

§ 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 regulations 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 subsection (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 subsection (d), 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, referred to in subsection (d), 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.

§ 2408. Criminal offenses**(a) Offenses**

A person is guilty of an offense if he willfully commits any act prohibited by section 2403(a) of this title.

(b) Punishment

Any offense described in subsection (a) is punishable by a fine of \$10,000, or imprisonment for not more than one year, or both.

(c) Offenses under other laws

A conviction under subsection (a) for any act shall not be deemed to preclude a conviction 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, § 9, Oct. 28, 1978, 92 Stat. 2054.)

REFERENCES IN TEXT

The Marine Mammal Protection Act of 1972, referred to in subsection (c), 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. (c), 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, referred to in subsec. (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.

§ 2409. Enforcement**(a) Responsibility**

The provisions of this chapter and of any regulation prescribed, or permit issued, under this chapter shall be enforced by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of¹ Interior, and the Secretary of the department in which the Coast Guard is operating. The Director and such Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities of any other Federal agency or any State agency in the performance of such duties.

(b) Powers of authorized officers

Any officer who is authorized (by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with the Director or any such Secretary under subsection (a)) to enforce the provisions of this chapter and of any regulation or permit issued under this chapter may—

(1) secure, execute, and serve any order, warrant, subpoena, or other process, which is issued under the authority of the United States;

(2) search without warrant any person, place, or conveyance where there is reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 2403(a) of this title;

(3) seize without warrant any evidentiary item where there is reasonable grounds to believe that a person has committed or is attempting to commit any such act;

(4) offer and pay rewards for services or information which may lead to the apprehension of violators of such provisions;

(5) make inquiries, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter which is related to the enforcement of such provisions;

(6) detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation into, or exportation from, the United States; and

(7) make an arrest with or without a warrant with respect to any act prohibited by section 2403(a) of this title if such officer has reason-

¹ So in original. Probably should be "of the".