

apply regulations promulgated pursuant to this chapter within that State's boundaries unless the hearing record supports a determination under paragraph (A) or (B). Such regulations shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures which are not less restrictive than such regulations.

(e) Continuing review of State laws and regulations

To insure that the purposes of subsection (d) of this section are carried out, the Secretary shall undertake a continuing review of the laws and regulations of all States to which subsection (d) of this section applies or may apply and the extent to which such laws and regulations are enforced.

(Pub. L. 94-70, §9, Aug. 5, 1975, 89 Stat. 392.)

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 971h. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, not more than \$2,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

(Pub. L. 94-70, §10, Aug. 5, 1975, 89 Stat. 393; Pub. L. 95-33, §1, May 26, 1977, 91 Stat. 173; Pub. L. 96-339, §1(2), Sept. 4, 1980, 94 Stat. 1069; Pub. L. 98-44, title I, §101, July 12, 1983, 97 Stat. 216; Pub. L. 99-659, title IV, §404, Nov. 14, 1986, 100 Stat. 3737; Pub. L. 101-627, title II, §208, Nov. 28, 1990, 104 Stat. 4462.)

AMENDMENTS

1990—Pub. L. 101-627 amended section generally, substituting provisions authorizing appropriations for fiscal years 1989 to 1993 for provisions authorizing appropriations for fiscal years 1986 to 1989 and striking out provisions relating to use of sums for travel expenses.

1986—Pub. L. 99-659 substituted authorization of appropriations for fiscal years 1986 through 1989 for former authorization of appropriations for fiscal year 1976, the period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years 1977 through 1986.

1983—Pub. L. 98-44 authorized appropriations for fiscal years 1984 through 1986.

1980—Pub. L. 96-339 authorized appropriations for fiscal years 1981 through 1983.

1977—Pub. L. 95-33 authorized appropriations for fiscal years 1978 through 1980.

§ 971i. Biennial reports to Congress regarding bluefin tuna

The Secretary of Commerce shall prepare, for each biennial period commencing with the period covering calendar years 1981 and 1982, and submit to the Congress a report setting forth, with respect to such biennial period—

(1) the level of taking of bluefin tuna by United States fishermen in the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas;

(2) the status of bluefin tuna stocks within such Convention area and the trends in their population level; and

(3) related information resulting from the implementation of the observer program under section 1827 of this title.

The report required under this section shall be submitted to the Congress within sixty days after the close of the biennial period covered by the report. There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 96-339, §3, Sept. 4, 1980, 94 Stat. 1070.)

CODIFICATION

Section was not enacted as part of the Atlantic Tunas Convention Act of 1975 which comprises this chapter.

CHAPTER 16B—EASTERN PACIFIC TUNA FISHING

Sec.	Definitions.
972.	United States representation on the Council.
972a.	(a) Appointment by Secretary of State.
	(b) Qualification.
	(c) Compensation.
	(d) Travel expenses.
972b.	Secretary of State to act for United States.
972c.	Application to other laws.
972d.	Disposition of fees.
972e.	Regulations.
972f.	Prohibited acts.
	(a) Unlawful acts.
	(b) Penalties.
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972g.	Enforcement.
	(a) Warrants.
	(b) Joint responsibility for enforcement.
	(c) Execution of warrants and process.
	(d) Arrest; search.
	(e) Seizure.
	(f) Bond or stipulation for value of the property.
972h.	Authorization of appropriations.

§ 972. Definitions

As used in this chapter—

(1) The term "Agreement" means the Eastern Pacific Ocean Tuna Fishing Agreement, signed in San Jose, Costa Rica, March 15, 1983.

(2) The term "Agreement Area" means the area within a perimeter determined as follows: From the point on the mainland where the parallel of 40 degrees north latitude intersects the coast westward along the parallel of 40 degrees north latitude to 40 degrees north latitude by 125 degrees west longitude, thence southerly along the meridian of 125 degrees west longitude to 20 degrees north latitude by 125 degrees west longitude, thence easterly along the parallel of 20 degrees north latitude to 20 degrees north latitude by 120 degrees west longitude, thence southerly along the meridian of 120 degrees west longitude to 5 degrees north latitude by 120 degrees west longitude, thence easterly along the parallel of 5 degrees north latitude to 5 degrees north latitude by 110 degrees west longitude, thence southerly along the meridian of 110 degrees west longitude to 10 degrees south latitude by 110 degrees west longitude, thence easterly along the parallel of 10 degrees south latitude to 10 degrees south latitude by 90 degrees west

longitude, thence southerly along the meridian of 90 degrees west longitude to 30 degrees south latitude by 90 degrees west longitude, thence easterly along the parallel of 30 degrees south latitude to the point on the mainland where the parallel intersects the coast; but the Agreement Area does not include the zones within twelve nautical miles of the baseline from which the breadth of territorial sea is measured and the zones within two hundred nautical miles of the baselines of Coastal States not signatories to the Agreement, measured from the same baseline.

(3) The term “designated species of tuna” means yellowfin tuna, *Thunnus albacares* (Bonnaterre, 1788); bigeye tuna, *Thunnus obesus* (Lowe, 1839); albacore tuna, *Thunnus alalunga* (Bonnaterre, 1788); northern bluefin tuna, *Thunnus thynnus* (Linnaeus, 1758); southern bluefin tuna, *Thunnus maccoyil* (Castelnau, 1872); skipjack tuna, *Katsuwonus pelamis* (Linnaeus¹ 1578); black skipjack, *Euthynnus lineatus* (Kishinouye¹ 1920); kawakawa, *Euthynnus affinis* (Cantor, 1849); bullet tuna, *Auxis rochei* (Risso, 1810),² frigate tuna, *Auxis³ thazard* (Lacepede, 1800); eastern Pacific bonito, *Sarda chiliensis* (Cuvier in Cuvier and Valenciennes, 1831); and Indo-Pacific bonito, *Sarda orientalis* (Temminck and Schlegel, 1844).

(4) The term “Council” means the body consisting of the representatives from each Contracting Party to the Agreement which is a Coastal State of the eastern Pacific Ocean or a member of the Inter-American Tropical Tuna Commission at the time of entry into force of the Agreement.

(Pub. L. 98-445, § 2, Oct. 4, 1984, 98 Stat. 1715.)

SHORT TITLE

Section 1 of Pub. L. 98-445 provided: “That this Act [enacting this chapter] may be cited as the ‘Eastern Pacific Tuna Licensing Act of 1984.’”

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§ 972a. United States representation on the Council

(a) Appointment by Secretary of State

The Secretary of State—

(1) shall appoint a United States representative to the Council; and

(2) may appoint not more than three alternate United States representatives to the Council.

(b) Qualification

An individual is not eligible for appointment as, or to serve as, the United States representative under subsection (a)(1) of this section unless the individual is an officer or employee of the United States Government.

(c) Compensation

An individual is not entitled to compensation for serving as the United States representative or an alternate United States representative.

¹ So in original. Probably should be followed by a comma.

² So in original. The comma probably should be a semicolon.

³ So in original. Probably should be “Auxis”.

(d) Travel expenses

While away from home or a regular place of business in the performance of service as the United States representative or an alternate United States representative, an individual is entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as individuals employed intermittently in Government service are allowed expenses under section 5703(b)¹ of title 5.

(Pub. L. 98-445, § 3, Oct. 4, 1984, 98 Stat. 1716.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (d), was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

§ 972b. Secretary of State to act for United States

The Secretary of State shall receive, on behalf of the United States Government, reports, requests, recommendations and other communications of the Council, and, in consultation with the Secretary of Commerce, shall act directly thereon or by reference to the appropriate authorities.

(Pub. L. 98-445, § 4, Oct. 4, 1984, 98 Stat. 1716.)

§ 972c. Application to other laws

(a) Notwithstanding section 4 of the Fishermen’s Protective Act of 1967 [22 U.S.C. 1974], such Act [22 U.S.C. 1971 et seq.] applies with respect to a seizure by a Contracting Party to the Agreement of a vessel of the United States within the Agreement Area for violation of the Agreement if the Secretary of State determines that the violation is not of such seriousness as to diminish the effectiveness of the Agreement.

(b) The seizure by a Contracting Party to the Agreement of a vessel of the United States shall not be considered to be a seizure described in section 1825(a)(4)(C) of this title if the seizure is consistent with the Agreement.

(Pub. L. 98-445, § 5, Oct. 4, 1984, 98 Stat. 1716.)

REFERENCES IN TEXT

The Fishermen’s Protective Act of 1967, referred to in subsec. (a), is act Aug. 27, 1954, ch. 1018, 68 Stat. 883, as amended, which is classified generally to chapter 25 (§ 1971 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 1971 of Title 22 and Tables.

§ 972d. Disposition of fees

All fees accruing to the United States under Article III of the Agreement shall be deposited into the Treasury of the United States.

(Pub. L. 98-445, § 6, Oct. 4, 1984, 98 Stat. 1716.)

§ 972e. Regulations

The Secretary of Commerce, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall issue such regulations as may be necessary to carry out the purposes and objectives of the Agreement and this chapter. Regula-

¹ See References in Text note below.

tions may be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located. Regulations concerning the conservation of a designated species of tuna may be issued only to implement conservation recommendations made by the Council under Article 3(D) of the Agreement.

(Pub. L. 98-445, §7, Oct. 4, 1984, 98 Stat. 1716.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 972f, 972g of this title.

§ 972f. Prohibited acts

(a) Unlawful acts

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to engage in fishing for a designated species of tuna within the Agreement Area unless issued a license under the Agreement authorizing such fishing;

(2) to engage in fishing for a designated species of tuna within the Agreement area¹ in contravention of regulations promulgated by the Secretary of Commerce under the Agreement;

(3) knowingly to ship, transport, purchase, sell, offer for sale, export, or have in custody, possession, or control any designated species of tuna taken or retained in violation of regulations issued under section 972e of this title;

(4) to fail to make, keep, or furnish any catch return, statistical record, or other report required by regulations issued under section 972e of this title;

(5) being a person in charge of a vessel of the United States, to fail to stop upon being hailed by an authorized official of the United States, or to refuse to permit officials of the United States to board the vessel or inspect its catch, equipment, books, documents, records, or other articles, or to question individuals on board; or

(6) to import from any country, in violation of any regulation issued under section 972e of this title, any designated species of tuna.

(b) Penalties

Any person who is convicted of violating—

(1) subsection (a)(1), (a)(2), or (a)(3) of this section shall be fined or assessed a civil penalty not more than \$25,000, and for a subsequent violation shall be fined or assessed a civil penalty not more than \$50,000;

(2) subsection (a)(4) or (a)(5) of this section shall be fined or assessed a civil penalty not more than \$5,000, and for a subsequent violation shall be fined or assessed a civil penalty not more than \$5,000; or

(3) subsection (a)(6) of this section shall be fined or assessed a civil penalty not more than \$100,000.

(c) Forfeiture

All designated species of tuna taken or retained in violation of subsection (a)(1), (2), (3), or (6) of this section, or the monetary value thereof, is subject to forfeiture.

¹ So in original. Probably should be capitalized.

(d) Application of laws relating to seizures and forfeitures

All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter.

(Pub. L. 98-445, §8, Oct. 4, 1984, 98 Stat. 1717.)

REFERENCES IN TEXT

The customs laws, referred to in subsec. (d), are classified generally to Title 19, Customs Duties.

§ 972g. Enforcement

(a) Warrants

The judges of the United States district courts and United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and the regulations issued under section 972e of this title.

(b) Joint responsibility for enforcement

The enforcement of this chapter and the regulations issued under section 972e of this title shall be the joint responsibility of the department in which the Coast Guard is operating, the Department of Commerce, and the United States Customs Service. In addition, the Secretary of Commerce may designate officers and employees of the States of the United States, of the Commonwealth of Puerto Rico, and of American Samoa to carry out enforcement activities under this section. When so designated, such officers and employees may function as Federal law enforcement agents for these purposes.

(c) Execution of warrants and process

An individual authorized to carry out enforcement activities under this section has power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this chapter.

(d) Arrest; search

An individual so authorized to carry out enforcement activities under this section has power—

(1) with or without a warrant or other process, to arrest any person subject to the jurisdiction of the United States at any place within the jurisdiction of the United States committing in his presence or view a violation of this chapter or the regulations issued under section 972e of this title;

(2) with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States, and, if, as a result of the search he has reasonable cause to believe that such vessel or any individual on board is engaging in operations in violation of this chapter or any regulation issued thereunder to arrest such person.

(e) Seizure

An individual authorized to enforce this chapter may seize, whenever or wherever lawfully found, all species of designated tuna taken or retained in violation of this chapter or the regulations issued under section 972e of this title. Any species so seized may be disposed of pursuant to the order of a court of competent jurisdiction, under subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary of Commerce.

(f) Bond or stipulation for value of the property

Notwithstanding the provisions of section 2464 of title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any species of designated tuna seized if the process has been levied, on receiving from the claimant of the species a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the species seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the species may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

(Pub. L. 98-445, §9, Oct. 4, 1984, 98 Stat. 1717; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

CHANGE OF NAME

“United States magistrate judges” substituted for “United States magistrates” in subsec. (a) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 972h. Authorization of appropriations

There are authorized to be appropriated for fiscal years after fiscal year 1984 such sums as may be necessary to carry out this chapter.

(Pub. L. 98-445, §10, Oct. 4, 1984, 98 Stat. 1719.)

CHAPTER 16C—SOUTH PACIFIC TUNA FISHING

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- 973. Definitions.
- 973a. Application to other laws.
- 973b. Regulations.
- 973c. Prohibited acts.
- 973d. Exceptions.
- 973e. Criminal offenses.
 - (a) Prohibited acts.
 - (b) Sentence and fine.
 - (c) Jurisdiction.
- 973f. Civil penalties.
 - (a) Determination of liability; amount; participation by Secretary of State in assessment proceeding.

- Sec.
 - (b) Judicial review of assessment; procedures applicable.
 - (c) Failure to pay assessment of civil penalty; recovery by Attorney General.
 - (d) In rem liability for civil penalty; jurisdiction; maritime lien on vessel.
 - (e) Compromise, etc., of civil penalty.
 - (f) Conduct of hearings.
 - (g) Waiver of referral to Attorney General.
- 973g. Licenses.
 - (a) Issuance; establishment of procedures; designation of agent for service of legal process in license application; reception and response to process.
 - (b) Forwarding and transmittal of vessel license application.
 - (c) Fees and fee schedules.
 - (d) Period of validity.
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- 973h. Enforcement.
 - (a) Federal responsibilities; utilization of personnel, etc., of other Federal and State agencies.
 - (b) Investigation and report of alleged Treaty infringement involving U.S. vessel; notice requirements to operator of vessel; comments, information, or evidence by operator.
 - (c) Notice requirements to Pacific Island Party concerning institution and outcome of legal proceedings.
 - (d) Searches and seizures by Authorized Officers; limitations on powers.
 - (e) Exclusive jurisdiction.
- 973i. Findings by Secretary.
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- 973l. Observers.
 - (a) Required access and assistance; scope of authorities.
 - (b) Free provision of food, etc., while on vessel.
 - (c) Removal of fish samples and gathering of other information relating to fisheries.
- 973m. Technical assistance.
- 973n. Arbitration.
- 973o. Disposition of fees, penalties, forfeitures, and other moneys.
- 973p. Additional agreements.
- 973q. Secretary of State to act for United States.
- 973r. Authorization of appropriations.

§ 973. Definitions

As used in this chapter—
 (1) The term “Administrator” means the individual or organization designated by the Pa-