

tion of the United States must submit to the Secretary of the department in which the Coast Guard is operating information as required under the Agreement in advance of its arrival in port. The Secretary of the department in which the Coast Guard is operating shall provide that information to the Secretary.

(2) Covered vessels

A vessel referred to in paragraph (1) is any vessel that—

(A) is not documented under chapter 121 of title 46; and

(B) is not numbered under chapter 123 of that title.

(b) Decision to authorize or deny port entry

(1) Decision

The Secretary shall decide, based on the information submitted under subsection (a), whether to authorize or deny port entry by the vessel, and shall communicate such decision to—

(A) the Secretary of the department in which the Coast Guard is operating; and

(B) the vessel or its representative.

(2) Authorization or denial of entry

The Secretary of the department in which the Coast Guard is operating shall authorize or deny entry to vessels to which such a decision applies.

(3) Vessels to which entry may be denied

The Secretary of the department in which the Coast Guard is operating may deny entry to any vessel to which such a decision applies—

(A) that is described in subsection (a)(2); and

(B) that—

(i) is a listed IUU vessel; or

(ii) the Secretary of Commerce has reasonable grounds to believe—

(I) has engaged in IUU fishing or fishing-related activities in support of such fishing; or

(II) has violated this chapter.

(c) Denial of use of port

If a vessel described in subsection (a)(2) is in a port that is subject to the jurisdiction of the United States, the Secretary of the department in which the Coast Guard is operating, at the request of the Secretary, shall deny such vessel the use of the port for landing, transshipment, packaging and processing of fish, refueling, resupplying, maintenance, and drydocking, if—

(1) the vessel entered without authorization under subsection (b);

(2) the vessel is a listed IUU vessel;

(3) the vessel is not documented under the laws of another nation;

(4) the flag nation of the vessel has failed to provide confirmation requested by the Secretary that the fish on board were taken in accordance with applicable RFMO conservation and management measures; or

(5) the Secretary has reasonable grounds to believe—

(A) the vessel lacks valid authorizations to engage in fishing or fishing-related activi-

ties as required by its flag nation or the relevant coastal nation;

(B) the fish on board were taken in violation of foreign law or in contravention of any RFMO conservation and management measure; or

(C) the vessel has engaged in IUU fishing or fishing-related activities in support of such fishing, including in support of a listed IUU vessel, unless it can establish that—

(i) it was acting in a manner consistent with applicable RFMO conservation and management measures; or

(ii) in the case of the provision of personnel, fuel, gear, and other supplies at sea, the vessel provisioned was not, at the time of provisioning, a listed IUU vessel.

(d) Exceptions

Notwithstanding subsections (b) and (c), the Secretary of the department in which the Coast Guard is operating may allow port entry or the use of port services—

(1) if they are essential to the safety or health of the crew or safety of the vessel;

(2) to allow, where appropriate, for the scrapping of the vessel; or

(3) pursuant to an inspection or other enforcement action.

(Pub. L. 114-81, title III, §305, Nov. 5, 2015, 129 Stat. 666.)

§ 7405. Inspections

The Secretary, and the Secretary of the department in which the Coast Guard is operating, shall conduct foreign vessel inspections in ports subject to the jurisdiction of the United States as necessary to achieve the purposes of the Agreement and this chapter. If, following an inspection, the Secretary has reasonable grounds to believe that a foreign vessel has engaged in IUU fishing or fishing-related activities in support of such fishing, the Secretary may take enforcement action under this chapter or other applicable law, and shall deny the vessel the use of port services, in accordance with section 7404 of this title.

(Pub. L. 114-81, title III, §306, Nov. 5, 2015, 129 Stat. 667.)

§ 7406. Prohibited acts

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to violate any provision of this chapter or the regulations issued under this chapter;

(2) to refuse to permit any authorized officer to board, search, or inspect a vessel that is subject to the person's control in connection with the enforcement of this chapter or the regulations issued under this chapter;

(3) to submit false information pursuant to any requirement under this chapter or the regulations issued under this chapter; or

(4) to commit any offense enumerated in paragraph (4), (5), (7), or (9) of section 707(a)¹ of the Western and Central Pacific Fisheries

¹ See References in Text note below.

Convention Implementation Act (16 U.S.C. 6906(a)).

(Pub. L. 114-81, title III, §307, Nov. 5, 2015, 129 Stat. 667.)

REFERENCES IN TEXT

Section 707(a) of the Western and Central Pacific Fisheries Convention Implementation Act, referred to in par. (4), probably means section 507(a) of title V of Pub. L. 109-479, which is classified to section 6906(a) of this title.

§ 7407. Enforcement

(a) Existing authorities and responsibilities

(1) Authorities and responsibilities

The authorities and responsibilities under subsections (a), (b), and (c) of section 1861 of this title and subsection (f) of section 1858 of this title and paragraphs (2), (3), and (7) of section 2439(b) of this title shall apply with respect to enforcement of this chapter.

(2) Included vessels

For purposes of enforcing this chapter, any reference in such paragraphs and subsections to a “vessel” or “fishing vessel” includes all vessels as defined in section 7402(8) of this title.

(3) Application of other provisions

Such paragraphs and subsections apply to violations of this chapter and any regulations promulgated under this chapter.

(b) Civil enforcement

(1) Civil administrative penalties

(A) In general

Any person who is found by the Secretary (after notice and opportunity for a hearing in accordance with section 554 of title 5) to have committed an act prohibited under section 7406 of this title shall be liable to the United States for a civil penalty. The amount of the civil penalty shall be consistent with the amount under section 1858(a) of this title.

(B) Compromise or other action by secretary

The Secretary shall have the same authority as provided in section 1858(e) of this title with respect to a violation of this chapter.¹

(2) In rem jurisdiction

For purposes of this chapter, the conditions for in rem liability shall be consistent with section 1858(d) of this title.

(3) Action upon failure to pay assessment

If any person fails to pay an assessment of a civil penalty under this chapter after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

¹ See References in Text note below.

(c) Forfeiture

(1) In general

Any foreign vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) imported or possessed in connection with or as² result of the commission of any act prohibited by section 7406 of this title shall be subject to forfeiture under section 1860 of this title.

(2) Application of the customs laws

All provisions of law relating to seizure, summary judgment, and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as applicable and not inconsistent with the provisions hereof. For seizures and forfeitures of property under this section by the Secretary, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by such officers as are designated by the Secretary or, upon request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

(3) Presumption

For the purposes of this section there is a rebuttable presumption that all fish, or components thereof, found on board a vessel that is used or seized in connection with a violation of this chapter (including any regulation promulgated under this chapter¹) were taken, obtained, or retained as a result of IUU fishing or fishing-related activities in support of IUU fishing.

(d) Criminal enforcement

Any person (other than a foreign government agency, or entity wholly owned by a foreign government) who knowingly commits an act prohibited by section 7406 of this title shall be subject to subsections (b) and (c) of section 1859 of this title.

(e) Payment of storage, care, and other costs

Any person assessed a civil penalty for, or convicted of, any violation of this chapter (including any regulation promulgated under this chapter) and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any property seized in connection with the violation.

(Pub. L. 114-81, title III, §308, Nov. 5, 2015, 129 Stat. 668.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1)(B) and the second place appearing in subsec. (c)(3), was in the original “this Act” and was translated as meaning “this title” to reflect the probable intent of Congress.

² So in original. The word “a” probably should appear.