

Sunken Military Craft Act

This portion (Division A, Title XIV) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, is commonly known as the Sunken Military Craft Act. It became law on October 28, 2004 (Public Law 108-375, 10 U.S.C. 113 Note and 118 Stat. 2094-2098) This description of the Act tracks the language of the United States Code except that (following common usage) we refer to the "Act" rather than to the "subchapter" or the "title" of the code.

10 U.S.C. 113 Note, Preservation of title to sunken military craft and associated contents

Title XIV, Sunken Military Craft

Section 1401

Right, title, and interest of the United States in and to any United States sunken military craft—

(1) shall not be extinguished except by an express divestiture of title by the United States; and

(2) shall not be extinguished by the passage of time, regardless of when the sunken military craft sank.

Prohibitions

Section 1402

Unauthorized activities directed at sunken military craft

(a) No person shall engage in or attempt to engage in any activity directed at a sunken military craft that disturbs, removes, or injures any sunken military craft, except—

(1) as authorized by a permit under this Act;

(2) as authorized by regulations issued under this Act; or

(3) as otherwise authorized by law.

Possession of sunken military craft; possession, disturbance, removal, injury prohibited

(b) No person may possess, disturb, remove, or injure any sunken military craft in violation of—

(1) this section; or

(2) any prohibition, rule, regulation, ordinance, or permit that applies under any other applicable law.

Limitations

(c) Limitations on Application—

Actions by United States

(1) This section shall not apply to actions taken by, or at the direction of, the United States.

Foreign persons

(2) This section shall not apply to any action by a person who is not a citizen, national, or resident alien of the United States, except in accordance with—

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(A) generally recognized principles of international law;

(B) an agreement between the United States and the foreign country of which the person is a citizen; or

(C) in the case of an individual who is a crew member or other individual on a foreign vessel or foreign aircraft, an agreement between the United States and the flag State of the foreign vessel or aircraft that applies to the individual.

Loan of sunken military craft

(3) This section does not prohibit the loan of United States sunken military craft in accordance with regulations issued by the Secretary concerned.

Permits

Section 1403

Permit exceptions to Section 1402

(a) The Secretary concerned may issue a permit authorizing a person to engage in an activity otherwise prohibited by section 1402 with respect to a United States sunken military craft, for archaeological, historical, or educational purposes, in accordance with regulations issued by such Secretary that implement this section.

Consistency with other laws

(b) The Secretary concerned shall require that any activity carried out under a permit issued by such Secretary under this section must be consistent with all requirements and restrictions that apply under any other provision of Federal law.

Consultation

(c) In carrying out this section (including the issuance after the date of the enactment of this Act of regulations implementing this section), the Secretary concerned shall consult with the head of each Federal agency having authority under Federal law with respect to activities directed at sunken military craft or the locations of such craft.

Application to foreign craft

(d) At the request of any foreign State, the Secretary of the Navy, in consultation with the Secretary of State, may carry out this section (including regulations promulgated pursuant to this section) with respect to any foreign sunken military craft of that foreign State located in United States waters.

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Penalties

Section 1404

Civil penalty liability

(a) Any person who violates this Act, or any regulation or permit issued under this Act, shall be liable to the United States for a civil penalty under this section.

Assessment and amount

(b) The Secretary concerned may assess a civil penalty under this section, after notice and an opportunity for a hearing, of not more than \$100,000 for each violation.

Continuing violations

(c) Each day of a continued violation of this Act or a regulation or permit issued under this Act shall constitute a separate violation for purposes of this section.

In rem liability

(d) A vessel used to violate this title shall be liable in rem for a penalty under this section for such violation.

Other relief

(e) If the Secretary concerned determines that there is an imminent risk of disturbance of, removal of, or injury to any sunken military craft, or that there has been actual disturbance of, removal of, or injury to a sunken military craft, the Attorney General, upon request of the Secretary concerned, may seek such relief as may be necessary to abate such risk or actual disturbance, removal, or injury and to return or restore the sunken military craft. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

Limitations

(f) An action to enforce a violation of section 1402 or any regulation or permit issued under this title may not be brought more than 8 years after the date on which—

(1) all facts material to the right of action are known or should have been known by the Secretary concerned; and

(2) the defendant is subject to the jurisdiction of the appropriate district court of the United States or administrative forum.

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Liability for damages	Section 1405
Reimbursement of enforcement costs and damages	(a) Any person who engages in an activity in violation of section 1402 or any regulation or permit issued under this Act that disturbs, removes, or injures any United States sunken military craft shall pay the United States enforcement costs and damages resulting from such disturbance, removal, or injury.
Included damages	(b) Damages referred to in subsection (a) may include— (1) the reasonable costs incurred in storage, restoration, care, maintenance, conservation, and curation of any sunken military craft that is disturbed, removed, or injured in violation of section 1402 or any regulation or permit issued under this Act; and (2) the cost of retrieving, from the site where the sunken military craft was disturbed, removed, or injured, any information of an archaeological, historical, or cultural nature.
Relationship to other laws	Section 1406
Limitation of Act's application	(a) Except to the extent that an activity is undertaken as a subterfuge for activities prohibited by this Act, nothing in this Act is intended to affect— (1) any activity that is not directed at a sunken military craft; or (2) the traditional high seas freedoms of navigation, including— (A) the laying of submarine cables and pipelines; (B) operation of vessels; (C) fishing; or (D) other internationally lawful uses of the sea related to such freedoms.
International law	(b) This Act and any regulations implementing this Act shall be applied in accordance with generally recognized principles of international law and in accordance with the treaties, conventions, and other agreements to which the United States is a party.

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Law of finds

(c) The law of finds shall not apply to—

(1) any United States sunken military craft, wherever located; or

(2) any foreign sunken military craft located in United States waters.

Law of salvage

(d) No salvage rights or awards shall be granted with respect to—

(1) any United States sunken military craft without the express permission of the United States; or

(2) any foreign sunken military craft located in United States waters without the express permission of the relevant foreign state.

Law of capture or prize

(e) Nothing in this Act is intended to alter the international law of capture or prize with respect to sunken military craft.

Liability not limited by the Harter Act and related statutes

(f) Nothing in sections 4281 through 4287 and 4289 of the Revised Statutes (46 U.S.C. App. 181 et seq.) or section 3 of the Act of February 13, 1893 (chapter 105; 27 Stat. 445; 46 U.S.C. App. 192), shall limit the liability of any person under this section.

Authorities of the Commandant of the Coast Guard

(g) Nothing in this Act is intended to preclude or limit the application of any other law enforcement authorities of the Commandant of the Coast Guard.

Prior Delegations, Authorizations, and Relation Regulations

(h) Nothing in this Act shall invalidate any prior delegation, authorization, or related regulation that is consistent with this Act.

Criminal law

(i) Nothing in this Act is intended to prevent the United States from pursuing criminal sanctions for plundering of wrecks, larceny of Government property, or violation of any applicable criminal law.

Encouragement of agreements with foreign countries

Section 1407

The Secretary of State, in consultation with the Secretary of Defense, is encouraged to negotiate and conclude bilateral and multilateral agreements with foreign countries with regard to sunken military craft consistent with this Act.

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Definitions	Section 1408
	In this Act:
Associated contents	(1) The term “ associated contents ” means— (A) the equipment, cargo, and contents of a sunken military craft that are within its debris field; and (B) the remains and personal effects of the crew and passengers of a sunken military craft that are within its debris field.
Secretary concerned	(2) The term “ Secretary concerned ” means— (A) subject to subparagraph (B), the Secretary of a military department; and (B) in the case of a Coast Guard vessel, the Secretary of the Department in which the Coast Guard is operating.
Sunken military craft	(3) The term “ sunken military craft ” means all or any portion of— (A) any sunken warship, naval auxiliary, or other vessel that was owned or operated by a government on military noncommercial service when it sank; (B) any sunken military aircraft or military spacecraft that was owned or operated by a government when it sank; and (C) the associated contents of a craft referred to in subparagraph (A) or (B), if title thereto has not been abandoned or transferred by the government concerned.
United States contiguous zone	(4) The term “ United States contiguous zone ” means the contiguous zone of the United States under Presidential Proclamation 7219, dated September 2, 1999.
United States internal waters	(5) The term “ United States internal waters ” means all waters of the United States on the landward side of the baseline from which the breadth of the United States territorial sea is measured.
United States territorial sea	(6) The term “ United States territorial sea ” means the waters of the United States territorial sea under Presidential Proclamation 5928, dated December 27, 1988.

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United States waters (7) The term “United States waters” means United States internal waters, the United States territorial sea, and the United States contiguous zone.