

(B) Any person who violates any provision of an order (including a cease and desist order previously issued under this paragraph) or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment required under this chapter, may be assessed a civil penalty by the Secretary of not less than \$500 nor more than \$5,000 for each such violation. Each violation shall be a separate offense. In addition to, or in lieu of, a civil penalty under this subparagraph, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(C) No penalty shall be assessed, or cease and desist order issued, under this paragraph unless the affected person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(D) Any order of the Secretary under this paragraph assessing a penalty or imposing a cease and desist order shall be final and conclusive, unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(2)(A) Any person against whom a violation is found under paragraph (1) of this subsection may obtain review of such action in the United States court of appeals for the circuit in which such person resides or has his place of business, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days after the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary.

(B) The Secretary shall promptly file in the court a certified copy of the record upon which such violation was found.

(C) The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence or not in accordance with law.

(3)(A) If any person fails to pay a civil penalty under this subsection after it has become final, the Secretary shall refer the matter to the Attorney General.

(B) The Attorney General shall institute appropriate action to recover the amount assessed under this subsection in a district court of the United States.

(C) If, within sixty days after such referral, the Attorney General fails to institute such appropriate action, the council to whose programs the assessment, order or regulation relates may institute an action in its own name.

(Pub. L. 99-659, title II, §217, Nov. 14, 1986, 100 Stat. 3730.)

§ 4017. Investigations

(a) Authority to make investigations

The Secretary may make such investigations as the Secretary determines necessary to—

- (1) carry out the Secretary's responsibilities under this chapter; and
- (2) determine whether any person has engaged in any act or practice which constitutes a violation of the provisions of this chapter.

(b) Oaths and affirmations

For the purpose of investigations under subsection (a) of this section, the Secretary may

administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. The attendance of such witnesses and the production of any such records may be required from any place in the United States.

(c) Court orders

In case of contumacy or refusal to obey a subpoena issued under this section by any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or has his business, to require the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony relating to the matter under investigation.

(Pub. L. 99-659, title II, §218, Nov. 14, 1986, 100 Stat. 3731.)

CHAPTER 61—INTERJURISDICTIONAL FISHERIES

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§ 4101. Congressional statement of purposes

The purposes of this chapter are—

- (1) to promote and encourage State activities in support of the management of interjurisdictional fishery resources;
- (2) to promote and encourage management of interjurisdictional fishery resources throughout their range; and
- (3) to promote and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of interjurisdictional fishery resources throughout their range.

(Pub. L. 99-659, title III, §302, Nov. 14, 1986, 100 Stat. 3732; Pub. L. 107-372, title III, §302(b), Dec. 19, 2002, 116 Stat. 3095.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title III of Pub. L. 99-659, Nov. 14, 1986, 100 Stat. 3731, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out below and Tables.

AMENDMENTS

2002—Par. (3). Pub. L. 107-372 added par. (3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 99-659, title III, §310, Nov. 14, 1986, 100 Stat. 3736, provided that: "This title [enacting this chapter