

**(D) Factors for determination of penalty amounts**

In determining the amount of any civil penalty, the administrative law judge shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

**(3) Administrative appellate review**

The decision and order of an administrative law judge shall become the final agency decision and order of the head of the United States National Authority unless, within 30 days, the head of the United States National Authority modifies or vacates the decision and order, with or without conditions, in which case the decision and order of the head of the United States National Authority shall become a final order under this subsection.

**(4) Offsets**

The amount of the civil penalty under a final order of the United States National Authority may be deducted from any sums owed by the United States to the person.

**(5) Judicial review**

A person adversely affected by a final order respecting an assessment may, within 30 days after the date the final order is issued, file a petition in the Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business.

**(6) Enforcement of orders**

If a person fails to comply with a final order issued under this subsection against the person or entity—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (5), or

(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the United States National Authority,

the Secretary of State shall file a suit to seek compliance with the order in any appropriate district court of the United States, plus interest at currently prevailing rates calculated from the date of expiration of the 30-day period referred to in paragraph (5) or the date of such final judgment, as the case may be. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

**(b) Criminal**

Any person who knowingly violates any provision of section 6726 or 6745 of this title, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) of this section for such violation, be fined under title 18, imprisoned for not more than one year, or both.

(Pub. L. 105-277, div. I, title V, § 501, Oct. 21, 1998, 112 Stat. 2681-883.)

## DELEGATION OF FUNCTIONS

For authority of Secretary of Commerce to carry out certain functions with respect to proceedings under subsec. (a), and to issue regulations with respect thereto, see section 4 of Ex. Ord. No. 13128, June 25, 1999, 64 F.R. 34703, set out as a note under section 6711 of this title.

**§ 6762. Specific enforcement****(a) Jurisdiction**

The district courts of the United States shall have jurisdiction over civil actions to—

(1) restrain any violation of section 6726 or 6745 of this title; and

(2) compel the taking of any action required by or under this chapter or the Convention.

**(b) Civil actions****(1) In general**

A civil action described in subsection (a) of this section may be brought—

(A) in the case of a civil action described in subsection (a)(1) of this section, in the United States district court for the judicial district in which any act, omission, or transaction constituting a violation of section 6726 or 6745 of this title occurred or in which the defendant is found or transacts business; or

(B) in the case of a civil action described in subsection (a)(2) of this section, in the United States district court for the judicial district in which the defendant is found or transacts business.

**(2) Service of process**

In any such civil action process may be served on a defendant wherever the defendant may reside or may be found, whether the defendant resides or may be found within the United States or elsewhere.

(Pub. L. 105-277, div. I, title V, § 502, Oct. 21, 1998, 112 Stat. 2681-885.)

## REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original “this Act” and was translated as reading “this division”, meaning div. I of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

**§ 6763. Expedited judicial review****(a) Civil action**

Any person or entity subject to a search under this chapter may file a civil action challenging the constitutionality of any provision of this chapter. Notwithstanding any other provision of law, during the full calendar year of, and the two full calendar years following October 21, 1998, the district court shall accord such a case a priority in its disposition ahead of all other civil actions except for actions challenging the legality and conditions of confinement.

**(b) En banc review**

Notwithstanding any other provision of law, during the full calendar year of, and the two full