

2011, 124 Stat. 3672; Pub. L. 114-327, title III, § 301(a)(1), Dec. 16, 2016, 130 Stat. 1993; Pub. L. 117-286, § 4(a)(133), Dec. 27, 2022, 136 Stat. 4320.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1)(C), probably should have been “this title” in the original, meaning title V of Pub. L. 109-479 which enacted this chapter.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsecs. (d)(1)(C) and (f)(4), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2022—Subsec. (d)(1)(C). Pub. L. 117-286 substituted “chapter 10 of title 5.” for “the Federal Advisory Committee Act (5 U.S.C. App.).”

2016—Subsec. (a). Pub. L. 114-327, § 301(a)(1)(A), inserted “and commercial fishing” after “fish stocks”.

Subsec. (d)(1)(E). Pub. L. 114-327, § 301(a)(1)(B), added subpar. (E).

2011—Subsec. (a). Pub. L. 111-348, § 301(1), substituted “Management Council, and one of whom shall be the chairman or a member of” for “Management Council and”.

Subsec. (c)(1). Pub. L. 111-348, § 301(2), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

“(A) injury compensation under chapter 81 of title 5;

“(B) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18; and

“(C) any other criminal or civil statute or regulation governing the conduct of Federal employees.”

Subsec. (d)(2)(B)(ii). Pub. L. 111-348, § 301(3), added cl. (ii) and struck out former cl. (ii) which read as follows: “shall be considered Federal employees while performing service as members of an advisory committee only for purposes of—

“(I) injury compensation under chapter 81 of title 5;

“(II) requirements concerning ethics, conflicts-of-interest, and corruption, as provided by title 18; and

“(III) any other criminal or civil statute or regulation governing the conduct of Federal employees in their capacity as Federal employees.”

§ 6903. Authority and responsibility of the Secretary of State

The Secretary of State may—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, decisions, and other communications of and to the Commission;

(2) in consultation with the Secretary approve, disapprove, object to, or withdraw objections to bylaws and rules, or amendments thereof, adopted by the WCPFC Commission, and, with the concurrence of the Secretary to approve or disapprove the general annual program of the WCPFC Commission with respect to conservation and management measures and other measures proposed or adopted in accordance with the WCPFC Convention; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1).

(Pub. L. 109-479, title V, § 504, Jan. 12, 2007, 120 Stat. 3639.)

§ 6904. Rulemaking authority of the Secretary of Commerce

(a) Promulgation of regulations

The Secretary, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the Department in which the Coast Guard is operating, is authorized to promulgate such regulations as may be necessary to carry out the United States international obligations under the WCPFC Convention and this chapter, including recommendations and decisions adopted by the Commission. In cases where the Secretary has discretion in the implementation of one or more measures adopted by the Commission that would govern fisheries under the authority of a Regional Fishery Management Council, the Secretary may, to the extent practicable within the implementation schedule of the WCPFC Convention and any recommendations and decisions adopted by the Commission, promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) Additions to fishery regimes and regulations

The Secretary may promulgate regulations applicable to all vessels and persons subject to the jurisdiction of the United States, including United States flag vessels wherever they may be operating, on such date as the Secretary shall prescribe.

(Pub. L. 109-479, title V, § 505, Jan. 12, 2007, 120 Stat. 3639.)

Editorial Notes

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (a), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

§ 6905. Enforcement

(a) In general

The Secretary may—

(1) administer and enforce this chapter and any regulations issued under this chapter, except to the extent otherwise provided for in this Act;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in—

(A) the administration and enforcement of this chapter; and

(B) the conduct of scientific, research, and other programs under this chapter;

(3) conduct fishing operations and biological experiments for purposes of scientific investigation or other purposes necessary to implement the WCPFC Convention;

(4) collect, utilize, and disclose such information as may be necessary to implement the

WCPFC Convention, subject to sections 552 and 552a of title 5 and section 402(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b));

(5) if recommended by the United States Commissioners or proposed by a Council with authority over the relevant fishery, assess and collect fees, not to exceed three percent of the ex-vessel value of fish harvested by vessels of the United States in fisheries managed pursuant to this chapter, to recover the actual costs to the United States of management and enforcement under this chapter, which shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Secretary under this chapter; and

(6) issue permits to owners and operators of United States vessels to fish in the convention area seaward of the United States Exclusive Economic Zone, under such terms and conditions as the Secretary may prescribe, and shall remain valid for a period to be determined by the Secretary.

(b) Consistency with other laws

The Secretary shall ensure the consistency, to the extent practicable, of fishery management programs administered under this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Tuna Conventions Act (16 U.S.C. 951 et seq.), the South Pacific Tuna Act (16 U.S.C. 973 et seq.), section 401 of Public Law 108-219 (16 U.S.C. 1821 note) (relating to Pacific albacore tuna), and the Atlantic Tunas Convention Act (16 U.S.C. 971 [et seq.]).

(c) Additional prohibitions and enforcement

For additional prohibitions relating to this chapter and enforcement of this chapter, see section 1826g of this title.

(d) Confidentiality

(1) In general

Any information submitted to the Secretary in compliance with any requirement under this Act shall be confidential and shall not be disclosed, except—

(A) to Federal employees who are responsible for administering, implementing, and enforcing this Act;

(B) to the Commission, in accordance with requirements in the Convention and decisions of the Commission, and, insofar as possible, in accordance with an agreement with the Commission that prevents public disclosure of the identity or business of any person;

(C) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business or any person;

(D) when required by court order; or

(E) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act.

(2) Use of information

The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form that does not directly or indirectly disclose the identity or business of any person. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary of any information submitted in compliance with any requirement or regulation under this Act.

(Pub. L. 109-479, title V, §506, Jan. 12, 2007, 120 Stat. 3640; Pub. L. 114-81, title I, §105(1), Nov. 5, 2015, 129 Stat. 657.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1), (b), and (d), is Pub. L. 109-479, Jan. 12, 2007, 120 Stat. 3575, known as the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006. For complete classification of this Act to the Code, see Short Title of 2007 Amendment note set out under section 1801 of this title and Tables.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (b), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Tuna Conventions Act, referred to in subsec. (b), probably means the Tuna Conventions Act of 1950, act Sept. 7, 1950, ch. 907, 64 Stat. 777, which is classified generally to chapter 16 (§951 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 951 of this title and Tables.

The South Pacific Tuna Act, referred to in subsec. (b), probably means the South Pacific Tuna Act of 1988, Pub. L. 100-330, June 7, 1988, 102 Stat. 591, which is classified generally to chapter 16C (§973 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 973 of this title and Tables.

The Atlantic Tunas Convention Act, referred to in subsec. (b), probably means the Atlantic Tunas Convention Act of 1975, Pub. L. 94-70, Aug. 5, 1975, 89 Stat. 385, which is classified generally to chapter 16A (§971 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 971 of this title and Tables.

AMENDMENTS

2015—Pub. L. 114-81 amended subsec. (c) generally. Prior to amendment, text read as follows: “The Secretary shall prevent any person from violating this chapter in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this chapter. Any person that violates any provision of this chapter is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this chapter.”

§ 6906. Prohibited acts**(a) In general**

It is unlawful for any person—

(1) to violate any provision of this chapter or any regulation or permit issued pursuant to this chapter;

(2) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this chapter;

(3) to refuse to permit any officer authorized to enforce the provisions of this chapter to board a fishing vessel subject to such person's control for the purposes of conducting any search, investigation, or inspection in connection with the enforcement of this chapter or any regulation, permit, or the Convention;

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigations, or inspection in connection with the enforcement of this chapter or any regulation, permit, or the Convention;

(5) to resist a lawful arrest for any act prohibited by this chapter;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this chapter or any regulation, permit, or agreement referred to in paragraph (1) or (2);

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any chapter¹ prohibited by this section;

(8) to knowingly and willfully submit to the Secretary false information (including false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishery vessels of the United States), regarding any matter that the Secretary is considering in the course of carrying out this chapter;

(9) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this chapter, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this chapter;

(10) to engage in fishing in violation of any regulation adopted pursuant to section 6905(a) of this title;

(11) to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations;

(12) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished;

(13) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States;

(14) to import, in violation of any regulation adopted pursuant to section 6905(a) of this title, any fish in any form of those species subject to regulation pursuant to a recommendation, resolution, or decision of the Commission, or any tuna in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 6905(a) of this title.

(b) Entry certification

In the case of any fish described in subsection (a) offered for entry into the United States, the Secretary of Commerce shall require proof satisfactory to the Secretary that such fish is not ineligible for such entry under the terms of section 6905(a) of this title.

(Pub. L. 109-479, title V, §507, Jan. 12, 2007, 120 Stat. 3641; Pub. L. 114-81, title I, §105(2), Nov. 5, 2015, 129 Stat. 657.)

Editorial Notes**AMENDMENTS**

2015—Subsec. (a)(2). Pub. L. 114-81 substituted “suspension, of” for “suspension, on”.

§ 6907. Cooperation in carrying out convention**(a) Federal and State agencies; private institutions and organizations**

The Secretary may cooperate with agencies of the United States government,¹ any public or private institutions or organizations within the United States or abroad, and, through the Secretary of State, the duly authorized officials of the government of any party to the WCPFC Convention, in carrying out responsibilities under this chapter.

(b) Scientific and other programs; facilities and personnel

All Federal agencies are authorized, upon the request of the Secretary, to cooperate in the conduct of scientific and other programs and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the WCPFC Convention.

(c) Sanctioned fishing operations and biological experiments

Nothing in this chapter, or in the laws or regulations of any State, prevents the Secretary or the Commission from—

(1) conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation; or

(2) discharging any other duties prescribed by the WCPFC Convention.

(d) State jurisdiction not affected

Except as provided in subsection (e) of this section, nothing in this chapter shall be construed to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

(e) Application of regulations**(1) In general**

Regulations promulgated under section 6905(a) of this title shall apply within the

¹ So in original.

¹ So in original. Probably should be capitalized.