

1981—Pub. L. 97-109 inserted provisions authorizing appropriations of not to exceed \$2,235,000 for fiscal year 1982, and not to exceed \$2,235,000 for fiscal year 1983.

1980—Pub. L. 96-332 inserted provisions authorizing appropriations of not to exceed \$2,250,000 for fiscal year 1981.

1977—Pub. L. 95-153 inserted provision authorizing appropriations not to exceed \$500,000 for fiscal year 1978.

1976—Pub. L. 94-326 inserted provision authorizing to be appropriated not to exceed \$500,000 for fiscal year 1977.

1975—Pub. L. 94-62 substituted provisions authorizing to be appropriated not to exceed \$10,000,000 for each of fiscal years 1973, 1974, and 1975, for provisions authorizing to be appropriated for fiscal year in which this Act was enacted and for next two fiscal years thereafter not to exceed \$10,000,000 for each such fiscal year, and inserted provisions authorizing to be appropriated not to exceed \$6,200,000 for fiscal year 1976, and not to exceed \$1,550,000 for the transition period (July 1, through Sept. 30, 1976).

EFFECTIVE DATE OF 2000 AMENDMENTS

Pub. L. 106-562, title III, §307(c), Dec. 23, 2000, 114 Stat. 2807, provided that: “Subsection (a) [amending this section] shall take effect January 1, 2001.”

Amendment by Pub. L. 106-555 effective immediately after the National Marine Sanctuaries Amendments Act of 2000, Pub. L. 106-513, takes effect, see section 205(c) of Pub. L. 106-555, set out as a note under section 1433 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1432, 1435 of this title.

§ 1435. Application of regulations; international negotiations and cooperation

(a) Regulations

This chapter and the regulations issued under section 1434 of this title shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. No regulation shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States, unless in accordance with—

- (1) generally recognized principles of international law;
- (2) an agreement between the United States and the foreign state of which the person is a citizen; or
- (3) an agreement between the United States and the flag state of a foreign vessel, if the person is a crewmember of the vessel.

(b) Negotiations

The Secretary of State, in consultation with the Secretary, shall take appropriate action to enter into negotiations with other governments to make necessary arrangements for the protection of any national marine sanctuary and to promote the purposes for which the sanctuary is established.

(c) International cooperation

The Secretary, in consultation with the Secretary of State and other appropriate Federal agencies, shall cooperate with other governments and international organizations in furtherance of the purposes and policies of this chapter and consistent with applicable regional

and multilateral arrangements for the protection and management of special marine areas.

(Pub. L. 92-532, title III, §305, as added Pub. L. 98-498, title I, §102, Oct. 19, 1984, 98 Stat. 2302; amended Pub. L. 102-587, title II, §2105, Nov. 4, 1992, 106 Stat. 5043.)

AMENDMENTS

1992—Pub. L. 102-587, §2105(b), substituted “; international negotiations and cooperation” for “and international negotiations” in section catchline.

Subsec. (a). Pub. L. 102-587, §2105(a)(1), substituted “This chapter and the regulations” for “The regulations” and inserted “or be enforced against” after “apply to”.

Subsec. (c). Pub. L. 102-587, §2105(a)(2), added subsec. (c).

INTERNATIONAL COOPERATION

For direction that the Secretary of State seek effective international action and cooperation through the development of appropriate international rules and regulations in support of the policy of this chapter and chapter 27 of Title 33, Navigation and Navigable Waters, see section 1419 of Title 33.

§ 1436. Prohibited activities

It is unlawful for any person to—

(1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;

(2) possess, sell, offer for sale, purchase, import, export, deliver, carry, transport, or ship by any means any sanctuary resource taken in violation of this section;

(3) interfere with the enforcement of this chapter by—

(A) refusing to permit any officer authorized to enforce this chapter to board a vessel, other than a vessel operated by the Department of Defense or United States Coast Guard, subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this chapter;

(B) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this chapter or any such authorized officer in the conduct of any search or inspection performed under this chapter; or

(C) knowingly and willfully submitting false information to the Secretary or any officer authorized to enforce this chapter in connection with any search or inspection conducted under this chapter; or

(4) violate any provision of this chapter or any regulation or permit issued pursuant to this chapter.

(Pub. L. 92-532, title III, §306, as added Pub. L. 98-498, title I, §102, Oct. 19, 1984, 98 Stat. 2302; amended Pub. L. 102-587, title II, §2106, Nov. 4, 1992, 106 Stat. 5043; Pub. L. 106-513, §7, Nov. 13, 2000, 114 Stat. 2386.)

AMENDMENTS

2000—Pub. L. 106-513, §7(1), inserted “for any person” after “unlawful” in introductory provision.

Par. (2). Pub. L. 106-513, §7(2), inserted “offer for sale, purchase, import, export,” after “sell,”.

Par. (3). Pub. L. 106-513, §7(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “interfere with the enforcement of this chapter; or”.

1992—Pub. L. 102-587 amended section generally. Prior to amendment, section read as follows: “The Secretary shall conduct research and educational programs as are necessary and reasonable to carry out the purposes and policies of this chapter.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1437 of this title.

§ 1437. Enforcement

(a) In general

The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this chapter.

(b) Powers of authorized officers

Any person who is authorized to enforce this chapter may—

(1) board, search, inspect, and seize any vessel suspected of being used to violate this chapter or any regulation or permit issued under this chapter and any equipment, stores, and cargo of such vessel;

(2) seize wherever found any sanctuary resource taken or retained in violation of this chapter or any regulation or permit issued under this chapter;

(3) seize any evidence of a violation of this chapter or of any regulation or permit issued under this chapter;

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

(5) exercise any other lawful authority; and

(6) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 1436(3) of this title.

(c) Criminal offenses

(1) Offenses

A person is guilty of an offense under this subsection if the person commits any act prohibited by section 1436(3) of this title.

(2) Punishment

Any person that is guilty of an offense under this subsection—

(A) except as provided in subparagraph (B), shall be fined under title 18, imprisoned for not more than 6 months, or both; or

(B) in the case of a person who in the commission of such an offense uses a dangerous weapon, engages in conduct that causes bodily injury to any person authorized to enforce this chapter or any person authorized to implement the provisions of this chapter, or places any such person in fear of imminent bodily injury, shall be fined under title 18, imprisoned for not more than 10 years, or both.

(d) Civil penalties

(1) Civil penalty

Any person subject to the jurisdiction of the United States who violates this chapter or any regulation or permit issued under this chapter shall be liable to the United States for a civil penalty of not more than \$100,000 for each such violation, to be assessed by the Secretary.

Each day of a continuing violation shall constitute a separate violation.

(2) Notice

No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

(3) In rem jurisdiction

A vessel used in violating this chapter or any regulation or permit issued under this chapter shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(4) Review of civil penalty

Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order.

(5) Collection of penalties

If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(6) Compromise or other action by Secretary

The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is or may be imposed under this section.

(e) Forfeiture

(1) In general

Any vessel (including the vessel's equipment, stores, and cargo) and other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this chapter or of any regulation or permit issued under this chapter shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection. The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 1443 of this title. None of those proceeds shall be subject to set-off.

(2) Application of the customs laws

The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this chapter.

(3) Disposal of sanctuary resources

Any sanctuary resource seized pursuant to this chapter may be disposed of pursuant to an