

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 circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

#### (e) State law

(1) Nothing in this section shall be construed or interpreted as preempting any State or political subdivision thereof from imposing any additional liability or requirements with respect to the discharge, or threat of discharge, of oil or other pollution by oil.

(2) Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to discharges of oil.

(Pub. L. 93-153, title II, §207, as added Pub. L. 101-380, title VIII, §8202, Aug. 18, 1990, 104 Stat. 571.)

#### EFFECTIVE DATE

Section applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as a note under section 2701 of Title 33, Navigation and Navigable Waters.

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