

(b) In determining whether there is grave and imminent danger of major harmful consequences to the coastline or related interests of the United States, the Secretary shall consider the interests of the United States directly threatened or affected including but not limited to, human health, fish, shellfish, and other living marine resources, wildlife, coastal zone and estuarine activities, and public and private shorelines and beaches.

(Pub. L. 93-248, § 4, Feb. 5, 1974, 88 Stat. 9; Pub. L. 95-302, § 1(3), June 26, 1978, 92 Stat. 344.)

#### Editorial Notes

##### AMENDMENTS

1978—Pub. L. 95-302 added subsec. (a), designated existing provisions as subsec. (b), and inserted “human health,” before “fish”.

#### Statutory Notes and Related Subsidiaries

##### 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.

#### § 1474. Federal intervention actions

Upon a determination under section 1472 of this title of a grave and imminent danger to the coastline or related interests of the United States, the Secretary may—

- (1) coordinate and direct all public and private efforts directed at the removal or elimination of the threatened pollution damage;
- (2) directly or indirectly undertake the whole or any part of any salvage or other action he could require or direct under subsection (1) of this section; and
- (3) remove, and, if necessary, destroy the ship and cargo which is the source of the danger.

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

#### § 1475. Consultation procedure

Before taking any measure under section 1474 of this title, the Secretary shall—

- (1) consult, through the Secretary of State, with other countries affected by the marine casualty, and particularly with the flag country of any ship involved;
- (2) notify without delay the Administrator of the Environmental Protection Agency and any other persons known to the Secretary, or of whom he later becomes aware, who have interests which can reasonably be expected to be affected by any proposed measures; and
- (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.