

pumping fuel from fuel transport barges into bulk fuel storage tanks.. [sic]"

[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.]

DISPOSITION OF FUND BALANCE

Pub. L. 101-380, title VIII, §8102(a)(2), Aug. 18, 1990, 104 Stat. 565, as amended by Pub. L. 105-277, div. A, §101(g) [title III, §329(c)], Oct. 21, 1998, 112 Stat. 2681-439, 2681-471, provided that:

“(A) RESERVATION OF AMOUNTS.—The trustees of the Trans-Alaska Pipeline Liability Fund (hereafter in this subsection referred to as the ‘TAPS Fund’) shall reserve the following amounts in the TAPS Fund—

“(i) necessary to pay claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)); and

“(ii) administrative expenses reasonably necessary for and incidental to the implementation of section 204(c) of that Act.

“(B) DISPOSITION OF THE BALANCE.—After the Comptroller General of the United States certifies that the requirements of subparagraph (A) have been met, the trustees of the TAPS Fund shall dispose of the balance in the TAPS Fund after the reservation of amounts are made under subparagraph (A) by—

“(i) rebating the pro rata share of the balance to the State of Alaska for its contributions as an owner of oil, which, except as otherwise provided under article IX, section 15, of the Alaska Constitution, shall be used for the remediation of above-ground storage tanks; and then

“(ii) transferring and depositing the remainder of the balance into the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509).

“(C) DISPOSITION OF THE RESERVED AMOUNTS.—After payment of all claims arising from an incident for which funds are reserved under subparagraph (A) and certification by the Comptroller General of the United States that the claims arising from that incident have been paid, the excess amounts, if any, for that incident shall be disposed of as set forth under subparagraphs (A) and (B).

“(D) AUTHORIZATION.—The amounts transferred and deposited in the Fund shall be available for the purposes of section 1012 of the Oil Pollution Act of 1990 [33 U.S.C. 2712] after funding sections 5001 [33 U.S.C. 2731] and 8103 [43 U.S.C. 1651 note] to the extent that funds have not otherwise been provided for the purposes of such sections.”

LIABILITIES OF TRUSTEES OF TAPS FUND

Pub. L. 101-380, title VIII, §8102(a)(5)(B), Aug. 18, 1990, 104 Stat. 566, provided that: “Upon the effective date of the repeal pursuant to subparagraph (A) [see Effective Date of 1990 Amendment note above], the trustees of the TAPS Fund shall be relieved of all responsibilities under section 204(c) of the Trans-Alaska Pipeline Authorization Act [43 U.S.C. 1653(c)], but not any existing legal liability.”

PRESERVATION OF RIGHTS AND REMEDIES OF CONTRIBUTORS TO TAPS FUND

Pub. L. 101-380, title VIII, §8102(a)(6), Aug. 18, 1990, 104 Stat. 566, provided that: “This subsection [amending this section and enacting provisions set out as notes above] is intended expressly to preserve any and all rights and remedies of contributors to the TAPS Fund under section 1491 of title 28, United States Code (commonly referred to as the ‘Tucker Act’).”

§ 1654. Antitrust laws

The grant of a right-of-way, permit, lease, or other authorization pursuant to this chapter shall grant no immunity from the operation of the Federal anti-trust laws.

(Pub. L. 93-153, title II, §205, Nov. 16, 1973, 87 Stat. 588.)

§ 1655. Roads and airports

A right-of-way, permit, lease, or other authorization granted under section 1652(b) of this title for a road or airstrip as a related facility of the trans-Alaska pipeline may provide for the construction of a public road or airstrip.

(Pub. L. 93-153, title II, §206, Nov. 16, 1973, 87 Stat. 588.)

§ 1656. Civil penalties

(a) Penalty

Except as provided in subsection (c)(4), the Secretary of the Interior may assess and collect a civil penalty under this section with respect to any discharge of oil—

(1) in transit from fields or reservoirs supplying oil to the trans-Alaska pipeline; or

(2) during transportation through the trans-Alaska pipeline or handling at the terminal facilities, that causes damage to, or threatens to damage, natural resources or public or private property.

(b) Persons liable

In addition to the person causing or permitting the discharge, the owner or owners of the oil at the time the discharge occurs shall be jointly, severally, and strictly liable for the full amount of penalties assessed pursuant to this section, except that the United States and the several States, and political subdivisions thereof, shall not be liable under this section.

(c) Amount

(1) The amount of the civil penalty shall not exceed \$1,000 per barrel of oil discharged.

(2) In determining the amount of civil penalty under this section, the Secretary shall consider the seriousness of the damages from the discharge, the cause of the discharge, any history of prior violations of applicable rules and laws, and the degree of success of any efforts by the violator to minimize or mitigate the effects of such discharge.

(3) The Secretary may reduce or waive the penalty imposed under this section if the discharge was solely caused by an act of war, act of God, or third party action beyond the control of the persons liable under this section.

(4) No civil penalty assessed by the Secretary pursuant to this section shall be in addition to a penalty assessed pursuant to section 1321(b) of title 33.

(d) Procedures

A civil penalty may be assessed and collected under this section only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5. In any proceeding for the assessment of a civil penalty under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the

production of relevant papers, books, and documents and may promulgate rules for discovery procedures. Any person who requested a hearing with respect to a civil penalty under this subsection and who is aggrieved by an order assessing the civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(e) State law

(1) Nothing in this section shall be construed or interpreted as preempting any State or political subdivision thereof from imposing any additional liability or requirements with respect to the discharge, or threat of discharge, of oil or other pollution by oil.

(2) Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to discharges of oil.

(Pub. L. 93-153, title II, §207, as added Pub. L. 101-380, title VIII, §8202, Aug. 18, 1990, 104 Stat. 571.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as a note under section 2701 of Title 33, Navigation and Navigable Waters.

CHAPTER 35—FEDERAL LAND POLICY AND MANAGEMENT

SUBCHAPTER I—GENERAL PROVISIONS

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| Sec. | |
| 1701. | Congressional declaration of policy. |
| 1702. | Definitions. |
| 1703. | Repealed. |

SUBCHAPTER II—LAND USE PLANNING AND LAND ACQUISITION AND DISPOSITION

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| 1711. | Continuing inventory and identification of public lands; preparation and maintenance. |
| 1712. | Land use plans. |
| 1713. | Sales of public land tracts. |
| 1714. | Withdrawals of lands. |
| 1715. | Acquisitions of public lands and access over non-Federal lands to National Forest System units. |
| 1716. | Exchanges of public lands or interests therein within the National Forest System. |
| 1717. | Qualifications of conveyees. |
| 1718. | Documents of conveyance; terms, covenants, etc. |
| 1719. | Mineral interests; reservation and conveyance requirements and procedures. |
| 1720. | Coordination by Secretary of the Interior with State and local governments. |
| 1721. | Conveyances of public lands to States, local governments, etc. |
| 1722. | Sale of public lands subject to unintentional trespass. |
| 1723. | Temporary revocation authority. |

SUBCHAPTER III—ADMINISTRATION

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| 1731. | Bureau of Land Management. |
| 1732. | Management of use, occupancy, and development of public lands. |

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| Sec. | |
| 1733. | Enforcement authority. |
| 1734. | Fees, charges, and commissions. |
| 1734a. | Availability of excess fees. |
| 1735. | Forfeitures and deposits. |
| 1736. | Working capital fund. |
| 1736a. | Revolving fund derived from disposal of salvage timber. |
| 1737. | Implementation provisions. |
| 1738. | Contracts for surveys and resource protection; renewals; funding requirements. |
| 1739. | Advisory councils. |
| 1740. | Rules and regulations. |
| 1741. | Annual reports. |
| 1742. | Search, rescue, and protection forces; emergency situations authorizing hiring. |
| 1742a. | Good Samaritan Search and Recovery Act. |
| 1743. | Disclosure of financial interests by officers or employees. |
| 1744. | Recordation of mining claims. |
| 1745. | Disclaimer of interest in lands. |
| 1746. | Correction of conveyance documents. |
| 1747. | Loans to States and political subdivisions; purposes; amounts; allocation; terms and conditions; interest rate; security; limitations; forbearance for benefit of borrowers; recordkeeping requirements; discrimination prohibited; deposit of receipts. |
| 1748. | Funding requirements. |
| 1748a. | FLAME Wildfire Suppression Reserve Funds. |
| 1748a-1. | Request for additional wildfire suppression funds. |
| 1748a-2. | Reporting requirements. |
| 1748b. | Cohesive wildfire management strategy. |
| 1748b-1. | Wildfire technology modernization. |
| 1748c. | Bureau of Land Management Foundation. |
| 1748d. | Report on wildfire, insect infestation, and disease prevention on Federal land. |

SUBCHAPTER IV—RANGE MANAGEMENT

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| 1751. | Grazing fees; feasibility study; contents; submission of report; annual distribution and use of range betterment funds; nature of distributions. |
| 1752. | Grazing leases and permits. |
| 1753. | Omitted. |

SUBCHAPTER V—RIGHTS-OF-WAY

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| 1761. | Grant, issue, or renewal of rights-of-way. |
| 1761a. | Streamlining the Forest Service process for consideration of communications facility location applications. |
| 1762. | Roads. |
| 1763. | Right-of-way corridors; criteria and procedures applicable for designation. |
| 1764. | General requirements. |
| 1765. | Terms and conditions. |
| 1766. | Suspension or termination; grounds; procedures applicable. |
| 1767. | Rights-of-way for Federal departments and agencies. |
| 1768. | Conveyance of lands covered by right-of-way; terms and conditions. |
| 1769. | Existing right-of-way or right-of-use unaffected; exceptions; rights-of-way for railroad and appurtenant communication facilities; applicability of existing terms and conditions. |
| 1770. | Applicability of provisions to other Federal laws. |
| 1771. | Coordination of applications. |
| 1772. | Vegetation management, facility inspection, and operation and maintenance relating to electric transmission and distribution facility rights of way. |

SUBCHAPTER VI—DESIGNATED MANAGEMENT AREAS

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| 1781. | California Desert Conservation Area. |
| 1781a. | Acceptance of donation of certain existing permits or leases. |