

§ 4305. Collection and removal from Federal caves

(a) Permit

The Secretary is authorized to issue permits for the collection and removal of cave resources under such terms and conditions as the Secretary may impose, including the posting of bonds to insure compliance with the provisions of any permit:

(1) Any permit issued pursuant to this section shall include information concerning the time, scope, location, and specific purpose of the proposed collection, removal or associated activity, and the manner in which such collection, removal, or associated activity is to be performed must be provided.

(2) The Secretary may issue a permit pursuant to this subsection only if he determines that the proposed collection or removal activities are consistent with the purposes of this chapter, and with other applicable provisions of law.

(b) Revocation of permit

Any permit issued under this section shall be revoked by the Secretary upon a determination by the Secretary that the permittee has violated any provision of this chapter, or has failed to comply with any other condition upon which the permit was issued. Any such permit shall be revoked by the Secretary upon assessment of a civil penalty against the permittee pursuant to section 4307 of this title or upon the permittee's conviction under section 4306 of this title. The Secretary may refuse to issue a permit under this section to any person who has violated any provision of this chapter or who has failed to comply with any condition of a prior permit.

(c) Transferability of permits

Permits issued under this chapter are not transferable.

(d) Cave resources located on Indian lands

(1)(A) Upon application by an Indian tribe, the Secretary is authorized to delegate to the tribe all authority of the Secretary under this section with respect to issuing and enforcing permits for the collection or removal of any cave resource, or to carrying out activities associated with such collection or removal, from any cave resource located on the affected Indian lands.

(B) In the case of any permit issued by the Secretary for the collection or removal of any cave resource, or to carry out activities associated with such collection or removal, from any cave resource located on Indian lands (other than permits issued pursuant to subparagraph (A)), the permit may be issued only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such reasonable terms and conditions as may be requested by such Indian or Indian tribe.

(2) If the Secretary determines that issuance of a permit pursuant to this section may result in harm to, or destruction of, any religious or cultural site, the Secretary, prior to issuing such permit, shall notify any Indian tribe which may consider the site as having significant religious or cultural importance. Such notice shall

not be deemed a disclosure to the public for purposes of section 4304 of this title.

(3) A permit shall not be required under this section for the collection or removal of any cave resource located on Indian lands or activities associated with such collection, by the Indian or Indian tribe owning or having jurisdiction over such lands.

(e) Effect of permit

No action specifically authorized by a permit under this section shall be treated as a violation of section 4306 of this title.

(Pub. L. 100-691, § 6, Nov. 18, 1988, 102 Stat. 4548.)

§ 4306. Prohibited acts and criminal penalties

(a) Prohibited acts

(1) Any person who, without prior authorization from the Secretary knowingly destroys, disturbs, defaces, mars, alters, removes or harms any significant cave or alters the free movement of any animal or plant life into or out of any significant cave located on Federal lands, or enters a significant cave with the intention of committing any act described in this paragraph shall be punished in accordance with subsection (b).

(2) Any person who possesses, consumes, sells, barter or exchanges, or offers for sale, barter or exchange, any cave resource from a significant cave with knowledge or reason to know that such resource was removed from a significant cave located on Federal lands shall be punished in accordance with subsection (b).

(3) Any person who counsels, procures, solicits, or employs any other person to violate any provisions of this subsection shall be punished in accordance with section¹ (b).

(4) Nothing in this section shall be deemed applicable to any person who was in lawful possession of a cave resource from a significant cave prior to November 18, 1988.

(b) Punishment

The punishment for violating any provision of subsection (a) shall be imprisonment of not more than one year or a fine in accordance with the applicable provisions of title 18, or both. In the case of a second or subsequent violation, the punishment shall be imprisonment of not more than 3 years or a fine in accordance with the applicable provisions of title 18, or both.

(Pub. L. 100-691, § 7, Nov. 18, 1988, 102 Stat. 4549.)

§ 4307. Civil penalties

(a) Assessment

(1) The Secretary may issue an order assessing a civil penalty against any person who violates any prohibition contained in this chapter, any regulation promulgated pursuant to this chapter, or any permit issued under this chapter. Before issuing such an order, the Secretary shall provide such person written notice and the opportunity to request a hearing on the record within 30 days. Each violation shall be a separate offense, even if such violations occurred at the same time.

¹ So in original. Probably should be "subsection".