REFERENCES IN TEXT

Act of December 28, 1973, referred to in subsec. (a)(1)(D), and the Endangered Species Act of 1973, referred to in subsec. (e), are Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Lacey Act Amendments of 1981, referred to in subsec. (e), is Pub. L. 97–79, Nov. 16, 1981, 95 Stat. 1073, as amended, which enacted chapter 53 (§ 3371 et seq.) of this title, amended section 1540 of this title and section 42 of Title 18, Crimes and Criminal Procedure, repealed sections 667e and 851 to 856 of this title and sections 43, 44, 3054, and 3112 of Title 18, and enacted provisions set out as notes under sections 1540 and 3371 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

TERMINATION OF TRUST TERRITORY

For termination of Trust Territory of Palau and Northern Marianas, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4913 of this title.

§ 4913. Exotic bird conservation assistance

(a) Assistance

The Secretary, subject to the availability of appropriations, shall use amounts in the Exotic Bird Conservation Fund established by subsection (b) of this section to provide financial and technical assistance for projects to conserve exotic birds in their native countries. In selecting projects for assistance, the Secretary shall give particular attention to species that are subject to an import moratorium or quota under this chapter, in order to assist those countries in the development and implementation of conservation management programs, or law enforcement, or both.

(b) Fund

(1) Establishment

There is established in the Treasury a separate account, which shall be known as the ''Exotic Bird Conservation Fund''.

(2) Contents

The Fund shall consist of—

(A) all amounts received by the United States in the form of penalties, fines, or forfeiture of property collected under this chapter in excess of the cost of paying rewards under section 4912(c) of this title;

(B) donations received by the Secretary for exotic bird conservation; and

(C) such amounts as are appropriated to the Secretary for conserving exotic birds.

(c) Review and report on other conservation opportunities

The Secretary, in consultation with appropriate representatives of industry, the conservation community, the Secretariat of the Convention, and other national and international bodies, shall—

(1) review opportunities for a voluntary program of labeling exotic birds, certification of exotic bird breeding facilities and retail outlets, and provision of privately organized or funded technical assistance to other nations; and

(2) report to the Congress the results of this review within 2 years after October 23, 1992.

(Pub. L. 102–440, title I, § 114, Oct. 23, 1992, 106 Stat. 2232.)

§ 4914. Marking and recordkeeping

(a) In general

The Secretary is authorized to promulgate regulations to require marking or recordkeeping that the Secretary determines will contribute significantly to the ability of the Secretary to ensure compliance with the prohibitions of section 4910 of this title, for—

(1) any exotic bird that is imported after October 23, 1992; or

(2) any other exotic bird that is—

(A) hatched after October 23, 1992;

(B) offered for sale; and

(C) of a species—

(i) the export of which from any country of origin is prohibited; and

(ii) that is subject to a high level of illegal trade.

(b) Avoiding deterrence of breeding

The Secretary shall seek to ensure that regulations promulgated under this section will not have the effect of deterring captive breeding of exotic birds.

(Pub. L. 102–440, title I, § 115, Oct. 23, 1992, 106 Stat. 2232.)

§ 4915. Authorization of appropriations

There are authorized to be appropriated to the Secretary $5,000,000 for each of the fiscal years 1993, 1994, and 1995 to carry out this chapter, to remain available until expended.

(Pub. L. 102–440, title I, § 116, Oct. 23, 1992, 106 Stat. 2233.)

§ 4916. Relationship to State law

Nothing in this chapter may be construed as precluding the regulation under State law of the sale, transfer, or possession of exotic birds if such regulation—

(1) does not authorize any sale, transfer, or possession of exotic birds that is prohibited under this chapter; and

(2) is consistent with the international obligations of the United States.

(Pub. L. 102–440, title I, § 117, Oct. 23, 1992, 106 Stat. 2233.)

CHAPTER 70—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

Sec.
5001. Purpose.
5002. Definitions.
5003. United States Commissioners.
(a) Commissioners.
(b) Alternate Commissioners.
(c) United States Section.
(d) Compensation.
5004. Advisory Panel.
(a) Establishment of Panel.
(b) Qualifications.
(c) Limitation on service.

Sec.
(d) Functions.
(e) Compensation and expenses.
5005. Commission recommendations.
5006. Administration and enforcement of Convention.
(a) Responsibilities.
(b) Consultation and cooperation.
5007. Cooperation with other agencies.
(a) In general.
(b) Functions of Secretary of Commerce.
5008. Enforcement provisions.
(a) Duties of Secretaries of Commerce and Transportation.
(b) District court jurisdiction.
(c) Powers of enforcement officers.
(d) Additional powers.
5009. Unlawful activities.
5010. Penalties.
(a) Civil penalties.
(b) Offenses.
(c) Forfeiture.
5011. Funding requirements.
(a) Authorization.
(b) Research.
5012. Disposition of property.

§ 5001. Purpose

It is the purpose of this chapter to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992.

(Pub. L. 102–567, title VIII, § 802, Oct. 29, 1992, 106 Stat. 4309; Pub. L. 102–587, title VIII, § 8002, Nov. 4, 1992, 106 Stat. 5098.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title VIII of Pub. L. 102–567 and Pub. L. 102–587, which is classified generally to this chapter. For complete classification of title VIII to the Code, see Short Title note below and Tables.

CODIFICATION

Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections.

SHORT TITLE

Section 8001 of title VIII of Pub. L. 102–587 provided that: ''This title [enacting this chapter and repealing sections 1021 to 1023, 1025 to 1027, 1029, 1030, and 1032 to 1035 of this title and provisions set out as notes under section 1021 of this title] may be cited as the 'North Pacific Anadromous Stocks Convention Act of 1992'.''

Section 801 of title VIII of Pub. L. 102–567 provided that: ''This title [enacting this chapter and repealing sections 1021 to 1023, 1025 to 1027, 1029, 1030, and 1032 to 1035 of this title and provisions set out as notes under section 1021 of this title] may be cited as the 'North Pacific Anadromous Stocks Act of 1992'.''

§ 5002. Definitions

As used in this chapter, the term—

(1) ''Anadromous stocks'' means stocks of species listed in the Annex to the Convention that migrate into the Convention area.

(2) ''Anadromous fish'' means fish of the species listed in the Annex to the Convention that migrate into the Convention area.

(3) ''Authorized officer'' means a law enforcement official authorized to enforce this chapter under section 5008(a) of this title.

(4) ''Commission'' means the North Pacific Anadromous Fish Commission provided for by article VIII of the Convention.

(5) ''Convention'' means the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean, signed in Moscow, February 11, 1992.

(6) ''Convention area'' means the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude,[1] beyond two hundred nautical miles from the baselines from which the breadth of the territorial sea is measured.

(7) ''Directed fishing'' means fishing targeted at a particular species or stock of fish.

(8) ''Ecologically related species'' means living marine species which are associated with anadromous stocks found in the Convention area, including, but not restricted to, both predators and prey of anadromous fish.

(9) ''Enforcement officer'' means a law enforcement official authorized by any Party to enforce this chapter.

(10) ''Exclusive economic zone'' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this chapter, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(11) ''Fish'' means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(12) ''Fishing'' means—

(A) the catching, taking, or harvesting of fish, or any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(B) any operation at sea in preparation for or in direct support of any activity described in subparagraph (A).

(13) ''Fishing vessel'' means—

(A) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(B) any vessel outfitted to engage in any activity described in subparagraph (A);

(C) any vessel supporting a vessel described in subparagraph (A) or (B).

(14) ''Incidental taking'' means catching, taking, or harvesting a species or stock of fish while conducting directed fishing for another species or stock of fish.

(15) ''Party'' means Canada, Japan, the Russian Federation, the United States, and any other nation that may accede to the Convention.

(16) ''Secretary'' means the Secretary of State.

(17) ''United States Section'' means the United States Commissioners of the Commission.

(Pub. L. 102–567, title VIII, § 803, Oct. 29, 1992, 106 Stat. 4309; Pub. L. 102–587, title VIII, § 8003, Nov. 4, 1992, 106 Stat. 5098; Pub. L. 104–43, title IV, § 404(b), Nov. 3, 1995, 109 Stat. 391.)

REFERENCES IN TEXT

Proclamation Numbered 5030, dated March 10, 1983, referred to in par. (10), is set out as a note under section 1453 of this title.

[1] So in original. Probably should not be capitalized.

CODIFICATION

Pub. L. 102–567 and Pub. L. 102–587 enacted substantially identical sections. This section is based on the text of Pub. L. 102–587.

AMENDMENTS

1995—Par. (13)(C). Pub. L. 104–43 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''any vessel described in subparagraph (A) or (B).''

§ 5003. United States Commissioners

(a) Commissioners

The United States shall be represented on the Commission by not more than three United States Commissioners to be appointed by and serve at the pleasure of the President. Each United States Commissioner shall be appointed for a term of office not to exceed 4 years, but is eligible for reappointment. Of the Commissioners—

(1) one shall be an official of the United States Government;

(2) one shall be a resident of the State of Alaska; and

(3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the anadromous stocks and ecologically related species of the North Pacific Ocean.

(b) Alternate Commissioners

The Secretary, in consultation with the Secretary of Commerce, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise all designated powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(c) United States Section

The United States Section, in consultation with the Advisory Panel established in section 5004 of this title, shall identify and recommend to the Commission research needs and priorities for anadromous stocks and ecologically related species subject to the Convention, and oversee the United States research programs involving such fisheries, stocks, and species.

(d) Compensation

United States Commissioners and Alternate United States Commissioners shall receive no compensation for their services as Commissioners and Alternate Commissioners.

(Pub. L. 102–567, title VIII, § 804, Oct. 29, 1992, 106 Stat. 4310; Pub. L. 102–587, title VIII, § 8004, Nov. 4, 1992, 106 Stat. 5099.)

CODIFICATION

Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections.

§ 5004. Advisory Panel

(a) Establishment of Panel

An Advisory Panel to the United States Section is established. The Advisory Panel shall be composed of the following:

(1) The Commissioner of the Alaska Department of Fish and Game.

(2) The Director of the Washington Department of Fisheries.

(3) One representative of the Pacific States Marine Fisheries Commission, designated by the Executive Director of that commission.

(4) Eleven members (six of whom shall be residents of the State of Alaska and five of whom shall be residents of the State of Washington), appointed by the Secretary, in consultation with the Secretary of Commerce, from among a slate of 12 persons nominated by the Governor of Alaska and a slate of 10 persons nominated by the Governor of Washington.

(b) Qualifications

Persons appointed to the Advisory Panel shall be individuals who are knowledgeable or experienced concerning anadromous stocks and ecologically related species. In submitting a slate of nominees pursuant to subsection (a)(4) of this section, the Governors of Alaska and Washington shall seek to represent the broad range of parties interested in anadromous stocks and ecologically related species, and at a minimum shall include on each slate at least one representative of commercial salmon fishing interests and of environmental interests concerned with protection of living marine resources.

(c) Limitation on service

Any person appointed to the Advisory Panel pursuant to subsection (a)(4) of this section shall serve for a term not to exceed 4 years, and may not serve more than two consecutive terms.

(d) Functions

The Advisory Panel shall be invited to all nonexecutive meetings of the United States Section and at such meetings shall be granted the opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(e) Compensation and expenses

The members of the Advisory Panel shall receive no compensation or travel expenses for their services as such members.

(Pub. L. 102–567, title VIII, § 805, Oct. 29, 1992, 106 Stat. 4311; Pub. L. 102–587, title VIII, § 8005, Nov. 4, 1992, 106 Stat. 5100.)

CODIFICATION

Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections.

TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a panel estab-

lished by Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5003 of this title.

§ 5005. Commission recommendations

The Secretary, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article IX of the Convention.

(Pub. L. 102–567, title VIII, § 806, Oct. 29, 1992, 106 Stat. 4311; Pub. L. 102–587, title VIII, § 8006, Nov. 4, 1992, 106 Stat. 5101.)

CODIFICATION

Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections.

§ 5006. Administration and enforcement of Convention

(a) Responsibilities

The Secretary of Commerce shall be responsible for administering provisions of the Convention, this chapter, and regulations issued under this chapter. The Secretary, in consultation with the Secretary of Commerce and the Secretary of Transportation, shall be responsible for coordinating the participation of the United States in the Commission.

(b) Consultation and cooperation

In carrying out such functions, the Secretary of Commerce—

(1) shall, in consultation with the Secretary of Transportation and the United States Section, issue such regulations as may be necessary to carry out the purposes and objectives of the Convention and this chapter; and

(2) may, with the concurrence of the Secretary, cooperate with the authorized officials of the government of any Party.

(Pub. L. 102–567, title VIII, § 807, Oct. 29, 1992, 106 Stat. 4311; Pub. L. 102–587, title VIII, § 8007, Nov. 4, 1992, 106 Stat. 5101.)

CODIFICATION

Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections.

§ 5007. Cooperation with other agencies

(a) In general

Any agency of the Federal Government is authorized, upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(b) Functions of Secretary of Commerce

In carrying out the provisions of the Convention and this chapter, the Secretary of Commerce may arrange for cooperation with agencies of the United States, the States, private institutions and organizations, and agencies of the government of any Party, to conduct scientific and other programs, and may execute such memoranda as may be necessary to reflect such agreements.

(Pub. L. 102–567, title VIII, § 808, Oct. 29, 1992, 106 Stat. 4312; Pub. L. 102–587, title VIII, § 8008, Nov. 4, 1992, 106 Stat. 5101.)

CODIFICATION

Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections.

§ 5008. Enforcement provisions

(a) Duties of Secretaries of Commerce and Transportation

This chapter shall be enforced by the Secretary of Commerce and the Secretary of Transportation. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers to enforce the provisions of the Convention, this chapter, and regulations issued under this chapter. Any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) District court jurisdiction

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter.

(c) Powers of enforcement officers

Authorized officers may, shoreward of the outer boundary of the exclusive economic zone, or during hot pursuit from the zone—

(1) with or without a warrant or other process—

(A) arrest any person, if he or she has reasonable cause to believe that such person has committed an act prohibited by section 5009 of this title;

(B) board, and search or inspect, any fishing vessel subject to the provisions of the Convention and this chapter;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this chapter, or regulations issued under this chapter;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C);

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(d) Additional powers

(1) An authorized officer may in the Convention area—

(A) board a vessel of any Party that reasonably can be believed to be engaged in directed fishing for, incidental taking of, or processing of anadromous fish, and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons, on board the vessel, for the purpose of carrying out the provisions of the Convention, this chapter, or any regulation issued under this chapter; and

(B) if any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the authorized officer, arrest or seize such person or vessel and further investigate the circumstance if necessary.

If an authorized officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall deliver the vessel or person as promptly as practicable to the enforcement officers of the appropriate Party, in accordance with the provisions of the Convention.

(2) When requested by the appropriate authorities of a Party, an authorized officer may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution by that Party of any violation of the provisions of the Convention or any law of that Party relating to the enforcement thereof.

(Pub. L. 102–567, title VIII, § 809, Oct. 29, 1992, 106 Stat. 4312; Pub. L. 102–587, title VIII, § 8009, Nov. 4, 1992, 106 Stat. 5101.)

CODIFICATION

Pub. L. 102–567 and Pub. L. 102–587 enacted substantially identical sections. This section is based on text of Pub. L. 102–587.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5002, 5010 of this title.

§ 5009. Unlawful activities

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

(1) to fish for any anadromous fish in the Convention area;

(2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this chapter, or any regulation issued under this chapter;

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purchases[1] of conducting any search or inspection in connection with the enforcement of the Convention, this chapter, or any regulation issued under this chapter;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detection for any act prohibited by this section;

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

(9) to violate any provision of the Convention, this chapter, or any regulation issued under this chapter.

(Pub. L. 102–567, title VIII, § 810, Oct. 29, 1992, 106 Stat. 4313; Pub. L. 102–587, title VIII, § 8010, Nov. 4, 1992, 106 Stat. 5103.)

CODIFICATION

Pub. L. 102–567 and Pub. L. 102–587 enacted substantially identical sections. This section is based on text of Pub. L. 102–587.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5008, 5010 of this title.

§ 5010. Penalties

(a) Civil penalties

(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 5009 of this title shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary of Commerce, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a complaint in such court within thirty days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28. The

[1] So in original. Probably should be "purposes".

findings and order of the Secretary of Commerce shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary of Commerce, the matter shall be referred 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.

(4) A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 5009 of this title shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(5) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(6) For the purposes of conducting any hearing under this section, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Offenses

(1) A person is guilty of an offense if that person commits any act prohibited by section 5009(5), (6), (7), or (8) of this title.

(2) Any offense described in paragraph (1) is a class A misdemeanor punishable by a fine under title 18 or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18 or imprisonment for not more than 10 years, or both.

(c) Forfeiture

(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 5009 of this title shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(2) Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

(3) If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this chapter or for which security has not previously been obtained. The provisions of the customs laws relating to—

(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(B) the disposition of such property or the proceeds from the sale thereof; and

(C) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, unless such provisions are inconsistent with the purposes, policy, and provisions of this chapter.

(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 5008(b) of this title shall—

(i) stay the execution of such process; or

(ii) discharge any fish seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(B) Any fish seized pursuant to this chapter may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 5009 of this title were taken or retained in violation of the Convention and this chapter.

(Pub. L. 102–567, title VIII, § 811, Oct. 29, 1992, 106 Stat. 4314; Pub. L. 102–587, title VIII, § 8011, Nov. 4, 1992, 106 Stat. 5103.)

REFERENCES IN TEXT

Section 5009 of this title, referred to in subsec. (c)(1), was in the original ''section 1810'', which was translated

as meaning section 8010 of Pub. L. 102–587 to reflect the probable intent of Congress. The reference in the original of Pub. L. 102–567 was to section 810, meaning section 810 of Pub. L. 102–567, which is classified to section 5009 of this title.

The customs laws, referred to in subsec. (c)(3), are classified generally to Title 19, Customs Duties.

CODIFICATION

Pub. L. 102–567 and Pub. L. 102–587 enacted substantially identical sections. This section is based on the text of Pub. L. 102–587.

§ 5011. Funding requirements

(a) Authorization

There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this chapter, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners; and

(2) the United States share of the joint expenses of the Commission.

(b) Research

Such funds as shall be made available to the Secretary of Commerce for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs pursuant to the Convention.

(Pub. L. 102–567, title VIII, § 812, Oct. 29, 1992, 106 Stat. 4316; Pub. L. 102–587, title VIII, § 8012, Nov. 4, 1992, 106 Stat. 5105.)

CODIFICATION

Pub. L. 102–567 and Pub. L. 102–587 enacted substantially identical sections. This section is based on the text of Pub. L. 102–587.

§ 5012. Disposition of property

The Secretary shall dispose of any United States property held by the International North Pacific Fisheries Commission on the date of its termination in a manner that would further the purposes of this chapter.

(Pub. L. 102–567, title VIII, § 813, Oct. 29, 1992, 106 Stat. 4316; Pub. L. 102–587, title VIII, § 8013, Nov. 4, 1992, 106 Stat. 5106.)

CODIFICATION

Pub. L. 102–567 and Pub. L. 102–587 enacted identical sections.

CHAPTER 71—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

Sec.
5101. Findings and purpose.
(a) Findings.
(b) Purpose.
5102. Definitions.
5103. State-Federal cooperation in Atlantic coastal fishery management.
(a) Federal support for State coastal fisheries programs.
(b) Federal regulation in exclusive economic zone.
5104. State implementation of coastal fishery management plans.
(a) Coastal fishery management plans.
(b) State implementation and enforcement.
(c) Commission monitoring of State implementation and enforcement.
5105. State noncompliance with coastal fishery management plans.
(a) Noncompliance determination.
(b) Notification.
(c) Withdrawal of noncompliance determination.
5106. Secretarial action.
(a) Secretarial review of Commission determination of noncompliance.
(b) Consideration of comments.
(c) Moratorium.
(d) Implementing regulations.
(e) Prohibited acts during moratorium.
(f) Civil and criminal penalties.
(g) Civil forfeitures.
(h) Enforcement.
5107. Financial assistance.
5107a. State permits valid in certain waters.
(a) Permits.
(b) Enforcement.
5107b. Transition to management of American lobster fishery by Commission.
(a) Temporary limits.
(b) Secretary to monitor landings.
(c) Regulations to remain in effect until plan implemented.
5108. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1857 of this title.

§ 5101. Findings and purpose

(a) Findings

The Congress finds the following:

(1) Coastal fishery resources that migrate, or are widely distributed, across the jurisdictional boundaries of two or more of the Atlantic States and of the Federal Government are of substantial commercial and recreational importance and economic benefit to the Atlantic coastal region and the Nation.

(2) Increased fishing pressure, environmental pollution, and the loss and alteration of habitat have reduced severely certain Atlantic coastal fishery resources.

(3) Because no single governmental entity has exclusive management authority for Atlantic coastal fishery resources, harvesting of such resources in[1] frequently subject to disparate, inconsistent, and intermittent State and Federal regulation that has been detrimental to the conservation and sustainable use of such resources and to the interests of fishermen and the Nation as a whole.

(4) The responsibility for managing Atlantic coastal fisheries rests with the States, which carry out a cooperative program of fishery oversight and management through the Atlantic States Marine Fisheries Commission. It is the responsibility of the Federal Government to support such cooperative interstate management of coastal fishery resources.

(5) The failure by one or more Atlantic States to fully implement a coastal fishery management plan can affect the status of Atlantic coastal fisheries, and can discourage other States from fully implementing coastal fishery management plans.

[1] So in original. Probably should be ''is''.