

§ 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.

(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.)

Editorial Notes

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.

§ 7408. International cooperation and assistance

(a) Assistance to developing nations and international organizations

Consistent with existing authority and the availability of funds, the Secretary shall provide appropriate assistance to developing nations and international organizations of which such na-

¹ See References in Text note below.

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