

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 100-688, title IV, § 4204(b), Nov. 18, 1988, 102 Stat. 4160, provided that: "Section 4102(a) of this Act [33 U.S.C. 2602(a)] is effective 240 days after the date of enactment of this Act [Nov. 18, 1988]."

AVAILABILITY OF APPLICATIONS

Pub. L. 100-688, title IV, § 4204(a), Nov. 18, 1988, 102 Stat. 4160, provided that: "The Secretary shall make vessel applications for permits to be issued under section 4102 of this Act [33 U.S.C. 2602] publicly available within 60 days after the date of enactment of this Act [Nov. 18, 1988]."

§ 2603. Waste handling practices**(a) In general****(1) Loading**

The owner or operator of the waste source shall take all reasonable steps to assure that all municipal or commercial waste is loaded onto a vessel in a manner that assures that waste deposited in coastal waters is minimized.

(2) Securing

The owner or operator of a vessel shall assure that all municipal or commercial waste loaded onto the vessel is secured by netting or other means to assure that waste will not be deposited into coastal waters during transport.

(3) Offloading

The owner or operator of the receiving facility shall take all reasonable steps to assure that any municipal or commercial waste is offloaded from a vessel in a manner that assures that waste deposited into coastal waters is minimized.

(4) Cleaning up

The owner or operator of any waste source or receiving facility shall provide adequate control measures to clean up any municipal or commercial waste which is deposited into coastal waters.

(b) Regulations

The Administrator, in consultation with the Secretary of Transportation, shall prescribe regulations—

(1) requiring that waste sources, receiving facilities, and vessels provide the means and facilities to assure that the waste will not be deposited into coastal waters during loading, offloading, and transport;

(2) requiring, as appropriate, the submission and adoption by each responsible party of an operation and maintenance manual identifying procedures to be used to prevent, report, and clean up any deposit of municipal or commercial waste into coastal waters, including record keeping requirements; and

(3) if the Administrator determines that tracking systems are required to assure adequate enforcement of laws preventing the deposit of municipal or commercial waste into coastal waters, requiring installation of the appropriate systems within 18 months after the Administrator makes that determination.

(Pub. L. 100-688, title IV, § 4103, Nov. 18, 1988, 102 Stat. 4156.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 100-688, title IV, § 4204(c), Nov. 18, 1988, 102 Stat. 4160, provided that: "Section 4103 of this Act [33 U.S.C. 2603] takes effect 60 days after the date of enactment of this Act [Nov. 18, 1988]."

§ 2604. Suspension, revocation, and injunctions**(a) Suspension and revocation**

After notice and opportunity for a hearing, the Secretary of Transportation may, and at the request of the Administrator shall, suspend or revoke a permit issued to a vessel under this chapter for a violation of this chapter or a regulation prescribed under this chapter.

(b) Injunctions

The Secretary or the Administrator may bring a civil action to enjoin any operation in violation of this chapter or a regulation prescribed under this chapter in the district court of the United States for the district in which the violation occurred.

(Pub. L. 100-688, title IV, § 4104, Nov. 18, 1988, 102 Stat. 4157.)

§ 2605. Enforcement**(a) General authority**

The Secretary of Transportation shall enforce this chapter under section 89¹ of title 14. The Secretary may authorize other officers or employees of the United States Government to enforce this chapter under that section.

(b) Periodic examinations

The Secretary shall conduct periodic examinations of vessels operating under this chapter transporting municipal or commercial waste to determine that each of these vessels has a permit issued under section 2602 of this title.

(c) Refusal of clearance

The Secretary of the Treasury may refuse the clearance required by section 60105 of title 46, to any vessel subject to this chapter which does not have a permit required under section 2602 of this title.

(d) Denial of entry and detention

If a vessel does not comply with this chapter, the Secretary of Transportation may—

(1) deny entry to any place in the United States; and

(2) detain at the place in the United States from which it is about to depart.

(e) Persistent violators

The Administrator shall conduct an investigation of the owner or operator of a vessel or facility if the owner has 5 or more separate violations during a 6-month period.

(Pub. L. 100-688, title IV, § 4105, Nov. 18, 1988, 102 Stat. 4157.)

Editorial Notes

REFERENCES IN TEXT

Section 89 of title 14, referred to in subsec. (a), was redesignated section 522 of title 14 by Pub. L. 115-282,

¹ See References in Text note below.

title I, § 105(b), Dec. 4, 2018, 132 Stat. 4200, and reference to section 89 of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115-282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115-282 note preceding section 101 of Title 14, Coast Guard.

CODIFICATION

In subsec. (c), “section 60105 of title 46” substituted for “section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)” on authority of Pub. L. 109-304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 60105 of Title 46, Shipping.

§ 2606. Subpena authority

(a) General authority

In an investigation under this chapter, the attendance and testimony of witnesses, including parties in interest, and the production of any evidence may be compelled by subpena. The subpena authority granted by this section is coextensive with that of a district court of the United States, in civil matters, for the district in which the investigation is conducted.

(b) Subpena authority

An official designated by the Secretary of Transportation or Administrator to conduct an investigation under this chapter may issue subpoenas as provided in this section and administer oaths to witnesses.

(c) Failure to comply

When a person fails to obey a subpoena issued under this section, the district court of the United States for the district in which the investigation is conducted or in which the person failing to obey is found, shall on proper application issue an order directing that person to comply with the subpoena. The court may punish as contempt any disobedience of its order.

(d) Witness fees

A witness complying with a subpoena issued under this section may be paid for actual travel and attendance at the rate provided for witnesses in the district courts of the United States.

(Pub. L. 100-688, title IV, § 4106, Nov. 18, 1988, 102 Stat. 4157.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this part” and was translated as reading “this title” to reflect the probable intent of Congress.

§ 2607. Fees

The Secretary of Transportation may collect a fee under section 9701 of title 31 of not more than \$1,000, from each person to whom a permit is issued under this subchapter for a permitting system and to maintain information.

(Pub. L. 100-688, title IV, § 4107, Nov. 18, 1988, 102 Stat. 4158.)

§ 2608. Civil penalty procedures

(a) General procedures

After notice and an opportunity for a hearing, a person found by the Secretary of Transporta-

tion to have violated this chapter or a regulation prescribed under this chapter for which a civil penalty is provided, is liable to the United States Government for the civil penalty provided. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider 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 other matters that justice requires.

(b) Compromising penalties

The Secretary may compromise, modify, or remit, with or without consideration, a civil penalty under this chapter until the assessment is referred to the Attorney General.

(c) Referral to Attorney General

If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(d) Refund of penalty

The Secretary may refund or remit a civil penalty collected under this chapter if—

- (1) application has been made for refund or remission of the penalty within one year from the date of payment; and
- (2) the Secretary finds that the penalty was unlawfully, improperly, or excessively imposed.

(Pub. L. 100-688, title IV, § 4108, Nov. 18, 1988, 102 Stat. 4158.)

§ 2609. Penalties

(a) General penalty

Except as provided in subsection (b) of this section, a person violating this chapter is liable to the United States Government for a civil penalty of not more than \$25,000. Each day of a continuing violation is a separate violation. A vessel involved in the violation also is liable in rem for the penalty.

(b) Operating without a permit

A person violating section 2602 of this title is liable to the United States Government for a civil penalty of not more than \$10,000. Each day of a continuing violation is a separate violation. A vessel involved in the violation also is liable in rem for the penalty.

(c) Criminal penalty

Any person that knowingly violates, or that knowingly aids, abets, authorizes, or instigates a violation of this chapter, shall be fined under title 18, imprisoned for not more than 3 years, or both.

(d) Payments for information

The court, the Secretary of Transportation, or the Administrator, as the case may be, may pay up to one-half of a fine or penalty to any person giving information leading to the assessment of the fine or penalty.

(Pub. L. 100-688, title IV, § 4109, Nov. 18, 1988, 102 Stat. 4158.)