

(A) in order to make the permit consistent with any change made after the date of issuance of the permit, to any regulation prescribed under section 2405 of this title;

(B) if there is any change in conditions which makes the permit inconsistent with the purpose of this chapter; or

(C) in any case in which there has been any violation of any term or condition of the permit, any regulation prescribed under this chapter, or any provision of this chapter.

(2) Whenever the Director proposes any modification, suspension, or revocation of a permit under this subsection, the permittee shall be afforded opportunity, after due notice, for a hearing by the Director with respect to such proposed modification, suspension, or revocation. If a hearing is requested, the action proposed by the Director shall not take effect before a decision is issued by him after the hearing, unless the proposed action is taken by the Director to meet an emergency situation. Any action taken by the Director after such a hearing is subject to judicial review on the same basis as is provided for with respect to permit applications under subsection (e).

(3) Notice of the modification, suspension, or revocation of any permit by the Director shall be published in the Federal Register within 10 days from the date of the Director's decision.

(g) Permit fees

The Director may establish and charge fees for processing applications for permits under this section. The amount of such fees shall be commensurate with the administrative costs incurred by the Director in undertaking such processing.

(Pub. L. 95-541, §5, Oct. 28, 1978, 92 Stat. 2050; Pub. L. 104-227, title I, §105, Oct. 2, 1996, 110 Stat. 3040.)

REFERENCES IN TEXT

Section 1362(5) of this title, referred to in subsec. (c)(1)(A), was redesignated section 1362(6) by Pub. L. 102-582, title IV, §401(a), Nov. 2, 1992, 106 Stat. 4909.

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), referred to in subsec. (c)(1)(B), 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 (16 U.S.C. 701 et seq.), referred to in subsec. (c)(1)(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.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-227, §105(1), substituted “section 2403(b)” for “section 2403(a)”.

Subsec. (c)(1)(B). Pub. L. 104-227, §105(2), substituted “Species” for “Special”.

Subsec. (e)(1)(A). Pub. L. 104-227, §105(3)(A), (B), in subsec. (e) relating to terms and conditions of permits substituted “native plants, or native invertebrates to which the permit applies, and” for “or native plants to which the permit applies,” in cl. (i), added cl. (ii), and struck out former cls. (ii) and (iii) which read as follows:

“(ii) if any such mammal or bird is authorized to be taken, transported, carried, or shipped, the manner

(which manner must be determined by the Director to be humane) in which such action must be accomplished and the area in which such taking must occur, and
“(iii) if any such plant is authorized to be collected, the location and manner in which it must be collected;”.

Subsec. (e)(2)(A). Pub. L. 104-227, §105(3)(C)–(G), in subsec. (e) relating to terms and conditions of permits substituted “or harmful interference within Antarctica” for “within Antarctica (other than within any specially protected area)” and “Specially Protected Species” for “specially protected species” in introductory provisions, substituted “, or” for “; and” in cl. (i)(II), added subcl. (III) in cl. (i), and substituted “within Antarctica are” for “with Antarctica and” in cl. (ii)(II).

Subsec. (e)(2)(B). Pub. L. 104-227, §105(3)(D), in subsec. (e) relating to terms and conditions of permits substituted “Specially Protected Species” for “specially protected species” in introductory provisions.

Subsec. (e)(2)(C), (D). Pub. L. 104-227, §105(3)(H), in subsec. (e) relating to terms and conditions of permits added subpar. (C) and struck out former subpars. (C) and (D) which read as follows:

“(C) Permits authorizing the entry into any specially protected area—

“(i) may be issued only if—

“(I) there is a compelling scientific purpose for such entry which cannot be served elsewhere, and

“(II) the actions allowed under any such permit will not jeopardize the natural ecological system existing in such area; and

“(ii) shall not allow the operation of any surface vehicle within such area.

“(D) Permits authorizing the entry into any site of special scientific interest shall be consistent with the management plan prescribed under section 2405(b)(3) of this title for such site.”

§ 2405. Regulations

(a) Regulations to be issued by Director

(1) The Director shall issue such regulations as are necessary and appropriate to implement Annex II and Annex V to the Protocol and the provisions of this chapter which implement those annexes, including section 2403(b)(2), (3), (4), and (5) of this title. The Director shall designate as native species—

(A) each species of the class Aves;

(B) each species of the class Mammalia; and

(C) each species of plant,

which is indigenous to Antarctica or which occurs there seasonally through natural migrations.

(2) The Director, with the concurrence of the Administrator, shall issue such regulations as are necessary and appropriate to implement Annex III to the Protocol and the provisions of this chapter which implement that Annex, including section 2403(a)(1), (2), (3), and (4) of this title, and section 2403(b)(1) of this title.

(3) The Director shall issue such regulations as are necessary and appropriate to implement Article 15 of the Protocol with respect to land areas and ice shelves in Antarctica.

(4) The Director shall issue such additional regulations as are necessary and appropriate to implement the Protocol and this chapter, except as provided in subsection (b).

(b) Regulations to be issued by Secretary of Department in which Coast Guard is operating

The Secretary of the Department in which the Coast Guard is operating shall issue such regula-

tions as are necessary and appropriate, in addition to regulations issued under the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), to implement Annex IV to the Protocol and the provisions of this chapter which implement that Annex, and, with the concurrence of the Director, such regulations as are necessary and appropriate to implement Article 15 of the Protocol with respect to vessels.

(c) Time period for regulations

The regulations to be issued under subsection (a)(1) and (2) of this section shall be issued within 2 years after October 2, 1996. The regulations to be issued under subsection (a)(3) of this section shall be issued within 3 years after October 2, 1996.

(Pub. L. 95-541, §6, Oct. 28, 1978, 92 Stat. 2053; Pub. L. 104-227, title I, §106, Oct. 2, 1996, 110 Stat. 3041.)

REFERENCES IN TEXT

The Act to Prevent Pollution from Ships, referred to in subsec. (b), is Pub. L. 96-478, Oct. 21, 1980, 94 Stat. 2297, as amended, which is classified principally to chapter 33 (§1901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this 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.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 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.)

§ 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), 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) 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) 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,