

§ 2720. Differentiation among fats, oils, and greases

(a) In general

Except as provided in subsection (c), in issuing or enforcing any regulation or establishing any interpretation or guideline relating to the transportation, storage, discharge, release, emission, or disposal of a fat, oil, or grease under any Federal law, the head of that Federal agency shall—

(1) differentiate between and establish separate classes for—

(A) animal fats and oils and greases, and fish and marine mammal oils, within the meaning of paragraph (2) of section 61(a) of title 13, and oils of vegetable origin, including oils from the seeds, nuts, and kernels referred to in paragraph (1)(A) of that section; and

(B) other oils and greases, including petroleum; and

(2) apply standards to different classes of fats and oils based on considerations in subsection (b).

(b) Considerations

In differentiating between the class of fats, oils, and greases described in subsection (a)(1)(A) and the class of oils and greases described in subsection (a)(1)(B), the head of the Federal agency shall consider differences in the physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

(c) Exception

The requirements of this Act shall not apply to the Food and Drug Administration and the Food Safety and Inspection Service.

(Pub. L. 104-55, § 2, Nov. 20, 1995, 109 Stat. 546.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L. 104-55, Nov. 20, 1995, 109 Stat. 546, which enacted this section and amended sections 2704 and 2716 of this title. For complete classification of this Act to the Code, see Short Title of 1995 Amendment note set out under section 2701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Edible Oil Regulatory Reform Act, and not as part of title I of the Oil Pollution Act of 1990 which comprises this subchapter.

Section is comprised of section 2 of Pub. L. 104-55. Subsec. (d) of section 2 of Pub. L. 104-55 amended sections 2704 and 2716 of this title.

Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 105-277, div. A, § 101(g) [title III, § 343], Oct. 21, 1998, 112 Stat. 2681-439, 2681-473, provided that:

“(a) None of the funds made available by this Act or subsequent Acts may be used by the Coast Guard to issue, implement, or enforce a regulation or to establish an interpretation or guideline under the Edible Oil Regulatory Reform Act (Public Law 104-55) [see Short Title of 1995 Amendment note set out under section 2701 of this title], or the amendments made by that Act, that does not recognize and provide for, with respect to fats, oils, and greases (as described in that Act, or the amendments made by that Act) differences in—

“(1) physical, chemical, biological and other relevant properties; and

“(2) environmental effects.

“(b) Not later than March 31, 1999, the Secretary of Transportation shall issue regulations amending 33 CFR 154 to comply with the requirements of Public Law 104-55.”

[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.]

Pub. L. 105-276, title III, Oct. 21, 1998, 112 Stat. 2499, provided that: “Not later than March 31, 1999, the Administrator of the Environmental Protection Agency shall issue regulations amending 40 C.F.R. 112 to comply with the requirements of the Edible Oil Regulatory Reform Act (Public Law 104-55) [see Short Title of 1995 Amendment note set out under section 2701 of this title]. Such regulations shall differentiate between and establish separate classes for animal fats and oils and greases, and fish and marine mammal oils (as described in that Act), and other oils and greases, and shall apply standards to such different classes of fats and oils based on differences in the physical, chemical, biological, and other properties, and in the environmental effects, of the classes. None of the funds made available by this Act or in subsequent Acts may be used by the Environmental Protection Agency to issue or to establish an interpretation or guidance relating to fats, oils, and greases (as described in Public Law 104-55) that does not comply with the requirements of the Edible Oil Regulatory Reform Act.”

SENSE OF CONGRESS ON IMPLEMENTATION OF REGULATIONS REGARDING ANIMAL FATS AND VEGETABLE OILS

Pub. L. 104-324, title XI, § 1130, Oct. 19, 1996, 110 Stat. 3985, as amended by Pub. L. 111-207, § 4(a)(1), July 27, 2010, 124 Stat. 2251, provided that regulations or guidelines issued pursuant to Pub. L. 104-55 should take into account the differences among classes of fats, oils, and greases described under that law.

SUBCHAPTER II—PRINCE WILLIAM SOUND PROVISIONS

§ 2731. Oil Spill Recovery Institute

(a) Establishment of Institute

The Secretary of Commerce shall provide for the establishment of a Prince William Sound Oil Spill Recovery Institute (hereinafter in this section referred to as the “Institute”) through the Prince William Sound Science and Technology Institute located in Cordova, Alaska.

(b) Functions

The Institute shall conduct research and carry out educational and demonstration projects designed to—

(1) identify and develop the best available techniques, equipment, and materials for dealing with oil spills in the arctic and subarctic marine environment; and

(2) complement Federal and State damage assessment efforts and determine, document, assess, and understand the long-range effects of Arctic or Subarctic oil spills on the natural resources of Prince William Sound and its adjacent waters (as generally depicted on the map entitled “EXXON VALDEZ oil spill dated March 1990”), and the environment, the economy, and the lifestyle and well-being of the people who are dependent on them, except that the Institute shall not conduct studies or

make recommendations on any matter which is not directly related to Arctic or Subarctic oil spills or the effects thereof.

(c) Advisory board

(1) In general

The policies of the Institute shall be determined by an advisory board, composed of 16 members appointed as follows:

(A) One representative appointed by each of the Commissioners of Fish and Game, Environmental Conservation, and Natural Resources of the State of Alaska, all of whom shall be State employees.

(B) One representative appointed by each of the Secretaries of Commerce and the Interior and the Commandant of the Coast Guard, who shall be Federal employees.

(C) Two representatives from the fishing industry appointed by the Governor of the State of Alaska from among residents of communities in Alaska that were affected by the EXXON VALDEZ oil spill, who shall serve terms of 2 years each. Interested organizations from within the fishing industry may submit the names of qualified individuals for consideration by the Governor.

(D) Two Alaska Natives who represent Native entities affected by the EXXON VALDEZ oil spill, at least one of whom represents an entity located in Prince William Sound, appointed by the Governor of Alaska from a list of 4 qualified individuals submitted by the Alaska Federation of Natives, who shall serve terms of 2 years each.

(E) Two representatives from the oil and gas industry to be appointed by the Governor of the State of Alaska who shall serve terms of 2 years each. Interested organizations from within the oil and gas industry may submit the names of qualified individuals for consideration by the Governor.

(F) Two at-large representatives from among residents of communities in Alaska that were affected by the EXXON VALDEZ oil spill who are knowledgeable about the marine environment and wildlife within Prince William Sound, and who shall serve terms of 2 years each, appointed by the remaining members of the Advisory Board. Interested parties may submit the names of qualified individuals for consideration by the Advisory Board.

(G) One nonvoting representative of the Institute of Marine Science.

(H) One nonvoting representative appointed by the Prince William Sound Science and Technology Institute.

(2) Chairman

The representative of the Secretary of Commerce shall serve as Chairman of the Advisory Board.

(3) Policies

Policies determined by the Advisory Board under this subsection shall include policies for the conduct and support, through contracts and grants awarded on a nationally competitive basis, of research, projects, and studies to be supported by the Institute in accordance with the purposes of this section.

(4) Scientific review

The Advisory Board may request a scientific review of the research program every five years by the National Academy of Sciences which shall perform the review, if requested, as part of its responsibilities under section 2761(b)(2) of this title.

(d) Scientific and technical committee

(1) In general

The Advisory Board shall establish a scientific and technical committee, composed of specialists in matters relating to oil spill containment and cleanup technology, arctic and subarctic marine ecology, and the living resources and socioeconomics of Prince William Sound and its adjacent waters, from the University of Alaska, the Institute of Marine Science, the Prince William Sound Science and Technology Institute, and elsewhere in the academic community.

(2) Functions

The Scientific and Technical Committee shall provide such advice to the Advisory Board as the Advisory Board shall request, including recommendations regarding the conduct and support of research, projects, and studies in accordance with the purposes of this section. The Advisory Board shall not request, and the Committee shall not provide, any advice which is not directly related to Arctic or Subarctic oil spills or the effects thereof.

(e) Director

The Institute shall be administered by a Director appointed by the Advisory Board. The Prince William Sound Science and Technology Institute and the Scientific and Technical Committee may each submit independent recommendations for the Advisory Board's consideration for appointment as Director. The Director may hire such staff and incur such expenses on behalf of the Institute as are authorized by the Advisory Board.

(f) Evaluation

The Secretary of Commerce may conduct an ongoing evaluation of the activities of the Institute to ensure that funds received by the Institute are used in a manner consistent with this section.

(g) Audit

The Comptroller General of the United States, and any of his or her duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of the Institute and its administering agency that are pertinent to the funds received and expended by the Institute and its administering agency.

(h) Status of employees

Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(i) Termination

The authorization in section 2736(b) of this title providing funding for the Institute shall terminate 1 year after the date on which the

Secretary, in consultation with the Secretary of the Interior, determines that oil and gas exploration, development, and production in the State of Alaska have ceased.

(j) Use of funds

No funds made available to carry out this section may be used to initiate litigation. No funds made available to carry out this section may be used for the acquisition of real property (including buildings) or construction of any building. No more than 20 percent of funds made available to carry out this section may be used to lease necessary facilities and to administer the Institute. The Advisory Board may compensate its Federal representatives for their reasonable travel costs. None of the funds authorized by this section shall be used for any purpose other than the functions specified in subsection (b).

(k) Research

The Institute shall publish and make available to any person upon request the results of all research, educational, and demonstration projects conducted by the Institute. The Administrator shall provide a copy of all research, educational, and demonstration projects conducted by the Institute to the National Oceanic and Atmospheric Administration.

(l) "Prince William Sound and its adjacent waters" defined

In this section, the term "Prince William Sound and its adjacent waters" means such sound and waters as generally depicted on the map entitled "EXXON VALDEZ oil spill dated March 1990".

(Pub. L. 101-380, title V, § 5001, Aug. 18, 1990, 104 Stat. 542; Pub. L. 104-324, title XI, § 1102(a), Oct. 19, 1996, 110 Stat. 3964; Pub. L. 107-295, title IV, § 427, Nov. 25, 2002, 116 Stat. 2127; Pub. L. 109-58, title III, § 389(1), Aug. 8, 2005, 119 Stat. 747; Pub. L. 109-241, title IX, § 902(l)(1), July 11, 2006, 120 Stat. 568.)

Editorial Notes

AMENDMENTS

2006—Subsec. (c)(1)(B). Pub. L. 109-241 substituted "Commerce and the Interior and the Commandant of the Coast Guard," for "Commerce, the Interior, and Transportation."

2005—Subsec. (i). Pub. L. 109-58 substituted "1 year after the date on which the Secretary, in consultation with the Secretary of the Interior, determines that oil and gas exploration, development, and production in the State of Alaska have ceased" for "September 30, 2012".

2002—Subsec. (i). Pub. L. 107-295 substituted "September 30, 2012" for "10 years after October 19, 1996".

1996—Subsec. (a). Pub. L. 104-324, § 1102(a)(1), (2), struck out "to be administered by the Secretary of Commerce" after "as the 'Institute'" and substituted "located" for "and located".

Subsec. (b)(2). Pub. L. 104-324, § 1102(a)(3), substituted "Arctic or Subarctic oil spills" for "the EXXON VALDEZ oil spill" in two places.

Subsec. (c)(1). Pub. L. 104-324, § 1102(a)(4), substituted "16" for "18" in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 104-324, § 1102(a)(5), substituted "and Natural Resources" for "Natural Resources, and Commerce and Economic Development".

Subsec. (c)(1)(B). Pub. L. 104-324, § 1102(a)(6), (8), added subpar. (B) and struck out former subpar. (B) which

read as follows: "One representative appointed by each of—

"(i) the Secretaries of Commerce, the Interior, Agriculture, Transportation, and the Navy; and

"(ii) the Administrator of the Environmental Protection Agency;

all of whom shall be Federal employees."

Subsec. (c)(1)(C). Pub. L. 104-324, § 1102(a)(6), (8), added subpar. (C) and struck out former subpar. (C) which read as follows: "4 representatives appointed by the Secretary of Commerce from among residents of communities in Alaska that were affected by the EXXON VALDEZ oil spill who are knowledgeable about fisheries, other local industries, the marine environment, wildlife, public health, safety, or education. At least 2 of the representatives shall be appointed from among residents of communities located in Prince William Sound. The Secretary shall appoint residents to serve terms of 2 years each, from a list of 8 qualified individuals to be submitted by the Governor of the State of Alaska based on recommendations made by the governing body of each affected community. Each affected community may submit the names of 2 qualified individuals for the Governor's consideration. No more than 5 of the 8 qualified persons recommended by the Governor shall be members of the same political party."

Subsec. (c)(1)(D). Pub. L. 104-324, § 1102(a)(6), (8), added subpar. (D) and struck out former subpar. (D) which read as follows: "3 Alaska Natives who represent Native entities affected by the EXXON VALDEZ oil spill, at least one of whom represents an entity located in Prince William Sound, to serve terms of 2 years each from a list of 6 qualified individuals submitted by the Alaska Federation of Natives."

Subsec. (c)(1)(E) to (H). Pub. L. 104-324, § 1102(a)(7), (8), added subpars. (E) and (F) and redesignated former subpars. (E) and (F) as (G) and (H), respectively.

Subsec. (c)(4). Pub. L. 104-324, § 1102(a)(9), added par. (4).

Subsec. (d)(2). Pub. L. 104-324, § 1102(a)(10), substituted "Arctic or Subarctic oil spills" for "the EXXON VALDEZ oil spill".

Subsec. (e). Pub. L. 104-324, § 1102(a)(11)–(13), substituted "appointed by the Advisory Board" for "appointed by the Secretary of Commerce", struck out "the Advisory Board," after "Technology Institute", and substituted "Advisory Board's" for "Secretary's".

Subsec. (i). Pub. L. 104-324, § 1102(a)(14), (15), inserted "authorization in section 2736(b) of this title providing funding for the" after "The" and substituted "October 19, 1996" for "August 18, 1990".

Subsec. (j). Pub. L. 104-324, § 1102(a)(16), (17), struck out first sentence which read as follows: "All funds authorized for the Institute shall be provided through the National Oceanic and Atmospheric Administration," and inserted "The Advisory Board may compensate its Federal representatives for their reasonable travel costs." after "Institute."

Statutory Notes and Related Subsidiaries

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2732. Terminal and tanker oversight and monitoring

(a) Short title and findings

(1) Short title

This section may be cited as the “Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990”.

(2) Findings

The Congress finds that—

(A) the March 24, 1989, grounding and rupture of the fully loaded oil tanker, the EXXON VALDEZ, spilled 11 million gallons of crude oil in Prince William Sound, an environmentally sensitive area;

(B) many people believe that complacency on the part of the industry and government personnel responsible for monitoring the operation of the Valdez terminal and vessel traffic in Prince William Sound was one of the contributing factors to the EXXON VALDEZ oil spill;

(C) one way to combat this complacency is to involve local citizens in the process of preparing, adopting, and revising oil spill contingency plans;

(D) a mechanism should be established which fosters the long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals;

(E) such a mechanism presently exists at the Sullom Voe terminal in the Shetland Islands and this terminal should serve as a model for others;

(F) because of the effective partnership that has developed at Sullom Voe, Sullom Voe is considered the safest terminal in Europe;

(G) the present system of regulation and oversight of crude oil terminals in the United States has degenerated into a process of continual mistrust and confrontation;

(H) only when local citizens are involved in the process will the trust develop that is necessary to change the present system from confrontation to consensus;

(I) a pilot program patterned after Sullom Voe should be established in Alaska to further refine the concepts and relationships involved; and

(J) similar programs should eventually be established in other major crude oil terminals in the United States because the recent oil spills in Texas, Delaware, and Rhode Island indicate that the safe transportation of crude oil is a national problem.

(b) Demonstration programs

(1) Establishment

There are established 2 Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Demonstration Programs (hereinafter referred to as “Programs”) to be carried out in the State of Alaska.

(2) Advisory function

The function of these Programs shall be advisory only.

(3) Purpose

The Prince William Sound Program shall be responsible for environmental monitoring of the terminal facilities in Prince William Sound and the crude oil tankers operating in Prince William Sound. The Cook Inlet Program shall be responsible for environmental monitoring of the terminal facilities and crude oil tankers operating in Cook Inlet located South of the latitude at Point Possession and North of the latitude at Amatuli Island, including offshore facilities in Cook Inlet.

(4) Suits barred

No program, association, council, committee or other organization created by this section may sue any person or entity, public or private, concerning any matter arising under this section except for the performance of contracts.

(c) Oil Terminal Facilities and Oil Tanker Operations Association

(1) Establishment

There is established an Oil Terminal Facilities and Oil Tanker Operations Association (hereinafter in this section referred to as the “Association”) for each of the Programs established under subsection (b).

(2) Membership

Each Association shall be comprised of 4 individuals as follows:

(A) One individual shall be designated by the owners and operators of the terminal facilities and shall represent those owners and operators.

(B) One individual shall be designated by the owners and operators of the crude oil tankers calling at the terminal facilities and shall represent those owners and operators.

(C) One individual shall be an employee of the State of Alaska, shall be designated by the Governor of the State of Alaska, and shall represent the State government.

(D) One individual shall be an employee of the Federal Government, shall be designated by the President, and shall represent the Federal Government.

(3) Responsibilities

Each Association shall be responsible for reviewing policies relating to the operation and maintenance of the oil terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of their respective terminals. Each Association shall provide a forum among the owners and operators of the terminal facilities, the owners and operators of crude oil tankers calling at those facilities, the United States, and the State of Alaska to discuss and to make recommendations concerning all permits, plans, and site-specific regulations governing the activities and actions of the terminal facilities which affect or may affect the environment in the vicinity of the terminal facilities and of crude oil tankers calling at those facilities.

(4) Designation of existing organization

The Secretary may designate an existing nonprofit organization as an Association