginning on the date of issuance of the certificate, except that if—

(i) the charge for operation of the port or terminal is transferred to a person or entity
other than the person or entity that is the operator on the date of issuance of the certificate—

(I) the certificate shall expire on the date that is 30 days after the date of the transfer; and

(II) the new operator shall be required to submit an application for a certificate before a certificate may be issued for the port or terminal; or

(ii) the certificate is suspended or revoked by the Secretary, the certificate shall cease to be valid; and

(B) shall be available for inspection upon the request of the master, other person in charge, or agent of a ship using or intending to use the port or terminal.

(4) The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by the Secretary in the manner prescribed by regulation.

(d) Publication of list of certificated ports or terminals

(1) The Secretary shall maintain a list of ports or terminals with respect to which a certificate issued under this section—

(A) is in effect; or

(B) has been revoked or suspended.

(2) The Secretary shall make the list referred to in paragraph (1) available to the general public.

(e) Entry; denial

(1) Except in the case of force majeure, the Secretary shall deny entry to a seagoing ship required to comply with the Convention or the Antarctic Protocol to retain onboard while at sea, residues and mixtures containing oil or noxious liquid substances, if—

(A) the port or terminal is one required by Annexes I and II of the Convention or Article 9 of Annex IV to the Antarctic Protocol or regulations hereunder to have adequate reception facilities; and

(B) the port or terminal does not hold a valid certificate issued by the Secretary under this section.

(2) The Secretary may deny the entry of a ship to a port or terminal required by the MARPOL Protocol, this chapter, or regulations prescribed under this section to provide adequate reception facilities for garbage if the port or terminal is not in compliance with those regulations.

(f) Surveys

(1) The Secretary and the Administrator are authorized to conduct surveys of existing reception facilities in the United States to determine measures needed to comply with the MARPOL Protocol or the Antarctic Protocol.

(2) Not later than 18 months after October 19, 1996, the Secretary shall promulgate regulations that require the operator of each port or terminal that is subject to any requirement of the MARPOL Protocol relating to reception facilities to post a placard in a location that can easily be seen by port and terminal users. The placard shall state, at a minimum, that a user of a reception facility of the port or terminal should report to the Secretary any inadequacy of the reception facility.

AMENDMENTS


Subsec. (b). Pub. L. 110–280, § 7(2), inserted “or the Administrator” after “Secretary”.

Subsec. (e)(2). Pub. L. 110–280, § 7(3), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide adequate reception facilities for garbage if the port or terminal is not in compliance with those regulations.”

Subsec. (f)(1). Pub. L. 110–280, § 7(4), substituted “Secretary and the Administrator are” for “Secretary is”.


1996—Subsec. (b). Pub. L. 104–227, § 201(d)(1), inserted “or the Antarctic Protocol” after “the MARPOL Protocol”.

Subsec. (c)(2). Pub. L. 104–324, § 801(a)(1), (2), designated existing provisions as subpar. (A), substituted “Subject to subparagraph (B), if” for “If”, and added subpars. (B) and (C).

Subsec. (d). Pub. L. 104–324, § 801(a)(4), added subsec. (d) and struck out former subsec. (d) which read as follows: “The Secretary shall periodically cause to be published in the Federal Register a list of the ports or terminals holding a valid certificate issued under this section.”


Subsec. (f). Pub. L. 104–324, § 801(b), designated existing provisions as par. (1) and added par. (2)(A).

Pub. L. 104–227, § 201(d)(4), inserted “or the Antarctic Protocol” after “the MARPOL Protocol”.


1987—Subsec. (a). Pub. L. 100–220, § 2103(a), designated existing provisions as par. (1), substituted “a port’s or terminal’s reception facilities for mixtures containing oil or noxious liquid substances” for “reception facilities of a port or terminal”, and added par. (2).

Subsec. (b). Pub. L. 100–220, § 2103(b), inserted “and in establishing regulations under subsection (a) of this section,” and “ships or”.

Subsec. (c). Pub. L. 100–220, § 2103(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “If, upon inspection, reception facilities of a port or terminal are adequate to meet the requirements of the MARPOL Protocol and the regulations established hereunder, the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant. A certificate issued under this subsection—
§ 1907. Violations

(a) General prohibition; cooperation and enforcement; detection and monitoring measures; reports; evidence

It is unlawful to act in violation of the MARPOL Protocol, Annex IV to the Antarctic Protocol, this chapter, or the regulations issued thereunder. The Secretary shall cooperate with other parties to the MARPOL Protocol or to the Antarctic Protocol in the detection of violations and in enforcement of the MARPOL Protocol and Annex IV to the Antarctic Protocol. The Secretary shall use all appropriate and practical measures of detection and environmental monitoring, and shall establish adequate procedures for reporting violations and accumulating evidence.

(b) Investigations; subpenas: issuance by Secretary, enforcement; action by Secretary; information to party

Upon receipt of evidence that a violation has occurred, the Secretary shall cause the matter to be investigated. In any investigation under this section the Secretary may issue subpenas to require the attendance of any witness and the production of documents and other evidence. In case of refusal to obey a subpena issued to any person, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance. Upon completion of the investigation, the Secretary shall take the action required by the MARPOL Protocol or the Antarctic Protocol and whatever further action he considers appropriate under the circumstances. If the initial evidence was provided by a party to the MARPOL Protocol or the Antarctic Protocol, the Secretary, acting through the Secretary of State, shall inform that party of the action taken or proposed.

(c) Ship inspections; reports to Secretary; additional action

(1) This subsection applies to inspections relating to possible violations of Annex I or Annex II to the Convention, of Article 3 or Article 4 of Annex IV to the Antarctic Protocol, or of this chapter by any seagoing ship referred to in section 1902(a)(2) of this title.

(2) While at a port or terminal subject to the jurisdiction of the United States, a ship to which the MARPOL Protocol or the Antarctic Protocol applies may be inspected by the Secretary—

(A) to verify whether or not the ship has discharged a harmful substance in violation of the MARPOL Protocol, Annex IV to the Antarctic Protocol, or this chapter; or

(B) to comply with a request from a party to the MARPOL Protocol or the Antarctic Protocol for an investigation as to whether the ship may have discharged a harmful substance anywhere in violation of the MARPOL Protocol or Annex IV to the Antarctic Protocol. An investigation may be undertaken under this clause only when the requesting party has furnished sufficient evidence to allow the Secretary reasonably to believe that a discharge has occurred.

If an inspection under this subsection indicates that a violation has occurred, the investigating
officer shall forward a report to the Secretary for appropriate action. The Secretary shall undertake to notify the master of the ship concerned and, acting in coordination with the Secretary of State, shall take any additional action required by Article 6 of the Convention.

(d) Garbage disposal inspections; covered ships; enforcement actions

(1) The Secretary may inspect a ship referred to in section 1902(a)(3) of this title to verify whether the ship has disposed of garbage in violation of Annex V to the Convention, Article 5 of Annex IV to the Antarctic Protocol, or this chapter.

(2) If an inspection under this subsection indicates that a violation has occurred, the Secretary may undertake enforcement action under section 1908 of this title.

(e) Harmful substance or garbage disposal inspections; covered ships; enforcement actions

(1) The Secretary may inspect at any time a ship of United States registry or nationality or operating under the authority of the United States to which the MARPOL Protocol or the Antarctic Protocol applies to verify whether the ship has discharged a harmful substance or disposed of garbage in violation of those Protocols or this chapter.

(2) If an inspection under this subsection indicates that a violation of the MARPOL Protocol, of Annex IV to the Antarctic Protocol, or of this chapter has occurred the Secretary may undertake enforcement action under section 1908 of this title.

(f) Inspections; enforcement

(1) The Secretary may inspect a ship to which this chapter applies as provided under section 1902(a)(5) of this title, to verify whether the ship is in compliance with Annex VI to the Convention and this chapter.

(2) If an inspection under this subsection or any other information indicates that a violation has occurred, the Secretary, or the Administrator in a matter referred by the Secretary, may undertake enforcement action under this section.

(3) Notwithstanding subsection (b) and paragraph (2) of this subsection, the Administrator shall have all of the authorities of the Secretary, as specified in subsection (b) of this section, for the purposes of enforcing regulations 17 and 18 of Annex VI to the Convention to the extent that shoreside violations are the subject of the action and in any other matter referred to the Administrator by the Secretary.

\[\text{AMENDMENTS} \]

2008—Subsec. (f). Pub. L. 110–280 amended subsec. (f) generally. Prior to amendment, text read as follows: "Remedies and requirements of this chapter supplement and neither amend nor repeal any other provisions of law, except as expressly provided in this chapter."


Subsec. (c)(2). Pub. L. 104–227, § 201(e)(5), (6), inserted "or the Antarctic Protocol" after "which the MARPOL Protocol" in introductory provisions, ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol" in subpar. (A), and "or the Antarctic Protocol" after "to the MARPOL Protocol" and "or Annex IV to the Antarctic Protocol" after "of the MARPOL Protocol" in subpar. (B).


Subsec. (e)(1). Pub. L. 104–227, § 201(e)(9), inserted "or the Antarctic Protocol" after "MARPOL Protocol" and substituted "those Protocols" for "that Protocol".


1989—Subsec. (c)(1), (e)(2). Pub. L. 101–225 inserted "or of this chapter".

1987—Subsec. (c). Pub. L. 100–220, § 1204(a), added par. (1), designated existing provisions as par. (2), redesignated former pars. (1) and (2) as subs. (A) and (B), respectively, and in closing provisions of par. (2) substituted "The" for "If a report made under this subsection involves a ship, other than one of United States registry or nationality or one operated under the authority of the United States, the"

Subsecs. (d) to (f). Pub. L. 100–220, § 1204(b), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

\[\text{EFFECTIVE DATE OF 1987 AMENDMENT} \]


§ 1908. Penalties for violations

(a) Criminal penalties; payment for information leading to conviction

A person who knowingly violates the MARPOL Protocol, Annex IV to the Antarctic Protocol, this chapter, or the regulations issued thereunder commits a class D felony. In the discretion of the Court, an amount equal to not more than 1⁄2 of such fine may be paid to the person giving information leading to conviction.

(b) Civil penalties; separate violations; assessment notice; considerations affecting amount; payment for information leading to assessment of penalty

A person who is found by the Secretary, or the Administrator as provided for in this chapter, after notice and an opportunity for hearing, to have—

(1) violated the MARPOL Protocol, Annex IV to the Antarctic Protocol, this chapter, or the
regulations issued thereunder shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation; or

(2) made a false, fictitious, or fraudulent statement or representation in any matter in which a statement or representation is required to be made to the Secretary, or the Administrator as provided for in this chapter, under the MARPOL Protocol, Annex IV to the Antarctic Protocol, this chapter, or the regulations thereunder, shall be liable to the United States for a civil penalty, not to exceed $5,000 for each statement or representation.

Each day of a continuing violation shall constitute a separate violation. The amount of the civil penalty shall be assessed by the Secretary, or the Administrator as provided for in this chapter or his designee, by written notice. In determining the amount of the penalty, the Secretary, or the Administrator as provided for in this chapter, shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters as justice may require. An amount equal to or more than 1½ of such penalties may be paid by the Secretary, or the Administrator as provided for in this chapter, to the person giving information leading to the assessment of such penalties.

(c) Abatement of civil penalties; collection by Attorney General

The Secretary, or the Administrator as provided for in this chapter, may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to assessment or which has been assessed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary, or the Administrator as provided for in this chapter, may refer the matter to the Attorney General of the United States for collection in any appropriate district court of the United States.

(d) Liability in rem; district court jurisdiction

A ship operated in violation of the MARPOL Protocol, Annex IV to the Antarctic Protocol, this chapter, or the regulations thereunder is liable in rem for any fine imposed under subsection (a) of this section or civil penalty assessed pursuant to subsection (b) of this section, and may be proceeded against in the United States district court of any district in which the ship may be found.

(e) Ship clearance or permits; refusal or revocation; bond or other surety

If any ship subject to the MARPOL Protocol, Annex IV to the Antarctic Protocol, or this chapter, its owner, operator, or person in charge is liable for a fine or civil penalty under this section, or if reasonable cause exists to believe that the ship, its owner, operator, or person in charge may be subject to a fine or civil penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall refuse or revoke the clearance required by section 60105 of title 46. Clearance may be granted upon the filing of a bond or other surety satisfactory to the Secretary.

(f) Referrals for appropriate action by foreign country

Notwithstanding subsection (a), (b), or (d) of this section, if the violation is by a ship registered in or of the nationality of a country party to the MARPOL Protocol or the Antarctic Protocol, or one operated under the authority of a country party to the MARPOL Protocol or the Antarctic Protocol, the Secretary, or the Administrator as provided for in this chapter acting in coordination with the Secretary of State, may refer the matter to the government of the country of the ship’s registry or nationality, or under whose authority the ship is operating for appropriate action, rather than taking the actions required or authorized by this section.
Clearance or a permit to proceed may be granted upon the filing of a bond or other surety satisfactory to the Secretary.’’

1909—Subsec. (a). Pub. L. 101–380 substituted “commits a class D felony” for “shall, for each violation, be fined not more than $50,000 or be imprisoned for not more than 5 years, or both”.

1987—Subsec. (a). Pub. L. 100–220, §2105(a)(2), inserted at end “In the discretion of the Court, an amount equal to not more than 1⁄2 of such fine may be paid to the person giving information leading to conviction.”

Subsec. (b). Pub. L. 100–220, §2105(a)(2), inserted at end “An amount equal to not more than 1⁄2 of such penalties may be paid by the Secretary to the person giving information leading to the assessment of such penalties.”

Subsec. (f). Pub. L. 100–220, §2105(b), substituted “to the government of the country of the ship’s registry or nationality, or under whose authority the ship is operating” for “to that country”.

Effective Date of 1990 Amendment
Amendment by Pub. L. 101–380 applicable to incidents occurring after Aug. 18, 1990, see section 1029 of Pub. L. 101–380, set out as an Effective Date note under section 2701 of this title.

Effective Date of 1987 Amendment

§ 1909. MARPOL Protocol; proposed amendments

(a) Acceptance of certain amendments by the President

A proposed amendment to the MARPOL Protocol received by the United States from the Secretary-General of the International Maritime Organization pursuant to Article VI of the MARPOL Protocol or Protocol I of the Convention received by the United States by the Secretary following the advice and consent of the Senate, except as provided for in subsection (b) of this section.

(b) Action on certain amendments by the Secretary of State

A proposed amendment to Annex I, II, V, or VI to the Convention, appendices to those Annexes, or Protocol I of the Convention may be accepted on behalf of the United States by the President following the advice and consent of the Senate, except as provided for in subsection (b) of this section.

(c) Declaration of nonacceptance by the Secretary of State

Following consultation with the Secretary, the Secretary of State may make a declaration that the United States does not accept an amendment proposed pursuant to Article VI of the MARPOL Protocol.

trict court for the judicial district nearest the offshore facility or offshore structure;

(3) in a case concerning a ship, in the United States district court for any judicial district wherein the ship or its owner or operator may be found; or

(4) in any case, in the District Court for the District of Columbia.

(d) Costs; attorney fees; witness fees

The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party including the Federal Government.

(e) Federal intervention

In any action brought under this section, if the Secretary or Attorney General are not parties of record, the United States, through the Attorney General, shall have the right to intervene.


AMENDMENTS


Subsec. (b)(1). Pub. L. 110–280, §12(2), substituted “concerned or the Administrator,” for “concerned,”.

Subsec. (b)(2). Pub. L. 110–280, §12(3), inserted “or the Administrator” after “Secretary”.

§ 1911. Effect on other laws

Authorities, requirements, and remedies of this chapter supplement and neither amend nor repeal any other authorities, requirements, or remedies conferred by any other provision of law. Nothing in this chapter shall limit, deny, amend, modify, or repeal any other authority, requirement, or remedy available to the United States or any other person, except as expressly provided in this chapter.


AMENDMENTS

2008—Pub. L. 110–280 amended section generally. Prior to amendment, section read as follows: “Nothing in this chapter shall be construed as limiting, diminishing, or otherwise restricting any of the authority of the Secretary under the Port and Tanker Safety Act of 1978.”

§ 1912. International law

Any action taken under this chapter shall be taken in accordance with international law.


§ 1913. Compliance reports

(a) In general

Within 1 year after the effective date of this section, and triennially thereafter, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Agriculture and the Secretary of Commerce, shall report to the Congress regarding compliance with Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, in United States waters and, not later than 1 year after October 19, 1996, and annually thereafter, shall publish in the Federal Register a list of the enforcement actions taken against any domestic or foreign ship (including any commercial or recreational ship) pursuant to the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

(b) Report on inability to comply

Within 3 years after the effective date of this section, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(b)(1)(A)) that may not be able to comply with the requirements of that section shall report to the Congress describing—

(1) the technical and operational impediments to achieving that compliance;

(2) an alternative schedule for achieving that compliance as rapidly as is technologically feasible;

(3) the ships operated or contracted for operation by the agency for which full compliance with section 3(b)(2)(A) (33 U.S.C. 1902(b)(2)(A)) is not technologically feasible; and

(4) any other information which the agency head considers relevant and appropriate.

(c) Congressional action

Upon receipt of the compliance report under subsection (b) of this section, the Congress shall modify the applicability of Annex V to ships referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(b)(1)(A)), as may be appropriate with respect to the requirements of Annex V to the Convention.


REFERENCES IN TEXT

For effective date of this section, referred to in subsecs. (a) and (b), see section 2002 of Pub. L. 100–220, set out as an Effective Date of 1987 Amendment note under section 1901 of this title.

The Act to Prevent Pollution from Ships, referred to in subsec. (a), is Pub. L. 96–478, Oct. 21, 1980, 94 Stat. 2297, as amended, which is classified principally to this chapter (§1901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

CODIFICATION

Section was formerly set out as a note under section 1902 of this title.

Section was enacted as part of the Marine Plastic Pollution Research and Control Act of 1987 and as part of the United States-Japan Fishery Agreement Approval Act of 1987, and not as part of the Act to Prevent Pollution from Ships which comprises this chapter.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–324 struck out “for a period of 6 years” after “triennially thereafter” and inserted “and, not later than 1 year after October 19, 1996, and annually thereafter, shall publish in the Federal Register a list of the enforcement actions taken against any domestic or foreign ship (including any commercial or recreational ship) pursuant to the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.),” before period at end.
§ 1914


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 transfer 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.

§ 1914. Transferred


CHAPTER 33A—MARINE DEBRIS RESEARCH, PREVENTION, AND REDUCTION

Sec.
1951. Purpose.
1952. NOAA Marine Debris Program.
1953. Coast Guard program.
1954. Coordination.
1957. Relationship to Outer Continental Shelf Lands Act.

§ 1951. Purpose

The purpose of this chapter is to address the adverse impacts of marine debris on the United States economy, the marine environment, and navigation safety through the identification, determination of sources, assessment, prevention, reduction, and removal of marine debris.


AMENDMENTS

2012—Pub. L. 112–213 amended section generally. Prior to amendment, text read as follows: “The purposes of this chapter are—

“(1) to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety;

“(2) to reactivate the Interagency Marine Debris Coordinating Committee; and

“(3) to develop a Federal marine debris information clearinghouse.”

SHORT TITLE OF 2012 AMENDMENT


SHORT TITLE


§ 1952. NOAA Marine Debris Program

(a) Establishment of Program

There is established, within the National Oceanic and Atmospheric Administration, a Marine Debris Program to identify, determine sources of, assess, prevent, reduce, and remove marine debris and address the adverse impacts of marine debris on the economy of the United States, the marine environment, and navigation safety.

(b) Program components

The Administrator, acting through the Program and subject to the availability of appropriations, shall—

(1) identify, determine sources of, assess, prevent, reduce, and remove marine debris, with a focus on marine debris posing a threat to living marine resources and navigation safety;

(2) provide national and regional coordination to assist States, Indian tribes, and regional organizations in the identification, determination of sources, assessment, prevention, reduction, and removal of marine debris; and

(3) undertake efforts to reduce the adverse impacts of lost and discarded fishing gear on living marine resources and navigation safety, including—

(A) research and development of alternatives to gear posing threats to the marine environment and methods for marking gear used in certain fisheries to enhance the tracking, recovery, and identification of lost and discarded gear; and

(B) the development of effective non-regulatory measures and incentives to cooperatively reduce the volume of lost and discarded fishing gear and to aid in gear recovery;

(4) undertake outreach and education activities for the public and other stakeholders on sources of marine debris, threats associated with marine debris, and approaches to identifying, determining sources of, assessing, preventing, reducing, and removing marine debris and its adverse impacts on the United States economy, the marine environment, and navigation safety, including outreach and education activities through public-private initiatives; and

(5) develop, in consultation with the Interagency Committee, interagency plans for the timely response to events determined by the Administrator to be severe marine debris events, including plans to—

(A) coordinate across agencies and with relevant State, tribal, and local governments to ensure adequate, timely, and efficient response; and

(B) assess the composition, volume, and trajectory of marine debris associated with a severe marine debris event; and

(C) estimate the potential impacts of a severe marine debris event, including economic impacts on human health, navigation safety, natural resources, tourism, and livestock, including aquaculture.