

Indian tribe owning or having jurisdiction over such lands.

**(e) Effect of permit**

No action specifically authorized by a permit under this section shall be treated as a violation of section 4306 of this title.

(Pub. L. 100-691, §6, Nov. 18, 1988, 102 Stat. 4548.)

**§ 4306. Prohibited acts and criminal penalties**

**(a) Prohibited acts**

(1) Any person who, without prior authorization from the Secretary knowingly destroys, disturbs, defaces, mars, alters, removes or harms any significant cave or alters the free movement of any animal or plant life into or out of any significant cave located on Federal lands, or enters a significant cave with the intention of committing any act described in this paragraph shall be punished in accordance with subsection (b) of this section.

(2) Any person who possesses, consumes, sells, barter or exchanges, or offers for sale, barter or exchange, any cave resource from a significant cave with knowledge or reason to know that such resource was removed from a significant cave located on Federal lands shall be punished in accordance with subsection (b) of this section.

(3) Any person who counsels, procures, solicits, or employs any other person to violate any provisions of this subsection shall be punished in accordance with section<sup>1</sup> (b) of this section.

(4) Nothing in this section shall be deemed applicable to any person who was in lawful possession of a cave resource from a significant cave prior to November 18, 1988.

**(b) Punishment**

The punishment for violating any provision of subsection (a) of this section shall be imprisonment of not more than one year or a fine in accordance with the applicable provisions of title 18, or both. In the case of a second or subsequent violation, the punishment shall be imprisonment of not more than 3 years or a fine in accordance with the applicable provisions of title 18, or both.

(Pub. L. 100-691, §7, Nov. 18, 1988, 102 Stat. 4549.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4305, 4308 of this title.

**§ 4307. Civil penalties**

**(a) Assessment**

(1) The Secretary may issue an order assessing a civil penalty against any person who violates any prohibition contained in this chapter, any regulation promulgated pursuant to this chapter, or any permit issued under this chapter. Before issuing such an order, the Secretary shall provide such person written notice and the opportunity to request a hearing on the record within 30 days. Each violation shall be a separate offense, even if such violations occurred at the same time.

(2) The amount of such civil penalty shall be determined by the Secretary taking into ac-

<sup>1</sup> So in original. Probably should be "subsection".

count appropriate factors, including (A) the seriousness of the violation; (B) the economic benefit (if any) resulting from the violation; (C) any history of such violations; and (D) such other matters as the Secretary deems appropriate. The maximum fine permissible under this section is \$10,000.

**(b) Judicial review**

Any person aggrieved by an assessment of a civil penalty under this section may file a petition for judicial review of such assessment with the United States District Court for the District of Columbia or for the district in which the violation occurred. Such a petition shall be filed within the 30-day period beginning on the date the order assessing the civil penalty was issued.

**(c) Collection**

If any person fails to pay an assessment of a civil penalty—

(1) within 30 days after the order was issued under subsection (a) of this section, or

(2) if the order is appealed within such 30-day period, within 10 days after court has entered a final judgment in favor of the Secretary under subsection (b) of this section,

the Secretary shall notify the Attorney General and the Attorney General shall bring a civil action in an appropriate United States district court to recover the amount of penalty assessed (plus costs, attorney's fees, and interest at currently prevailing rates from the date the order was issued or the date of such final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

**(d) Subpoenas**

The Secretary may issue subpoenas in connection with proceedings under this subsection compelling the attendance and testimony of witnesses and subpoenas duces tecum, and may request the Attorney General to bring an action to enforce any subpoena under this section. The district courts shall have jurisdiction to enforce such subpoenas and impose sanctions.

(Pub. L. 100-691, §8, Nov. 18, 1988, 102 Stat. 4550.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4305 of this title.

**§ 4308. Miscellaneous provisions**

**(a) Authorization of appropriations**

There are authorized to be appropriated \$100,000 to carry out the purposes of this chapter.

**(b) Effect on land management plans**

Nothing in this chapter shall require the amendment or revision of any land management plan the preparation of which began prior to November 18, 1988.

**(c) Fund**

Any money collected by the United States as permit fees for collection and removal of cave resources; received by the United States as a result of the forfeiture of a bond or other security by a permittee who does not comply with the requirements of such permit issued under section