

(3) consider any views submitted in response to the consultation or notification required by subsections (1) and (2) of this section.

(Pub. L. 93-248, § 6, Feb. 5, 1974, 88 Stat. 9.)

§ 1476. Emergencies

In cases of extreme urgency requiring measures to be taken immediately, the Secretary may take those measures rendered necessary by the urgency of the situation without the prior consultation or notification as required by section 1475 of this title or without the continuation of consultations already begun.

(Pub. L. 93-248, § 7, Feb. 5, 1974, 88 Stat. 9.)

§ 1477. Reasonable measures; considerations

(a) Measures directed or conducted under this chapter shall be proportionate to the damage, actual or threatened, to the coastline or related interests of the United States and may not go beyond what is reasonably necessary to prevent, mitigate, or eliminate that damage.

(b) In considering whether measures are proportionate to the damage the Secretary shall, among other things, consider—

- (1) the extent and probability of imminent damage if those measures are not taken;
- (2) the likelihood of effectiveness of those measures; and
- (3) the extent of the damage which may be caused by those measures.

(Pub. L. 93-248, § 8, Feb. 5, 1974, 88 Stat. 9.)

§ 1478. Personal, flag state, and foreign state considerations

In the direction and conduct of measures under this chapter the Secretary shall use his best endeavors to—

- (1) assure the avoidance of risk to human life;
- (2) render all possible aid to distressed persons, including facilitating repatriation of ships' crews; and
- (3) not unnecessarily interfere with rights and interests of others, including the flag state of any ship involved, other foreign states threatened by damage, and persons otherwise concerned.

(Pub. L. 93-248, § 9, Feb. 5, 1974, 88 Stat. 9.)

§ 1479. Federal liability for unreasonable damages

(a) Payment of compensation

The United States shall be obliged to pay compensation to the extent of the damage caused by measures which exceed those reasonably necessary to achieve the end mentioned in section 1472 of this title.

(b) Jurisdiction

Actions against the United States seeking compensation for any excessive measures may be brought in the United States Court of Federal Claims, in any district court of the United States, and in those courts enumerated in section 460 of title 28. For purposes of this chapter, American Samoa shall be included within the judicial district of the District Court of the

United States for the District of Hawaii, and the Trust Territory of the Pacific Islands shall be included within the judicial districts of both the District Court of the United States for the District of Hawaii and the District Court of Guam.

(c) Burden of proof

With respect to intervention for a substance identified pursuant to section 1473(a) of this title, the United States has the burden of establishing that, under the circumstances present at the time of the intervention, the substance could reasonably pose a grave and imminent danger analogous to that posed by a substance enumerated in the protocol.

(Pub. L. 93-248, § 10, Feb. 5, 1974, 88 Stat. 10; Pub. L. 95-302, § 1(4), June 26, 1978, 92 Stat. 345; Pub. L. 97-164, title I, § 161(6), Apr. 2, 1982, 96 Stat. 49; Pub. L. 102-572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

Editorial Notes

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Subsec. (b). Pub. L. 97-164 substituted “Claims Court” for “Court of Claims”.

1978—Subsec. (c). Pub. L. 95-302 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1978 AMENDMENT

For effective date of amendment by Pub. L. 95-302, see section 2 of Pub. L. 95-302, set out as a note under section 1487 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 1480. Notification by Secretary of State

The Secretary of State shall notify without delay foreign states concerned, the Secretary-General of the Inter-Governmental Maritime Consultative Organization, and persons affected by measures taken under this chapter.

(Pub. L. 93-248, § 11, Feb. 5, 1974, 88 Stat. 10.)

§ 1481. Violations; penalties

(a) A person commits a class A misdemeanor if that person—

- (1) willfully violates a provision of this chapter or a regulation issued thereunder; or
- (2) willfully refuses or fails to comply with any lawful order or direction given pursuant to this chapter; or