as amended, Title II of the Act enacted section 1181f of Title 43, Public Lands, and repealed section 1174 of Title 43. For complete classification of this Act to the Code, see Tables.

The Act of May 24, 1939, referred to in subsec. (b)(9), is act May 24, 1939, ch. 144, 53 Stat. 751, which enacted sections 1181f–1 to 1181f–4 of Title 43, Public Lands, and provisions set out as a note under section 1181f–1 of Title 43. For complete classification of this Act to the Code, see Tables.


For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title.


CHAPTER 88—WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

Sec. 6901. Definitions.

6902. Appointment of United States Commissioners.
(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;
(E) any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (A) through (D), including transshipment; and
(F) use of any other vessel, vehicle, aircraft, or hovercraft, for any activity described in subparagraphs (A) through (E) except for emergencies involving the health and safety of the crew or the safety of a vessel.

(7) Fishing vessel
The term “fishing vessel” means any vessel used or intended for use for the purpose of fishing, including support ships, carrier vessels, and any other vessel directly involved in such fishing operations.

(8) Highly migratory fish stocks
The term “highly migratory fish stocks” means all fish stocks of the species listed in Annex I of the 1982 Convention, except sauries, occurring in the Convention Area, and such other species of fish as the Commission may determine.

(9) Secretary
The term “Secretary” means the Secretary of Commerce.

(10) State
The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

(11) Transshipment
The term “transshipment” means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel either at sea or in port.

(12) WCPFC Convention; Western and Central Pacific Convention
The terms “WCPFC Convention” and “Western and Central Pacific Convention” means the Convention on the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, including any annexes, amendments, or protocols which are in force, or have come into force, for the United States which was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High Level Conference on the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

References in Text
Presidential Proclamation Numbered 5030, referred to in par. (5), is Proc. No. 5030, Mar. 10, 1983, 48 F.R. 10605, which is set out as a note under section 1433 of this title.

Short Title
(d) Advisory committees

(1) Establishment of permanent advisory committee

(A) Membership

There is established an advisory committee which shall be composed of—

(i) not less than 15 nor more than 20 individuals appointed by the Secretary of Commerce in consultation with the United States Commissioners, who shall select such individuals from the various groups concerned with the fisheries covered by the WCPFC Convention, providing, to the maximum extent practicable, an equitable balance among such groups;

(ii) the chair of the Western Pacific Fishery Management Council’s Advisory Committee or the chair’s designee; and

(iii) officials of the fisheries management authorities of American Samoa, Guam, and the Northern Mariana Islands (or their designees).

(B) Terms and privileges

Each member of the advisory committee appointed under subparagraph (A) shall serve for a term of 2 years and shall be eligible for reappointment. The advisory committee shall be invited to attend all non-executive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

(C) Procedures

The advisory committee established by subparagraph (A) shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter,\(^1\) the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the WCPFC Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures. A majority of the members of the advisory committee shall constitute a quorum. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.\(^2\) and the advisory committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(D) Provision of information

The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

(2) Administrative matters

(A) Support services

The Secretary shall provide to advisory committees in a timely manner such administrative and technical support services as are necessary for their effective functioning.

(B) Compensation; status; expenses

Individuals appointed to serve as a member of an advisory committee—

(i) shall serve without pay, but while away from their homes or regular places of business in the performance of services for the advisory committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5; and

(ii) shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.

(f) Memorandum of understanding

For highly migratory species in the Pacific, the Secretary, in coordination with the Secretary of State, shall develop a memorandum of understanding with the Western Pacific, Pacific, and North Pacific Fishery Management Councils, that clarifies the role of the relevant Council or Councils with respect to—

(1) participation in United States delegations to international fishery organizations in the Pacific Ocean, including government-to-government consultations; and

(2) providing formal recommendations to the Secretary and the Secretary of State regarding necessary measures for both domestic and foreign vessels fishing for these species;

(3) coordinating positions with the United States delegation for presentation to the appropriate international fishery organization; and

(4) recommending those domestic fishing regulations that are consistent with the actions of the international fishery organization, for approval and implementation under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)


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

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” in §301(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. (i) 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).


§ 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.


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) Actions by the Secretary

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 (16 U.S.C. 1801 et seq.) 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.

(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 of 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.

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(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 eligible for such entry under the terms of section 6905(a) of this title.


§ 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, 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 boundaries of any State bordering on the Convention area if the Secretary has provided notice to such State, the State does not request an agency hearing, and the Secretary determines that the State—
(A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this chapter, enacted laws or promulgated regulations that implement the recommendations of the Commission within the boundaries of such State; or
(B) has enacted laws or promulgated regulations that implement the recommendations of the commission within the boundaries of such State that—
(i) are less restrictive than the regulations promulgated under section 6905(a) of this title; or
(ii) are not effectively enforced.

(2) Determination by Secretary

The regulations promulgated pursuant to section 6905(a) of this title shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures that are not less restrictive than the regulations promulgated under section 6905(a) of this title.

(3) Hearing

If a State requests a formal agency hearing, the Secretary shall not apply the regulations promulgated pursuant to section 6905(a) of this title within that State’s boundaries unless the hearing record supports a determination under paragraph (1)(A) or (B).

(f) Review of State laws and regulations

To ensure that the purposes of subsection (e) are carried out, the Secretary shall undertake a continuing review of the laws and regulations of all States to which subsection (e) applies or may

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1 So in original. Probably should be capitalized.
2 So in original. Probably should be “than”.
3 So in original. Probably should be followed by “to”.
apply and the extent to which such laws and regulations are enforced.


§ 6908. Territorial participation

The Secretary of State shall ensure participation in the Commission and its subsidiary bodies by American Samoa, Guam, and the Northern Mariana Islands to the same extent provided to the territories of other nations.


§ 6909. Exclusive Economic Zone notification

Masters of commercial fishing vessels of nations fishing for species under the management authority of the Western and Central Pacific Fisheries Convention that do not carry vessel monitoring systems capable of communicating with United States enforcement authorities shall, prior to, or as soon as reasonably possible after, entering and transiting the Exclusive Economic Zone seaward of Hawaii and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area—

(1) notify the United States Coast Guard or the National Marine Fisheries Service Office of Law Enforcement in the appropriate region of the name, flag state, location, route, and destination of the vessel and of the circumstances under which it will enter United States waters;

(2) ensure that all fishing gear on board the vessel is stowed below deck or otherwise removed from the place where it is normally used for fishing and placed where it is not readily available for fishing; and

(3) where requested by an enforcement officer, proceed to a specified location so that a vessel inspection can be conducted.


§ 6910. Authorization of appropriations

There are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary to carry out this chapter and to pay the United States contribution to the Commission under section 5 of part III of the WCPFC Convention.


SHORT TITLE


§ 7002. United States representation on joint management committee

(a) Representatives

(1) In general

The Secretary, in consultation with the Secretary of State, shall appoint 4 individuals to represent the United States as the United States Section on the joint management committee. In making the appointments, the Secretary shall select representatives from among individuals who are knowledgeable or experienced concerning the offshore whiting resource. Of these—