

Act to the Code, see Short Title note set out under section 1901 of Title 33 and Tables.

AMENDMENTS

1996—Pub. L. 104-227 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsec. (a) “In General” which related to requirement that Director prescribe regulations to implement this chapter and subsec. (b) “Specific Regulations” which related to required content of regulations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2404, 2413 of this title.

§ 2406. Notification of travel to Antarctica

The Secretary of State shall prescribe such regulations as may be necessary and appropriate to implement, with respect to United States citizens, paragraph 5 of Article VII of the Treaty pertaining to the filing of advance notifications of expeditions to, and within, Antarctica. For purposes of this section, the term “United States citizen” shall include any foreign person who organizes within the United States any expedition which will proceed to Antarctica from the United States.

(Pub. L. 95-541, § 7, Oct. 28, 1978, 92 Stat. 2054.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2407 of this title.

§ 2407. Civil penalties

(a) Assessment of penalties

Any person who is found by the Director, after notice and opportunity for a hearing in accordance with subsection (b) of this section, to have committed any act prohibited by section 2403(a) of this title or to have violated any regulation prescribed under section 2406 of this title shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$5,000 for each violation unless the prohibited act was knowingly committed, in which case the amount of the civil penalty shall not exceed \$10,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of any civil penalty shall be assessed by the Director by written notice. Any civil penalty assessed under this subsection may be remitted or mitigated by the Director.

(b) Hearings

Hearings for the assessment of civil penalties under subsection (a) shall be conducted in accordance with section 554 of title 5. For the purposes of conducting any such hearing, the Director may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order

requiring such person to appear and give testimony before the Director or to appear and produce documents before the Director, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Review

Upon the failure of any person against whom a civil penalty is assessed under subsection (a) of this section to pay such penalty, the Director may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Director and shall sustain the decision of the Director if it is supported by substantial evidence on the record considered as a whole.

(d) Penalties under other laws

The assessment of a civil penalty under subsection (a) of this section for any act shall not be deemed to preclude the assessment of a civil penalty for such act under any other law, including, but not limited to, the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.], the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.], and the Migratory Bird Treaty Act [16 U.S.C. 703 et seq.].

(Pub. L. 95-541, § 8, Oct. 28, 1978, 92 Stat. 2054.)

REFERENCES IN TEXT

The Marine Mammal Protection Act of 1972, referred to in subsec. (d), is Pub. L. 92-522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

The Endangered Species Act of 1973, referred to in subsec. (d), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Migratory Bird Treaty Act, referred to in subsec. (d), is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

§ 2408. Criminal offenses

(a) Offenses

A person is guilty of an offense if he willfully commits any act prohibited by section 2403(a) of this title.

(b) Punishment

Any offense described in subsection (a) of this section is punishable by a fine of \$10,000, or imprisonment for not more than one year, or both.

(c) Offenses under other laws

A conviction under subsection (a) of this section for any act shall not be deemed to preclude a conviction for such act under any other law, including, but not limited to, the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.], the Endangered Species Act of 1973 [16

U.S.C. 1531 et seq.], and the Migratory Bird Treaty Act [16 U.S.C. 703 et seq.].

(Pub. L. 95-541, § 9, Oct. 28, 1978, 92 Stat. 2054.)

REFERENCES IN TEXT

The Marine Mammal Protection Act of 1972, referred to in subsec. (c), is Pub. L. 92-522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

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The Migratory Bird Treaty Act, referred to in subsec. (c), is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

§ 2409. Enforcement

(a) Responsibility

The provisions of this chapter and of any regulation prescribed, or permit issued, under this chapter shall be enforced by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of¹ Interior, and the Secretary of the department in which the Coast Guard is operating. The Director and such Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities of any other Federal agency or any State agency in the performance of such duties.

(b) Powers of authorized officers

Any officer who is authorized (by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, 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 the Director or any such Secretary under subsection (a) of this section) to enforce the provisions of this chapter and of any regulation or permit issued under this chapter may—

(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, or conveyance where there is reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 2403(a) of this title;

(3) seize without warrant any evidentiary item where there is reasonable grounds to believe that a person has committed or is attempting to commit any such act;

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

(5) 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;

(6) 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; and

(7) make an arrest with or without a warrant with respect to any act prohibited by section 2403(a) of this title if such officer has reasonable grounds to believe that the person to be arrested is committing such act in his presence or view, or has committed such act.

(c) Seizure

Any property or item seized pursuant to subsection (b) of this section shall be held by any person authorized by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating pending the disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such property or item; except that such authorized person 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 animal or plant with respect to which an act prohibited by section 2403(a) of this title is committed shall be subject to forfeiture to the United States.

(2) All guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used in the commission of any act prohibited by section 2403(a) of this title shall be subject to forfeiture to the United States.

(3) Upon the forfeiture to the United States of any property or item described in paragraph (1) or (2), or upon the abandonment or waiver of any claim to any such property or item, it shall be disposed of by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, 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 the chapter, as may be prescribed by regulation; except that no native mammal, native bird, or native plant may be disposed of by sale to the public.

(e) Application of customs laws

All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel 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, under the provision 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 Director, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating, or by such persons as each may designate.

¹ So in original. Probably should be "of the".