

AMENDMENTS

2015—Pub. L. 114-81 amended subsec. (a) generally. Prior to amendment, subsec. (a) related to assessment of penalties.

§ 2438. Criminal offenses**(a) Offenses**

A person is guilty of an offense if that person commits any act prohibited by paragraph (4), (5), (6), or (7) of section 2435 of this title.

(b) Punishment

Any offense described in subsection (a) is punishable by a fine of \$50,000, or imprisonment for not more than ten years, or both.

(c) Offenses under other laws

A conviction under subsection (a) for any act shall not be deemed to preclude a conviction for such act under any other law.

(Pub. L. 98-623, title III, §309, Nov. 8, 1984, 98 Stat. 3403.)

§ 2439. Enforcement**(a) Responsibility**

The provisions of this chapter shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities of any other department or agency of the United States in the performance of such duties.

(b) Powers of authorized officers and employees

Any officer or employee of the United States who is authorized (by the Secretary of Commerce, the Secretary of the department in which the Coast Guard is operating, or the head of any department or agency of the United States which has entered into an agreement with either Secretary under subsection (a)) to enforce the provisions of this chapter and of any regulation promulgated under this chapter may, in enforcing such provisions—

(1) secure, execute, and serve any order, warrant, subpoena, or other process, which is issued under the authority of the United States;

(2) search without warrant any person, place, vehicle or aircraft subject to the jurisdiction of the United States where there are reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 2435 of this title;

(3) with or without a warrant board and search or inspect any vessel of the United States or vessel subject to the jurisdiction of the United States;

(4) seize without warrant—

(A) any evidentiary item where there are reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 2435 of this title,

(B) any Antarctic marine living resources (or part of¹ product thereof) with respect to which such an act is committed,

(C) any vessel of the United States (including its gear, furniture, appurtenances,

stores, and cargo), any vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stores, and cargo), and any vehicle, aircraft, or other means of transportation subject to the jurisdiction of the United States used in connection with such an act, and

(D) any guns, traps, nets, or equipment used in connection with such an act;

(5) offer and pay rewards for services or information which may lead to the apprehension of persons violating such provisions;

(6) make inquiries, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter which is related to the enforcement of such provisions;

(7) in coordination with the Secretary of the Treasury, detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation into, or exportation from, the United States;

(8) make an arrest with or without a warrant with respect to any act prohibited by paragraph (4), (5), (6), or (7) of section 2435 of this title if such officer or employee has reasonable grounds to believe that the person to be arrested is committing such act in his or her presence or view or has committed such act;

(9) exercise enforcement powers conferred on such officer or employee under a system of observation and inspection, or interim arrangements pending the establishment of such a system, which the Secretary of State has agreed to on behalf of the United States pursuant to section 2434(b) of this title; and

(10) exercise any other authority which such officer or employee is permitted by law to exercise.

(c) Seizure

Subject to the succeeding provisions of this subsection, any property or item seized pursuant to subsection (b) shall be held by any officer or employee of the United States, who is authorized by the Secretary of Commerce or the Secretary of the department in which the Coast Guard is operating, pending the disposition of civil or criminal proceedings concerning the violation relating to the property or item, or the institution of an action in rem for the forfeiture of such property or item. Such authorized officer or employee may, upon the order of a court of competent jurisdiction, either release such seized property or item to the wild or destroy such property or item, when the cost of maintenance of the property or item pending the disposition of the case is greater than the legitimate market value of the property or item. Such authorized officer or employee and all officers or employees acting by or under his or her direction shall be indemnified from any penalties or actions for damages for so releasing or destroying such property or item. Such authorized officer or employee may, in lieu of holding such property or item, permit the owner or consignee thereof to post a bond or other satisfactory surety.

(d) Forfeiture

(1) Any Antarctic marine living resource (or part or product thereof) with respect to which

¹ So in original. Probably should be "or".

an act prohibited by section 2435 of this title is committed, any vessel of the United States (including its gear, furniture, appurtenances, stoves, and cargo), vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stoves, and cargo), or vessel, vehicle, or aircraft or other means of transportation subject to the jurisdiction of the United States, which is used in connection with an act prohibited by section 2435 of this title, and all guns, traps, nets, and other equipment used in connection with such act, shall be subject to forfeiture to the United States.

(2) Upon the forfeiture to the United States of any property or item described in paragraph (1), or upon the abandonment or waiver of any claim to any such property or item, it shall be disposed of by the Secretary of Commerce, or the Secretary of the department in which the Coast Guard is operating, as the case may be, in such a manner, consistent with the purposes of this chapter, as may be prescribed by regulation.

(e) Application of customs laws

All provisions of law relating to the seizure, forfeiture, and condemnation of property (including vessels) for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, and the compromise of claims, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Customs Service may, for the purposes of this chapter, also be exercised or performed by the Secretary of Commerce or the Secretary of the department in which the Coast Guard is operating, or by such officers or employees of the United States as each Secretary may designate.

(Pub. L. 98-623, title III, § 310, Nov. 8, 1984, 98 Stat. 3403.)

TRANSFER OF FUNCTIONS

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.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 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.

§ 2440. Jurisdiction of courts

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter or of any regulation promulgated under this chapter.

(Pub. L. 98-623, title III, § 311, Nov. 8, 1984, 98 Stat. 3405.)

§ 2441. Federal agency cooperation

(a) Responsibilities

(1) For the purpose of carrying out the policies and objectives of the Convention or to implement any decision of the Commission—

(A) the Director of the National Science Foundation, in consultation with the Secretary of State and the heads of other appropriate departments and agencies of the United States, shall continue to support basic research investigations of the Antarctic marine ecosystem as a part of the United States Antarctic Program;

(B) the Secretary of Commerce, in consultation with the Director of the National Science Foundation, the Secretary of State and the heads of other appropriate Federal agencies, shall design and conduct the program of directed scientific research as set forth in paragraph 2 supplemental to and coordinated with the United States Antarctic Program; and

(C) the Secretary of Commerce and the Director of the National Science Foundation, in consultation with the Secretary of State, may furnish facilities and personnel to the Commission in order to assist the Commission in carrying out its functions.

(2)(A) The Secretary of Commerce, in consultation with the Secretary of State, the Director of the National Science Foundation, and other appropriate Federal officials, shall prepare a plan, which shall be updated annually, for conducting the directed research program required under paragraph (1)(B) for each period of three consecutive fiscal years occurring during the period beginning on October 1, 1985, and ending on September 30, 1991. The plan shall—

(i) describe priority directed research needs for the implementation of the Convention;

(ii) identify which of those needs are to be fulfilled by the United States; and

(iii) specify the design of the research referred to in paragraph (1)(B) and the funds, personnel, and facilities required for the research, including, in particular, the need for the cost of enhanced ship capacity.

(B) In preparing the plan referred to in subparagraph (A), the Secretary of Commerce shall take into account, in addition to any other matters the Secretary considers appropriate, the possibilities of securing productive results, the minimization of duplication, and the methods for monitoring and evaluating a project.

(C) The Secretary of Commerce shall submit to the Congress each year the plan required under subparagraph (A). That part of the plan covering fiscal years 1986 through 1988 shall be submitted not later than October 1, 1985. That part of the plan covering each 3-fiscal-year period thereafter shall be submitted not later than the February 1 occurring before the beginning of the first fiscal year covered by that part of the plan.

(b) Consultation with other agencies

In carrying out their functions under this section, the Secretary of State, the Secretary of