

of any ocean thermal energy conversion facility or plantship which the Secretary of Energy has designated in writing as a demonstration project for the development of alternative energy sources for the United States which is conducted by, participated in, or approved by the Department of Energy. The Secretary of Energy, after consultation with the Administrator, shall require such demonstration projects to abide by as many of the substantive requirements of this subchapter as he deems to be practicable without damaging the nature of or unduly delaying such projects.

(Pub. L. 96-320, title I, § 116, Aug. 3, 1980, 94 Stat. 991; Pub. L. 98-623, title VI, § 602(e)(4), Nov. 8, 1984, 98 Stat. 3412.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-623 substituted “facility or plantship” for “facility or platform”.

§ 9127. Periodic review and revision of regulations

The Administrator and the Secretary of the department in which the Coast Guard is operating shall periodically, at intervals of not more than every 3 years, and in consultation with the Secretary of Energy, review any regulations promulgated pursuant to the provisions of this subchapter to determine the status and impact of such regulations on the continued development, evolution, and commercialization of ocean thermal energy conversion technology. The results of each such review shall be included in the next annual report required by section 9165¹ of this title. The Administrator and such Secretary are authorized and directed to promulgate any revisions to the then effective regulations as are deemed necessary and appropriate based on such review, to ensure that any regulations promulgated pursuant to the provisions of this subchapter do not impede such development, evolution, and commercialization of such technology. Additionally, the Secretary of Energy is authorized to propose, based on such review, such revisions for the same purpose. The Administrator or such Secretary, as appropriate, shall have exclusive jurisdiction with respect to any such proposal by the Secretary of Energy and, pursuant to applicable procedures, shall consider and take final action on any such proposal in an expeditious manner. Such consideration shall include at least one informal hearing pursuant to the procedures in section 553 of title 5.

(Pub. L. 96-320, title I, § 117, Aug. 3, 1980, 94 Stat. 991.)

REFERENCES IN TEXT

Section 9165 of this title, referred to in text, was omitted from the Code.

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.

SUBCHAPTER II—MARITIME FINANCING FOR OCEAN THERMAL ENERGY CONVERSION

§ 9141. Determinations under Merchant Marine Act, 1936

(a)(1) For the purposes of chapter 535 of title 46, any ocean thermal energy conversion facility or plantship licensed pursuant to this chapter, and any vessel providing shipping service to or from such an ocean thermal energy conversion facility or plantship, shall be deemed to be a vessel operated in the foreign commerce of the United States.

(2) The provisions of paragraph (1) of this subsection shall apply for taxable years beginning after December 31, 1981.

(b) For the purposes of the Merchant Marine Act, 1936 (46 U.S.C. 1177 et seq.),¹ any vessel documented under the laws of the United States and used in providing shipping service to or from any ocean thermal energy conversion facility or plantship licensed pursuant to the provisions of this chapter shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 109 of title 46.

(Pub. L. 96-320, title II, § 201, Aug. 3, 1980, 94 Stat. 991.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (b), was in the original “this Act”, meaning Pub. L. 96-320, Aug. 3, 1980, 94 Stat. 974, known as the Ocean Thermal Energy Conversion Act of 1980, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9101 of this title and Tables.

The Merchant Marine Act, 1936, referred to in subsec. (b), is act June 29, 1936, ch. 858, 49 Stat. 1985, which was classified principally to chapter 27 (§1101 et seq.) of the former Appendix to Title 46, Shipping. The Act, with the exception of title V, most of title VI, and sections 301, 801, 802, 809(a), and 909 thereof, was repealed and re-stated, mainly in subtitle V of Title 46, by Pub. L. 109-304, §§ 8, 19, Oct. 6, 2006, 120 Stat. 1555, 1710. Title V and sections 301 and 909 of the Act are set out as notes under section 53101 of Title 46. Those portions of title VI not repealed by Pub. L. 109-304 and sections 802 and 809(a) of the Act were repealed by Pub. L. 114-120, title III, § 313(a), Feb. 8, 2016, 130 Stat. 58. Section 801 of the Act was transferred to section 57522 of Title 46 by Pub. L. 114-120, title III, § 313(c)(1)(A), Feb. 8, 2016, 130 Stat. 58. For complete classification of the Act to the Code, see Tables. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of Title 46.

CODIFICATION

In subsec. (a)(1), “chapter 535 of title 46” substituted for “section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177)” and in subsec. (b), “section 109 of title 46” substituted for “section 905(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1244(a))” on authority of Pub. L. 109-304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted chapter 535 and section 109 of Title 46, Shipping.

¹ See References in Text note below.

¹ See References in Text note below.

SUBCHAPTER III—ENFORCEMENT

§ 9151. Prohibited acts

It is unlawful for any person who is a United States citizen or national, or a foreign national in or on board an ocean thermal energy conversion facility or plantship or on board any vessel documented or numbered under the laws of the United States, or who is subject to the jurisdiction of the United States by an international agreement to which the United States is a party—

(1) to violate any provision of this chapter; or any rule, regulation, or order issued pursuant to this chapter; or any term or condition of any license issued to such person pursuant to this chapter;

(2) to refuse to permit any Federal officer or employee authorized to monitor or enforce the provisions of sections 9120 and 9153 of this title to enter or board an ocean thermal energy conversion facility or plantship or any vessel documented or numbered under the laws of the United States, for purposes of conducting any search or inspection in connection with the monitoring or enforcement of this chapter or any rule, regulation, order, term, or condition referred to in paragraph (1) of this section;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer or employee in the conduct of any search or inspection described in paragraph (2) of this section;

(4) to resist a lawful arrest for any act prohibited by this section; or

(5) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person subject to this section knowing that the other person has committed any act prohibited by this section.

(Pub. L. 96-320, title III, §301, Aug. 3, 1980, 94 Stat. 994; Pub. L. 98-623, title VI, §602(a)(9), Nov. 8, 1984, 98 Stat. 3411.)

REFERENCES IN TEXT

This chapter, referred to in pars. (1) and (2), was in the original "this Act", meaning Pub. L. 96-320, Aug. 3, 1980, 94 Stat. 974, known as the Ocean Thermal Energy Conversion Act of 1980, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9101 of this title and Tables.

AMENDMENTS

1984—Pub. L. 98-623 substituted "in or on board an ocean thermal energy conversion facility or plantship or on board any vessel" for "on board an ocean thermal energy conversion facility or plantship or other vessel" in provisions preceding par. (1).

Par. (2). Pub. L. 98-623 substituted "to enter or board" for "to board".

§ 9152. Remedies and penalties**(a) Issuance and enforcement of orders**

(1) The Administrator or his delegate shall have the authority to issue and enforce orders during proceedings brought under this chapter. Such authority shall include the authority to issue subpoenas, administer oaths, compel the attendance and testimony of witnesses and the production of books, papers, documents, and

other evidence, to take depositions before any designated individual competent to administer oaths, and to examine witnesses.

(2) Whenever on the basis of any information available to him the Administrator finds that any person subject to section 9151 of this title is in violation of any provision of this chapter or any rule, regulation, order, license, or term or condition thereof, or other requirements under this chapter, he may issue an order requiring such person to comply with such provision or requirement, or bring a civil action in accordance with subsection (b) of this section.

(3) Any compliance order issued under this subsection shall state with reasonable specificity the nature of the violation and a time for compliance, not to exceed 30 days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(b) Civil actions by Attorney General; equitable relief

(1) Upon a request by the Administrator, the Attorney General shall commence a civil action for appropriate relief, including a permanent or temporary injunction, to halt any violation for which the Administrator is authorized to issue a compliance order under subsection (a)(2) of this section.

(2) Upon a request by the Administrator, the Attorney General shall bring an action in an appropriate district court of the United States for equitable relief to redress a violation, by any person subject to section 9151 of this title, of any provision of this chapter, any regulation issued pursuant to this chapter, or any license condition.

(c) Civil penalties

(1) Any person who is found by the Administrator, after notice and an opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 9151 of this title shall be liable to the United States for a civil penalty, not to exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Administrator, or his designee, by written notice. In determining the amount of such penalty, the Administrator 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 such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) of this subsection may obtain a review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28. The findings and order of the Administrator shall be set aside by such court if