

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.]

#### DISPOSITION OF FUND BALANCE

Section 8102(a)(2) of Pub. L. 101-380, as amended by Pub. L. 105-277, div. A, § 101(g) [title III, § 329(c)], Oct. 21, 1998, 112 Stat. 2681-439, 2681-471, provided that:

“(A) RESERVATION OF AMOUNTS.—The trustees of the Trans-Alaska Pipeline Liability Fund (hereafter in this subsection referred to as the ‘TAPS Fund’) shall reserve the following amounts in the TAPS Fund—

“(i) necessary to pay claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)); and

“(ii) administrative expenses reasonably necessary for and incidental to the implementation of section 204(c) of that Act.

“(B) DISPOSITION OF THE BALANCE.—After the Comptroller General of the United States certifies that the requirements of subparagraph (A) have been met, the trustees of the TAPS Fund shall dispose of the balance in the TAPS Fund after the reservation of amounts are made under subparagraph (A) by—

“(i) rebating the pro rata share of the balance to the State of Alaska for its contributions as an owner of oil, which, except as otherwise provided under article IX, section 15, of the Alaska Constitution, shall be used for the remediation of above-ground storage tanks; and then

“(ii) transferring and depositing the remainder of the balance into the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509).

“(C) DISPOSITION OF THE RESERVED AMOUNTS.—After payment of all claims arising from an incident for which funds are reserved under subparagraph (A) and certification by the Comptroller General of the United States that the claims arising from that incident have been paid, the excess amounts, if any, for that incident shall be disposed of as set forth under subparagraphs (A) and (B).

“(D) AUTHORIZATION.—The amounts transferred and deposited in the Fund shall be available for the purposes of section 1012 of the Oil Pollution Act of 1990 [33 U.S.C. 2712] after funding sections 5001 [33 U.S.C. 2731] and 8103 [43 U.S.C. 1651 note] to the extent that funds have not otherwise been provided for the purposes of such sections.”

#### LIABILITIES OF TRUSTEES OF TAPS FUND

Section 8102(a)(5)(B) of Pub. L. 101-380 provided that: “Upon the effective date of the repeal pursuant to subparagraph (A) [see Effective Date of 1990 Amendment note above], the trustees of the TAPS Fund shall be relieved of all responsibilities under section 204(c) of the Trans-Alaska Pipeline Authorization Act [43 U.S.C. 1653(c)], but not any existing legal liability.”

#### PRESERVATION OF RIGHTS AND REMEDIES OF CONTRIBUTORS TO TAPS FUND

Section 8102(a)(6) provided that: “This subsection [amending this section and enacting provisions set out as notes above] is intended expressly to preserve any and all rights and remedies of contributors to the TAPS Fund under section 1491 of title 28, United States Code (commonly referred to as the ‘Tucker Act’).”

### § 1654. Antitrust laws

The grant of a right-of-way, permit, lease, or other authorization pursuant to this chapter shall grant no immunity from the operation of the Federal anti-trust laws.

(Pub. L. 93-153, title II, § 205, Nov. 16, 1973, 87 Stat. 588.)

### § 1655. Roads and airports

A right-of-way, permit, lease, or other authorization granted under section 1652(b) of this title for a road or airstrip as a related facility of the trans-Alaska pipeline may provide for the construction of a public road or airstrip.

(Pub. L. 93-153, title II, § 206, Nov. 16, 1973, 87 Stat. 588.)

### § 1656. Civil penalties

#### (a) Penalty

Except as provided in subsection (c)(4) of this section, the Secretary of the Interior may assess and collect a civil penalty under this section with respect to any discharge of oil—

(1) in transit from fields or reservoirs supplying oil to the trans-Alaska pipeline; or

(2) during transportation through the trans-Alaska pipeline or handling at the terminal facilities, that causes damage to, or threatens to damage, natural resources or public or private property.

#### (b) Persons liable

In addition to the person causing or permitting the discharge, the owner or owners of the oil at the time the discharge occurs shall be jointly, severally, and strictly liable for the full amount of penalties assessed pursuant to this section, except that the United States and the several States, and political subdivisions thereof, shall not be liable under this section.

#### (c) Amount

(1) The amount of the civil penalty shall not exceed \$1,000 per barrel of oil discharged.

(2) In determining the amount of civil penalty under this section, the Secretary shall consider the seriousness of the damages from the discharge, the cause of the discharge, any history of prior violations of applicable rules and laws, and the degree of success of any efforts by the violator to minimize or mitigate the effects of such discharge.

(3) The Secretary may reduce or waive the penalty imposed under this section if the discharge was solely caused by an act of war, act of God, or third party action beyond the control of the persons liable under this section.

(4) No civil penalty assessed by the Secretary pursuant to this section shall be in addition to a penalty assessed pursuant to section 1321(b) of title 33.

#### (d) Procedures

A civil penalty may be assessed and collected under this section only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5. In any proceeding for the assessment of a civil penalty under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents and may promulgate rules for discovery procedures. Any person who requested a hearing with respect to a civil penalty under this subsection and who is aggrieved by an order assessing the civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia