

in violation of this chapter or of any regulation promulgated pursuant to section 1607 of this title, shall be liable to a civil penalty of not more than \$5,000 for each such violation, for which penalty the vessel may be seized and proceeded against in the district court of the United States of any district within which such vessel may be found.

(c) Assessment of penalties; notice; opportunity for hearing; remission, mitigation, and compromise of penalty; action for collection

The Secretary of the department in which the Coast Guard is operating may assess any civil penalty authorized by this section. No such penalty may be assessed until the person charged, or the owner of the vessel charged, as appropriate, shall have been given notice of the violation involved and an opportunity for a hearing. For good cause shown, the Secretary may remit, mitigate, or compromise any penalty assessed. Upon the failure of the person charged, or the owner of the vessel charged, to pay an assessed penalty, as it may have been mitigated or compromised, the Secretary may request the Attorney General to commence an action in the appropriate district court of the United States for collection of the penalty as assessed, without regard to the amount involved, together with such other relief as may be appropriate.

(Pub. L. 95-75, § 9, July 27, 1977, 91 Stat. 310; Pub. L. 96-591, § 6(3), (4), Dec. 24, 1980, 94 Stat. 3435.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-591, § 6(3), substituted “\$5,000” for “\$500”.

Subsec. (b). Pub. L. 96-591, § 6(4), substituted “not more than \$5,000” for “\$500”.

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.

CHAPTER 31—OCEAN POLLUTION RESEARCH AND DEVELOPMENT AND MONITORING PLANNING

§§ 1701 to 1709. Repealed. Pub. L. 102-567, title II, § 204, Oct. 29, 1992, 106 Stat. 4282

Section 1701, Pub. L. 95-273, § 2, May 8, 1978, 92 Stat. 228; Pub. L. 99-272, title VI, § 6071, Apr. 7, 1986, 100 Stat. 133, provided findings and purposes for chapter.

Section 1702, Pub. L. 95-273, § 3, May 8, 1978, 92 Stat. 228; Pub. L. 99-272, title VI, § 6072(1), Apr. 7, 1986, 100 Stat. 133; Pub. L. 100-636, § 1(1)-(4), Nov. 8, 1988, 102 Stat. 3324, provided definitions for chapter.

Section 1702a, Pub. L. 95-273, § 3A, as added Pub. L. 99-272, title VI, § 6072(2), Apr. 7, 1986, 100 Stat. 133; amended Pub. L. 100-636, § 1(5)-(7), Nov. 8, 1988, 102 Stat. 3324, provided for a National Ocean Pollution Program Office and a National Ocean Pollution Policy Board.

Section 1703, Pub. L. 95-273, § 4, May 8, 1978, 92 Stat. 229; Pub. L. 96-255, § 2, May 30, 1980, 94 Stat. 420; Pub. L. 97-375, title II, § 202(c), Dec. 21, 1982, 96 Stat. 1822; Pub. L. 99-272, title VI, § 6073, Apr. 7, 1986, 100 Stat. 134; Pub. L. 100-636, § 1(5), Nov. 8, 1988, 102 Stat. 3324, provided for a comprehensive Federal Plan relating to ocean pollution.

Section 1704, Pub. L. 95-273, § 5, May 8, 1978, 92 Stat. 230; Pub. L. 100-636, § 1(5), Nov. 8, 1988, 102 Stat. 3324, provided for a comprehensive ocean pollution program in NOAA.

Section 1705, Pub. L. 95-273, § 6, May 8, 1978, 92 Stat. 231; Pub. L. 100-636, § 1(5), Nov. 8, 1988, 102 Stat. 3324, provided for Federal financial assistance for programs under this chapter.

Section 1706, Pub. L. 95-273, § 7, May 8, 1978, 92 Stat. 232; Pub. L. 100-636, § 1(5), Nov. 8, 1988, 102 Stat. 3324, provided for interagency cooperation in carrying out this chapter.

Section 1707, Pub. L. 95-273, § 8, May 8, 1978, 92 Stat. 232; Pub. L. 99-272, title VI, § 6074, Apr. 7, 1986, 100 Stat. 135; Pub. L. 100-636, § 1(5), Nov. 8, 1988, 102 Stat. 3324, provided for dissemination of information on ocean and Great Lakes pollution research activities.

Section 1708, Pub. L. 95-273, § 9, May 8, 1978, 92 Stat. 232, related to effect of this chapter on other laws.

Section 1709, Pub. L. 95-273, § 10, May 8, 1978, 92 Stat. 232; Pub. L. 96-17, June 4, 1979, 93 Stat. 34; Pub. L. 96-255, § 1, May 30, 1980, 94 Stat. 420; Pub. L. 99-272, title VI, § 6075, Apr. 7, 1986, 100 Stat. 135; Pub. L. 100-636, § 1(8), Nov. 8, 1988, 102 Stat. 3324, authorized appropriations to carry out this chapter.

SHORT TITLE

Pub. L. 95-273, § 1, May 8, 1978, 92 Stat. 228, as amended by Pub. L. 96-255, § 3, May 30, 1980, 94 Stat. 420, which provided that this chapter could be cited as the “National Ocean Pollution Planning Act of 1978”, was repealed by Pub. L. 102-567, title II, § 204, Oct. 29, 1992, 106 Stat. 4282.

CHAPTER 32—INLAND WATERWAYS TRUST FUND

Sec.

1801, 1802. Repealed.

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

1804. Inland and intracoastal waterways of the United States.

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

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

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

EFFECTIVE DATE OF REPEAL

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

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

(a) Study directed

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

(1) make a full and complete study with respect to inland waterway user taxes and charges, and

(2) make findings and policy recommendations with respect thereto.

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

(b) Considerations relating to the taxing mechanism

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

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

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

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

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

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

(c) Considerations relating to economic effects

The economic effects of waterway user taxes and charges on—

(1) Carriers and users

On—

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

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

(2) Regions, etc.

On—

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

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

(3) Small business and industrial concentration and competition

On—

(A) small business enterprise, and

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

(4) Competitors

On the freight rates charged by other modes of transportation and the extent of short-term

and long-term diversion of traffic from the inland waterways to such other modes. In considering such diversion of traffic, there shall also be considered the effects of such diversion on—

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

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

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

(5) Prices

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

(6) Balance of payments

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

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

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

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

(A) commercial uses, and

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

(e) Considerations relating to Federal assistance

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

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

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

(f) Considerations relating to policy and future development

The effects of inland waterway user taxes and charges on—

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

(2) The expansion and improvement of the inland waterways determined to be necessary by the Secretary of the Army under section 158 of the Water Resources Development Act of 1976 (Public Law 94-587) or estimated to be necessary under paragraph (3).

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

(g) "Inland waterway user taxes and charges" defined

For purposes of this section, the term "inland waterway user taxes and charges" means taxes imposed on the use of the inland and intracoastal waterways of the United States and all alternatives to such taxes.

(h) Report

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

(i) Authorization of appropriations

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

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

CODIFICATION

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

AMENDMENTS

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

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

SHORT TITLE

For short title of title II of Pub. L. 95-502 as the "Inland Waterways Revenue Act of 1978", see section 201 of Pub. L. 95-502, set out as a Short Title of 1978 Amend-

ment note under section 1 of Title 26, Internal Revenue Code.

§ 1804. Inland and intracoastal waterways of the United States

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

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

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

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

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

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

(6) Atlantic Intracoastal Waterway: Two inland water routes approximately paralleling the Atlantic coast between Norfolk, Virginia, and Miami, Florida, for 1,192 miles via both the Albermarle³ and Chesapeake Canal and Great Dismal Swamp Canal routes.

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

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

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

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

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

¹ See References in Text note below.

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

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