

cluding reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Administrator, the Secretary, or a State agency).

(h) Emergencies

No person shall be subject to a civil penalty or to a criminal fine or imprisonment for dumping materials from a vessel if such materials are dumped in an emergency to safeguard life at sea. Any such emergency dumping shall be reported to the Administrator under such conditions as he may prescribe.

(i) Seizure and forfeiture

(1) In general

Any vessel used to commit an act for which a penalty is imposed under subsection (b) shall be subject to seizure and forfeiture to the United States under procedures established for seizure and forfeiture of conveyances under sections 853 and 881 of title 21.

(2) Limitation on application

This subsection does not apply to an act committed substantially in accordance with a compliance agreement or enforcement agreement entered into by the Administrator under section 1414b(c) of this title.

(Pub. L. 92-532, title I, §105, Oct. 23, 1972, 86 Stat. 1057; Pub. L. 100-688, title III, §3201(c), (d), Nov. 18, 1988, 102 Stat. 4153; Pub. L. 102-580, title V, §508, Oct. 31, 1992, 106 Stat. 4869.)

REFERENCES IN TEXT

Section 13 of the Federal Water Pollution Control Act, referred to in subsec. (e), is section 13 of act June 30, 1948, ch. 758, as added by act Apr. 3, 1970, Pub. L. 91-224, title I, §102, 84 Stat. 100, which was classified to section 1163 of this title and was superseded by Pub. L. 92-500, Oct. 18, 1972, 86 Stat. 816. See section 1322 of this title.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-580, §508(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(1) In addition to any action which may be brought under subsection (a) of this section, a person who knowingly violates this subchapter, regulations promulgated under this subchapter, or a permit issued under this subchapter shall be fined not more than \$50,000, or imprisoned for not more than one year, or both.

“(2) In addition to any action which may be brought under subsection (a), any person—

“(A) who knowingly violates any provision of this subchapter by engaging in activity involving the dumping into ocean waters of medical waste shall upon conviction be fined not more than \$250,000, or imprisoned for not more than 5 years, or both; and

“(B) convicted of a violation involving such activity shall forfeit to the United States any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation, and any of the property of the person which was used, or intended to be used in any manner or part, to commit or to facilitate the commission of the violation.”

Subsec. (i). Pub. L. 102-508, §508(b), added subsec. (i). 1988—Subsec. (a). Pub. L. 100-688, §3201(c), inserted provisions relating to civil penalty of not more than \$125,000 for engaging in activity involving dumping of medical waste.

Subsec. (b). Pub. L. 100-688, §3201(d), designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE

Section effective 6 months after Oct. 23, 1972, see section 110(a) of Pub. L. 92-532, set out as a note under section 1411 of this title.

§ 1416. Relationship to other laws

(a) Voiding of preexisting licenses

After the effective date of this subchapter, all licenses, permits, and authorizations other than those issued pursuant to this subchapter shall be void and of no legal effect, to the extent that they purport to authorize any activity regulated by this subchapter, and whether issued before or after the effective date of this subchapter.

(b) Actions under authority of Rivers and Harbors Act

The provisions of subsection (a) shall not apply to actions taken before the effective date of this subchapter under the authority of the Rivers and Harbors Act of 1899 (30 Stat. 1151), as amended (33 U.S.C. 401 et seq.).

(c) Impairment of navigation

Prior to issuing any permit under this subchapter, if it appears to the Administrator that the disposition of material, other than dredged material, may adversely affect navigation in the territorial sea of the United States, or in the approaches to any harbor of the United States, or may create an artificial island on the Outer Continental Shelf, the Administrator shall consult with the Secretary and no permit shall be issued if the Secretary determines that navigation will be unreasonably impaired.

(d) State programs

(1) State rights preserved

Except as expressly provided in this subsection, nothing in this subchapter shall preclude or deny the right of any State to adopt or enforce any requirements respecting dumping of materials into ocean waters within the jurisdiction of the State.

(2) Federal projects

In the case of a Federal project, a State may not adopt or enforce a requirement that is more stringent than a requirement under this subchapter if the Administrator finds that such requirement—

(A) is not supported by relevant scientific evidence showing the requirement to be protective of human health, aquatic resources, or the environment;

(B) is arbitrary or capricious; or

(C) is not applicable or is not being applied to all projects without regard to Federal, State, or private participation and the Secretary of the Army concurs in such finding.

(3) Exemption from State requirements

The President may exempt a Federal project from any State requirement respecting dumping of materials into ocean waters if it is in

the paramount interest of the United States to do so.

(4) Consideration of site of origin prohibited

Any requirement respecting dumping of materials into ocean waters applied by a State shall be applied without regard to the site of origin of the material to be dumped.

(e) Existing conservation programs not affected

Nothing in this subchapter shall be deemed to affect in any manner or to any extent any provision of the Fish and Wildlife Coordination Act as amended (16 U.S.C. 661-666c).

(f) Dumping of dredged material in Long Island Sound from any Federal, etc., project

In addition to other provisions of law and not withstanding the specific exclusion relating to dredged material in the first sentence in section 1412(a) of this title, the dumping of dredged material in Long Island Sound from any Federal project (or pursuant to Federal authorization) or from a dredging project by a non-Federal applicant exceeding 25,000 cubic yards shall comply with the requirements of this subchapter.

(g) Savings clause

Nothing in this Act shall restrict, affect or modify the rights of any person (1) to seek damages or enforcement of any standard or limitation under State law, including State common law, or (2) to seek damages under other Federal law, including maritime tort law, resulting from noncompliance with any requirement of this Act or any permit under this Act.

(Pub. L. 92-532, title I, §106, Oct. 23, 1972, 86 Stat. 1058; Pub. L. 96-572, §4, Dec. 22, 1980, 94 Stat. 3345; Pub. L. 99-499, title I, §127(d), Oct. 17, 1986, 100 Stat. 1693; Pub. L. 101-596, title II, §203, Nov. 16, 1990, 104 Stat. 3006; Pub. L. 102-580, title V, §505, Oct. 31, 1992, 106 Stat. 4867.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsecs. (a) and (b), means the effective date of title I of Pub. L. 92-532, which is six months after Oct. 23, 1972. See section 110(a) of Pub. L. 92-532, set out as an Effective Date note under section 1411 of this title.

The Rivers and Harbors Act of 1899, referred to in subsec. (b), probably means the Act popularly known as the Rivers and Harbors Appropriation Act of 1899, act Mar. 3, 1899, ch. 425, 30 Stat. 1151, which enacted sections 401, 403, 404, 406 to 409, 411 to 416, 418, 502, 549, 686, and 687 of this title. For complete classification of this Act to the Code, see Tables.

The Fish and Wildlife Coordination Act referred to in subsec. (e), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, which is classified generally to sections 661 to 666c of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 16 and Tables.

This Act, referred to in subsec. (g), means Pub. L. 92-532, which is classified generally to this chapter, chapter 41 (§2801 et seq.) of this title, and chapters 32 (§1431 et seq.) and 32A (§1447 et seq.) of Title 16.

AMENDMENTS

1992—Subsec. (d). Pub. L. 102-580 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “After the effective date of this subchapter, no State shall adopt or enforce any rule or regulation relating to any activity regulated by this subchapter. Any State may, however, propose to the Administrator criteria relating to the dumping of materials into

ocean waters within its jurisdiction, or into other ocean waters to the extent that such dumping may affect waters within the jurisdiction of such State, and if the Administrator determines, after notice and opportunity for hearing, that the proposed criteria are not inconsistent with the purposes of this subchapter, may adopt those criteria and may issue regulations to implement such criteria. Such determination shall be made by the Administrator within one hundred and twenty days of receipt of the proposed criteria. For the purposes of this subsection, the term ‘State’ means any State, interstate or regional authority, Federal territory or Commonwealth or the District of Columbia.”

1990—Subsec. (f). Pub. L. 101-596, which directed the substitution of “the requirements of this subchapter” for all after “shall comply with” in “subsection 116(g) of the Marine Protection Research and Sanctuaries Act (33 U.S.C. 1416(g))”, was executed by making the substitution for “the criteria established pursuant to the second sentence of section 1412(a) of this title relating to the effects of dumping. Subsection (d) of this section shall not apply to this subsection.” which followed “shall comply with” in section 106(f) of the Marine Protection Research and Sanctuaries Act of 1972, which is classified to subsec. (f) of this section, to reflect the probable intent of Congress.

1986—Subsec. (g). Pub. L. 99-499 added subsec. (g).

1980—Subsec. (f). Pub. L. 96-572 added subsec. (f).

EFFECTIVE DATE

Section effective 6 months after Oct. 23, 1972, see section 110(a) of Pub. L. 92-532, set out as a note under section 1411 of this title.

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 1417. Enforcement

(a) Utilization of other departments, agencies, and instrumentalities

The Administrator or the Secretary, as the case may be, may, whenever appropriate, utilize by agreement, the personnel, services and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis, in carrying out his responsibilities under this subchapter.

(b) Delegation of review and evaluation authority

The Administrator or the Secretary may delegate responsibility and authority for reviewing and evaluating permit applications, including the decision as to whether a permit will be issued, to an officer of his agency, or he may delegate, by agreement, such responsibility and authority to the heads of other Federal departments or agencies, whether on a reimbursable or nonreimbursable basis.

(c) Surveillance and other enforcement activity

The Secretary of the department in which the Coast Guard is operating shall conduct surveillance and other appropriate enforcement activity to prevent unlawful transportation of material for dumping, or unlawful dumping. Such enforcement activity shall include, but not be limited to, enforcement of regulations issued by him pursuant to section 1418 of this title, relating to safe transportation, handling, carriage, storage, and stowage. The Secretary of the Department in which the Coast Guard is operating