

AMENDMENTS

2003—Subsec. (c)(5)(D). Pub. L. 108-108, which directed the substitution of “February 18, 1997” for “April 30, 1994” in “Section 104 (16 U.S.C. 1374)” without indicating the act to be amended, was executed by amending this section, which is section 104 of the Marine Mammal Protection Act of 1972, to reflect the probable intent of Congress.

1999—Subsec. (c)(5)(B). Pub. L. 106-31 made technical correction to directory language of Pub. L. 105-277. See 1998 Amendment note below.

1998—Subsec. (c)(5)(B). Pub. L. 105-277, as amended by Pub. L. 106-31, inserted “until expended” after “Secretary” in second sentence.

1997—Subsec. (c)(5)(A). Pub. L. 105-18, § 5004(1), struck out “, including polar bears taken but not imported prior to April 30, 1994,” after “sport hunts in Canada”.

Subsec. (c)(5)(D). Pub. L. 105-18, § 5004(2), added subpar. (D).

Subsec. (h). Pub. L. 105-42 amended subsec. (h) generally. Prior to amendment, subsec. (h) related to general permits, extension of general permit to American Tunaboat Association, and monitoring of incidental taking of marine mammals.

1994—Subsec. (a). Pub. L. 103-238, § 5(b)(1), inserted at end “Permits for the incidental taking of marine mammals in the course of commercial fishing operations may only be issued as specifically provided for in sections 1371(a)(5) or 1416 of this title, or subsection (h) of this section.”

Subsec. (c)(1). Pub. L. 103-238, § 5(b)(2)(A), struck out “and after” after “must be observed pursuant to”.

Subsec. (c)(2). Pub. L. 103-238, § 5(b)(2)(B), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “A permit may be issued for public display purposes only to an applicant which offers a program for education or conservation purposes that, based on professionally recognized standards of the public display community, is acceptable to the Secretary and which submits with the permit application information indicating that the applicant’s facilities are open to the public on a regularly scheduled basis and that access to the facilities is not limited or restricted other than by the charging of an admission fee.”

Subsec. (c)(3). Pub. L. 103-238, § 5(b)(2)(C), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “A permit may be issued for scientific research purposes only to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose and does not involve unnecessary duplication of research. No permit issued for purposes of scientific research shall authorize the killing of a marine mammal unless the applicant demonstrates that a nonlethal method for carrying out the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock designated as depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.”

Subsec. (c)(5) to (10). Pub. L. 103-238, § 5(b)(2)(D), added pars. (5) to (10).

Subsec. (e)(1)(C). Pub. L. 103-238, § 5(b)(3), added subpar. (C).

1988—Subsec. (c). Pub. L. 100-711, § 5(d), designated existing provisions as par. (1) and substituted “scientific research, public display, or enhancing the survival or recovery of a species or stock” for “display or scientific research” in two places, and added pars. (2) to (4).

Subsec. (h)(2)(B). Pub. L. 100-711, § 4(d), added cls. (iv) to (ix).

1984—Subsec. (h). Pub. L. 98-364 designated existing provisions as par. (1), and added pars. (2) and (3).

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105-42, see section 8 of Pub. L. 105-42, set out as a note under section 1362 of this title.

MODIFICATION OF PERMITS EXISTING PRIOR TO
APRIL 30, 1994

Pub. L. 103-238, § 5(c), Apr. 30, 1994, 108 Stat. 541, provided that: “Any permit issued under section 104(c)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(2)) before the date of the enactment of this Act [Apr. 30, 1994] is hereby modified to be consistent with that section as amended by this Act.”

§ 1375. Penalties

(a)(1) Any person who violates any provision of this subchapter or of any permit or regulation issued thereunder, except as provided in section 1387 of this title, may be assessed a civil penalty by the Secretary of not more than \$10,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each unlawful taking or importation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Secretary for good cause shown. Upon any failure to pay a penalty assessed under this subsection, the Secretary 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.

(2) In any case involving an alleged unlawful importation of a marine mammal or marine mammal product, if such importation is made by an individual for his own personal or family use (which does not include importation as an accommodation to others or for sale or other commercial use), the Secretary may, in lieu of instituting a proceeding under paragraph (1), allow the individual to abandon the mammal or product, under procedures to be prescribed by the Secretary, to the enforcement officer at the port of entry.

(b) Any person who knowingly violates any provision of this subchapter or of any permit or regulation issued thereunder (except as provided in section 1387 of this title) shall, upon conviction, be fined not more than \$20,000 for each such violation, or imprisoned for not more than one year, or both.

(Pub. L. 92-522, title I, § 105, Oct. 21, 1972, 86 Stat. 1036; Pub. L. 97-58, § 3(b), Oct. 9, 1981, 95 Stat. 982; Pub. L. 103-238, § 13(a), (b), Apr. 30, 1994, 108 Stat. 558.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-238, § 13(a), inserted “, except as provided in section 1387 of this title,” after “thereunder”.

Subsec. (b). Pub. L. 103-238, § 13(b), inserted “(except as provided in section 1387 of this title)” after “thereunder”.

1981—Subsec. (a). Pub. L. 97-58 designated existing provisions as par. (1) and added par. (2).

§ 1375a. Use of fines for protection and recovery
of manatees, polar bears, sea otters, and wal-
rus

On and after November 29, 1999, all fines collected by the United States Fish and Wildlife Service for violations of the Marine Mammal Protection Act (16 U.S.C. 1362-1407) and implementing regulations shall be available to the

Secretary, without further appropriation, to be used for the expenses of the United States Fish and Wildlife Service in administering activities for the protection and recovery of manatees, polar bears, sea otters, and walruses, and shall remain available until expended.

(Pub. L. 106-113, div. B, § 1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A-139.)

REFERENCES IN TEXT

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

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 2000, and not as part of the Marine Mammal Protection Act of 1972 which comprises this chapter.

§ 1376. Seizure and forfeiture of cargo

(a) Application of consistent provisions

Any vessel or other conveyance subject to the jurisdiction of the United States that is employed in any manner in the unlawful taking of any marine mammal shall have its entire cargo or the monetary value thereof subject to seizure and forfeiture. All provisions of law relating to the seizure, judicial forfeiture, and condemnation of cargo for violation of the customs laws, the disposition of such cargo, and the proceeds from the sale thereof, and the remission or mitigation of any such forfeiture, shall apply with respect to the cargo of any vessel or other conveyance seized in connection with the unlawful taking of a marine mammal insofar as such provisions of law are applicable and not inconsistent with the provisions of this subchapter.

(b) Penalties

Any vessel subject to the jurisdiction of the United States that is employed in any manner in the unlawful taking of any marine mammal shall be liable for a civil penalty of not more than \$25,000. Such penalty shall be assessed by the district court of the United States having jurisdiction over the vessel. Clearance of a vessel against which a penalty has been assessed, from a port of the United States, may be withheld until such penalty is paid, or until a bond or otherwise satisfactory surety is posted. Such penalty shall constitute a maritime lien on such vessel which may be recovered by action in rem in the district court of the United States having jurisdiction over the vessel.

(c) Reward for information leading to conviction

Upon the recommendation of the Secretary, the Secretary of the Treasury is authorized to pay an amount equal to one-half of the fine incurred but not to exceed \$2,500 to any person who furnishes information which leads to a conviction for a violation of this subchapter. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

(Pub. L. 92-522, title I, § 106, Oct. 21, 1972, 86 Stat. 1036.)

§ 1377. Enforcement

(a) Utilization of personnel

Except as otherwise provided in this subchapter, the Secretary shall enforce the provisions of this subchapter. The Secretary may utilize, by agreement, the personnel, services, and facilities of any other Federal agency for purposes of enforcing this subchapter.

(b) State officers and employees

The Secretary may also designate officers and employees of any State or of any possession of the United States to enforce the provisions of this subchapter. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes, but they shall not be held and considered as employees of the United States for the purposes of any laws administered by the Director of the Office of Personnel Management.

(c) Warrants and other process for enforcement

The judges of the district courts of the United States and the United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process, including warrants or other process issued in admiralty proceedings in United States district courts, as may be required for enforcement of this subchapter and any regulations issued thereunder.

(d) Execution of process; arrest; search; seizure

Any person authorized by the Secretary to enforce this subchapter may execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this subchapter. Such a person so authorized may, in addition to any other authority conferred by law—

(1) with or without warrant or other process, arrest any person committing in his presence or view a violation of this subchapter or the regulations issued thereunder;

(2) with a warrant or other process, or without a warrant if he has reasonable cause to believe that a vessel, other conveyance, or container subject to the jurisdiction of the United States or any person on board is in violation of any provision of this subchapter or the regulations issued thereunder, search such vessel or conveyance and arrest such person;

(3) seize the cargo of any vessel or other conveyance subject to the jurisdiction of the United States used or employed contrary to the provisions of this subchapter or the regulations issued hereunder or which reasonably appears to have been so used or employed; and

(4) seize, whenever and wherever found, all marine mammals and marine mammals products taken or retained in violation of this subchapter or the regulations issued thereunder and shall dispose of them, in accordance with regulations prescribed by the Secretary.

(e) Disposition of seized cargo

(1) Whenever any cargo or marine mammal or marine mammal product is seized pursuant to