

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.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92-522, set out as a note under section 1361 of this title.

§ 1377. Enforcement

(a) Utilization of personnel

Except as otherwise provided in this subchapter, the Secretary shall enforce the provi-

sions 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 this section, the Secretary shall expedite any proceedings commenced under section 1375(a) or (b) of this title. All marine mammal or marine mammal products or other cargo so seized shall be held by any person authorized by the Secretary pending disposition of such proceedings. The owner or consignee of any such marine

mammal or marine mammal product or other cargo so seized shall, as soon as practicable following such seizure, be notified of that fact in accordance with regulations established by the Secretary.

(2) The Secretary may, with respect to any proceeding under section 1375(a) or (b) of this title, in lieu of holding any marine mammal or marine mammal product or other cargo, permit the person concerned to post bond or other surety satisfactory to the Secretary pending the disposition of such proceeding.

(3)(A) Upon the assessment of a penalty pursuant to section 1375(a) of this title, all marine mammals and marine mammal products or other cargo seized in connection therewith may be proceeded against in any court of competent jurisdiction and forfeited to the Secretary for disposition by him in such manner as he deems appropriate.

(B) Upon conviction for violation of section 1375(b) of this title, all marine mammals and marine mammal products seized in connection therewith shall be forfeited to the Secretary for disposition by him in such manner as he deems appropriate. Any other property or item so seized may, at the discretion of the court, be forfeited to the United States or otherwise disposed of.

(4) If with respect to any marine mammal or marine mammal product or other cargo so seized—

(A) a civil penalty is assessed under section 1375(a) of this title and no judicial action is commenced to obtain the forfeiture of such mammal or product within thirty days after such assessment, such marine mammal or marine mammal product or other cargo shall be immediately returned to the owner or the consignee; or

(B) no conviction results from an alleged violation of section 1375(b) of this title, such marine mammal or marine mammal product or other cargo shall immediately be returned to the owner or consignee if the Secretary does not, within¹ thirty days after the final disposition of the case involving such alleged violation, commence proceedings for the assessment of a civil penalty under section 1375(a) of this title.

(Pub. L. 92-522, title I, § 107, Oct. 21, 1972, 86 Stat. 1037; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 109-479, title IX, § 902(c), Jan. 12, 2007, 120 Stat. 3665.)

AMENDMENTS

2007—Subsec. (d)(2). Pub. L. 109-479 substituted “vessel, other conveyance, or container” for “vessel or other conveyance”.

CHANGE OF NAME

“United States magistrate judges” substituted for “United States magistrates” in subsec. (c) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

¹ So in original. Probably should be “within”.

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92-522, set out as a note under section 1361 of this title.

TRANSFER OF FUNCTIONS

“Director of the Office of Personnel Management” substituted for “Civil Service Commission” in subsec. (b) pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 1378. International program

(a) Duties of Secretary

The Secretary, through the Secretary of State, shall—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of all marine mammals covered by this chapter;

(2) initiate—

(A) negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which are found by the Secretary to be unduly harmful to any species or population stock of marine mammal, for the purpose of entering into bilateral and multilateral treaties with such countries to protect marine mammals, with the Secretary of State to prepare a draft agenda relating to this matter for discussion at appropriate international meetings and forums;

(B) discussions with foreign governments whose vessels harvest yellowfin tuna with purse seines in the eastern tropical Pacific Ocean, for the purpose of concluding, through the Inter-American Tropical Tuna Commission or such other bilateral or multilateral institutions as may be appropriate, international arrangements for the conservation of marine mammals taken incidentally in the course of harvesting such tuna, which should include provisions for (i) cooperative research into alternative methods of locating and catching yellowfin tuna which do not involve the taking of marine mammals, (ii) cooperative research on the status of affected marine mammal population stocks, (iii) reliable monitoring of the number, rate, and species of marine mammals taken by vessels of harvesting nations, (iv) limitations on incidental take levels based upon the best scientific information available, and (v) the use of the best marine mammal safety techniques and equipment that are economically and technologically practicable to reduce the incidental kill and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate;

(C) negotiations to revise the Convention for the Establishment of an Inter-American Tropical Tuna Commission (1 U.S.T. 230; TIAS 2044) which will incorporate—