

(Pub. L. 96-320, title III, §302, Aug. 3, 1980, 94 Stat. 995; Pub. L. 98-623, title VI, §602(e)(5), Nov. 8, 1984, 98 Stat. 3412.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (2), (b)(2), and (e), was in the original "this Act", meaning Pub. L. 96-320, Aug. 3, 1980, 94 Stat. 974, known as the Ocean Thermal Energy Conversion Act of 1980, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9101 of this title and Tables.

AMENDMENTS

1984—Subsec. (b)(1). Pub. L. 98-623 substituted "to halt any violation" for "any violation".

§ 9153. Enforcement

(a) Enforcement responsibility of Administrator of National Oceanic and Atmospheric Administration; Coast Guard

Except where a specific section of this chapter designates enforcement responsibility, the provisions of this chapter shall be enforced by the Administrator. The Secretary of the department in which the Coast Guard is operating shall have exclusive responsibility for enforcement measures which affect the safety of life and property at sea, shall exercise such other enforcement responsibilities with respect to vessels subject to the provisions of this chapter as are authorized under other provisions of law, and may, upon the specific request of the Administrator, assist the Administrator in the enforcement of any provision of this chapter. The Administrator and the Secretary of the department in which the Coast Guard is operating may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment, including aircraft and vessels, and facilities of any other Federal agency or department, and may authorize officers or employees of other departments or agencies to provide assistance as necessary in carrying out subsection (b) of this section. The Administrator and the Secretary of the department in which the Coast Guard is operating may issue regulations jointly or severally as may be necessary and appropriate to carry out their duties under this section.

(b) Enforcement activities of authorized officers

To enforce the provisions of this chapter in or on board any ocean thermal energy conversion facility or plantship or any vessel subject to the provisions of this chapter, any officer who is authorized by the Administrator or the Secretary of the department in which the Coast Guard is operating may—

- (1) enter or board, and inspect, any ocean thermal energy conversion facility or plantship or any vessel which is subject to the provisions of this chapter;
- (2) search the vessel if the officer has reasonable cause to believe that the vessel has been used or employed in the violation of any provision of this chapter;
- (3) arrest any person subject to section 9151 of this title if the officer has reasonable cause to believe that the person has committed a criminal act prohibited by sections 9151 and 9152(d) of this title;

(4) seize the vessel together with its gear, furniture, appurtenances, stores, and cargo, used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this chapter if such seizure is necessary to prevent evasion of the enforcement of this chapter;

(5) seize any evidence related to any violation of any provision of this chapter;

(6) execute any warrant or other process issued by any court of competent jurisdiction; and

(7) exercise any other lawful authority.

(c) Jurisdiction; venue

Except as otherwise specified in section 9125 of this title, the district courts of the United States shall have exclusive original jurisdiction over any case or controversy arising under the provisions of this chapter. Except as otherwise specified in this chapter, venue shall lie in any district wherein, or nearest to which, the cause of action arose, or wherein any defendant resides, may be found, or has his principal office. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time—

- (1) enter restraining orders or prohibitions;
- (2) issue warrants, process in rem, or other process;
- (3) prescribe and accept satisfactory bonds or other security; and
- (4) take such other actions as are in the interest of justice.

(d) Definitions

For the purposes of this section, the term "vessel" includes an ocean thermal energy conversion facility or plantship, and the term "provisions of this chapter" or "provision of this chapter" includes any rule, regulation, or order issued pursuant to this chapter and any term or condition of any license issued pursuant to this chapter.

(Pub. L. 96-320, title III, §303, Aug. 3, 1980, 94 Stat. 996; Pub. L. 98-623, title VI, §602(a)(10), Nov. 8, 1984, 98 Stat. 3411.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 96-320, Aug. 3, 1980, 94 Stat. 974, known as the Ocean Thermal Energy Conversion Act of 1980, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9101 of this title and Tables.

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-623 substituted "in or on board any ocean thermal energy conversion facility or plantship or any vessel" for "on board any ocean thermal energy conversion facility or plantship or other vessel" in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 98-623 substituted "enter or board, and inspect, any ocean thermal energy conversion facility or plantship or" for "board and inspect".

Statutory Notes and Related Subsidiaries

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.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

§ 9161. Law of the Sea Treaty

If the United States ratifies a treaty, which includes provisions with respect to jurisdiction over ocean thermal energy conversion activities, resulting from any United Nations Conference on the Law of the Sea, the Administrator, after consultation with the Secretary of State, shall promulgate any amendment to the regulations promulgated under this chapter which is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

(Pub. L. 96-320, title IV, §401, Aug. 3, 1980, 94 Stat. 998.)

Editorial Notes

REFERENCES IN TEXT

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§ 9162. International negotiations

The Secretary of State, in cooperation with the Administrator and the Secretary of the department in which the Coast Guard is operating, shall seek effective international action and cooperation in support of the policy and purposes of this chapter and may initiate and conduct negotiations for the purpose of entering into international agreements designed to guarantee non-interference of ocean thermal energy conversion facilities and plantships with the thermal gradients used by other such facilities and plantships, to assure protection of such facilities and plantships and of navigational safety in the vicinity thereof, and to resolve such other matters relating to ocean thermal energy conversion facilities and plantships as need to be resolved in international agreements.

(Pub. L. 96-320, title IV, §402, Aug. 3, 1980, 94 Stat. 998.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 96-320, Aug. 3, 1980, 94 Stat. 974, known as the Ocean Thermal Energy Conversion Act of 1980, which is classified principally to this chap-

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§ 9163. Relationship to other laws**(a) Facilities and plantships as comparable to areas of exclusive Federal jurisdiction located within a State**

(1) The Constitution, laws, and treaties of the United States shall apply to an ocean thermal energy conversion facility or plantship licensed under this chapter and all of which is located seaward of the highwater mark, and to activities connected, associated, or potentially interfering with the use or operation of any such facility or plantship, in the same manner as if such facility or plantship were an area of exclusive Federal jurisdiction located within a State. Nothing in this chapter shall be construed to relieve, exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty.

(2) Ocean thermal energy conversion facilities and plantships licensed under this chapter do not possess the status of islands and have no territorial seas of their own.

(b) Responsibilities and authorities of States or United States within territorial seas; applicability of State law to facilities located beyond territorial seas

(1) Except as may otherwise be provided by this chapter, nothing in this chapter shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

(2) The law of the nearest adjacent coastal State to which an ocean thermal energy conversion facility located beyond the territorial sea and licensed under this chapter is connected by electric transmission cable or pipeline, now in effect or hereafter adopted, amended, or repealed, is declared to be the law of the United States, and shall apply to such facility, to the extent applicable and not inconsistent with any provision or regulation under this chapter or other Federal laws and regulations now in effect or hereafter adopted, amended, or repealed: *Provided, however*, That the application of State taxation laws is not extended hereby outside the seaward boundary of any State. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States outside the seaward boundary of any State.

(c) Customs laws

(1) For the purposes of the customs laws administered by the Secretary of the Treasury,