

SEC. 310. CIVIL FORFEITURES

16 U.S.C. 1860

97-453

(a) **IN GENERAL.**—Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 307 (other than any act for which the issuance of a citation under section 311(c) is sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish (or the fair market value thereof) shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) **JURISDICTION OF DISTRICT COURTS.**—Any district court of the United States which has jurisdiction under section 311(d) shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

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(c) **JUDGMENT.**—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d). The provisions of the customs laws relating to—

- (1) the seizure, forfeiture, and condemnation of property for violation of the customs law;
- (2) the disposition of such property or the proceeds from the sale thereof; and
- (3) the remission or mitigation of any such forfeiture; shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this Act, be performed by officers or other persons designated for such purpose by the Secretary.

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(d) **PROCEDURE.**—

- (1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 311(d) shall—

(A) stay the execution of such process; or

(B) discharge any fish seized pursuant to such process; upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person (i) delivering such property to the appropriate court upon order thereof, without any impairment of its value, or (ii) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court. Nothing in this paragraph may be construed to require the Secretary, except in the Secretary's discretion or pursuant to the order of a court under section 311(d), to release on bond any seized fish or other property or the proceeds from the sale thereof.

(2) Any fish seized pursuant to this Act may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

101-627, 104-297

(e) REBUTTABLE PRESUMPTION.—

(1) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 307 were taken and retained in violation of this Act.

(2) For purposes of this Act, it shall be a rebuttable presumption that any fish of a species which spawns in fresh or estuarine waters and migrates to ocean waters that is found on board a vessel is of United States origin if the vessel is within the migratory range of the species during that part of the year to which the migratory range applies.

(3) For purposes of this Act, it shall be a rebuttable presumption that any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has gear on board that is capable of use for large-scale driftnet fishing, is engaged in such fishing.

SEC. 311. ENFORCEMENT

16 U.S.C. 1861

96-470, 97-453

(a) RESPONSIBILITY.—The provisions of this Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries 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, including all elements of the Department of Defense, and of any State agency, in the performance of such duties.

97-453, 102-251, 109-479

(b) POWERS OF AUTHORIZED OFFICERS.—

(1) Any officer who is authorized (by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a)) to enforce the provisions of this Act may—