

date of each biannual period thereafter, the Commission shall notify the Secretaries of the results of the monitoring under subsection (b) of this section of each coastal State.”

Subsec. (d). Pub. L. 99-432, §2(a), redesignated subsec. (d) as (b).

§ 5154. Moratorium

(a) Secretarial action after notification

Upon receiving notice from the Commission under section 5153(c) of this title of a negative determination regarding a coastal State, the Secretaries shall determine jointly, within 30 days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretaries shall declare jointly a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretaries shall carefully consider and review the comments of the Commission and that coastal State in question.

(b) Prohibited acts during moratorium

During a moratorium period, it is unlawful for any person—

- (1) to engage in fishing within the moratorium area;
- (2) to land, or attempt to land, Atlantic striped bass that are caught, taken, or harvested in violation of paragraph (1);
- (3) to land lawfully harvested Atlantic striped bass within the boundaries of a coastal State when a moratorium declared under subsection (a) applies to that State; or
- (4) to fail to return to the water Atlantic striped bass to which the moratorium applies that are caught incidental to harvesting that occurs in the course of commercial or recreational fish catching activities, regardless of the physical condition of the striped bass when caught.

(c) Civil penalties

(1) Civil penalty

Any person who commits any act that is unlawful under subsection (b) shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Act (16 U.S.C. 1858).

(2) Civil forfeitures

(A) In general

Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or as the result of, the commission of any act that is unlawful under subsection (b) shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

(B) Disposal of fish

Any fish seized pursuant to this chapter may be disposed of pursuant to the order of a court of competent jurisdiction, or, if perishable, in a manner prescribed in regulations.

(d) Enforcement

A person authorized by the Secretaries or the Secretary of the department in which the Coast

Guard is operating may take any action to enforce a moratorium declared under subsection (a) that an officer authorized by the Secretary under section 311(b) of the Magnuson Act (16 U.S.C. 1861(b)) may take to enforce that Act (16 U.S.C. 1801 et seq.). The Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a State in carrying out that enforcement.

(e) Regulations

The Secretaries may issue regulations to implement this section.

(Pub. L. 98-613, §5, Oct. 31, 1984, 98 Stat. 3189; Pub. L. 99-432, §3, Oct. 1, 1986, 100 Stat. 990; Pub. L. 100-589, §6(g)(2), Nov. 3, 1988, 102 Stat. 2988; Pub. L. 102-130, §2(a), Oct. 17, 1991, 105 Stat. 626; Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41; Pub. L. 105-146, §2, Dec. 16, 1997, 111 Stat. 2674.)

Editorial Notes

AMENDMENTS

1997—Pub. L. 105-146 amended section catchline and text generally. Prior to amendment, section defined terms “moratorium area” and “moratorium period”, prohibited acts during moratorium, and provided for penalties, forfeitures, and enforcement.

1996—Subsec. (e)(2). Pub. L. 104-208 substituted “Magnuson-Stevens Fishery” for “Magnuson Fishery”.

1991—Subsec. (e). Pub. L. 102-130 designated existing provisions as par. (1) and added pars. (2) and (3).

1988—Subsecs. (c)(2), (d)(2). Pub. L. 100-589 substituted “Magnuson Act” for “Act of 1976”.

1986—Pub. L. 99-432, §3(b), which directed the substitution of “Secretaries” for “Secretary”, was executed by making the substitution in subsec. (a)(2), in three places in subsec. (c), and in two places in subsec. (e) to reflect the probable intent of Congress.

Pub. L. 99-432, §3(a), which directed the substitution of “section 5153(b)” for “section 5153(d)”, was executed by making the substitution in subsecs. (a)(1), (2), (b)(3), and (e) to reflect the probable intent of Congress.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

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.

§ 5155. Continuing studies of striped bass populations

(a) In general

For the purposes of carrying out this chapter, the Secretaries shall conduct continuing, comprehensive studies of Atlantic striped bass stocks. These studies shall include, but shall not be limited to, the following: