

vention Act of 1975, Pub. L. 94-70, Aug. 5, 1975, 89 Stat. 385, as amended, 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.

CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

AMENDMENTS

2011—Subsec. (a). Pub. L. 111-348, §102(c)(1)(A), struck out “, a nation if” after “section 1826h of this title” in introductory provisions.

Pub. L. 111-348, §102(c)(1)(B)–(G), redesignated pars. (1) to (3) as subpars. (A) to (C), respectively, realigned margins, inserted “(1) a nation if—” before subpar. (A), as so redesignated, redesignated former subpars. (A) and (B) of par. (1) as cls. (i) and (ii) of subpar. (A), respectively, realigned margins, and added par. (2).

INITIAL IDENTIFICATIONS

Pub. L. 111-348, title I, §102(c)(2), Jan. 4, 2011, 124 Stat. 3669, provided that: “The Secretary of Commerce shall begin making identifications under paragraph (2) of section 610(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(a)), as added by paragraph (1)(G), not later than 1 year after the date of the enactment of this Act [Jan. 4, 2011].”

§ 1827. Observer program regarding certain foreign fishing

(a) Definitions

As used in this section—

(1) The term “Act of 1976” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) The term “billfish” means any species of marlin, spearfish, sailfish or swordfish.

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

(b) Observer program

The Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel—

(1) is in waters that are within—

(A) the fishery conservation zone established under section 101 of the Act of 1976 [16 U.S.C. 1811],¹ and

(B) the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas; and

(2) is taking or attempting to take any species of fish if such taking or attempting to take may result in the incidental taking of billfish.

The Secretary may acquire observers for such program through contract with qualified private persons.

(c) Functions of observers

United States observers, while aboard foreign fishing vessels as required under subsection (b) of this section, shall carry out such scientific and other functions as the Secretary deems necessary or appropriate to carry out this section.

¹ See References in Text note below.

(d) Fees

There is imposed for each year after 1980 on the owner or operator of each foreign fishing vessel that, in the judgment of the Secretary, will engage in fishing in waters described in subsection (b)(1) of this section during that year which may result in the incidental taking of billfish a fee in an amount sufficient to cover all of the costs of providing an observer aboard that vessel under the program established under subsection (a) of this section. The fees imposed under this subsection for any year shall be paid to the Secretary before that year begins. All fees collected by the Secretary under this subsection shall be deposited in the Fund established by subsection (e) of this section.

(e) Fund

There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this section. The Fund shall consist of the fees deposited into it as required under subsection (d) of this section. All payments made by the Secretary to carry out this section shall be paid from the Fund, only to the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(f) Prohibited acts

(1) It is unlawful for any person who is the owner or operator of a foreign fishing vessel to which this section applies—

(A) to violate any regulation issued under subsection (g) of this section;

(B) to refuse to pay the fee imposed under subsection (d) of this section after being requested to do so by the Secretary; or

(C) to refuse to permit an individual who is authorized to act as an observer under this section with respect to that vessel to board the vessel for purposes of carrying out observer functions.

(2) Section 308 of the Act of 1976 [16 U.S.C. 1858] (relating to civil penalties) applies to any act that is unlawful under paragraph (1), and for purposes of such application the commission of any such act shall be treated as an act the commission of which is unlawful under section 307 of the Act of 1976 [16 U.S.C. 1857].

(g) Regulations

The Secretary shall issue such regulations as are necessary or appropriate to carry out this section.

(Pub. L. 96-339, §2, Sept. 4, 1980, 94 Stat. 1069; Pub. L. 96-561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (a)(1), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 101 of the Act of 1976 [16 U.S.C. 1811], referred to in subsec. (b)(1)(A), which established the fishery conservation zone, was amended generally by Pub. L. 99-659, title I, §101(b), Nov. 14, 1986, 100 Stat. 3706, and now relates to United States sovereign rights to fish and fishery management authority within the exclusive economic zone.

CODIFICATION

Section was not enacted as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-208 substituted “Magnuson-Stevens Fishery” for “Magnuson Fishery”.

1980—Subsec. (a)(1). Pub. L. 96-561 substituted “Magnuson Fishery Conservation and Management Act” for “Fishery Conservation and Management Act of 1976”.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, §211(b)] of div. A of Pub. L. 104-208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 238(b) of Pub. L. 96-561 provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

§ 1828. Foreign fishing incursions

(a) In general

Not later than 180 days after July 11, 2006, the Secretary of the department in which the Coast Guard is operating shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on steps that the Coast Guard will take to significantly improve the Coast Guard’s detection and interdiction of illegal incursions into the United States exclusive economic zone by foreign fishing vessels.

(b) Specific issues to be addressed

The report shall—

(1) focus on areas in the exclusive economic zone where the Coast Guard has failed to detect or interdict such incursions in the 4-fiscal-year period beginning with fiscal year 2000, including such areas in the Western/Central Pacific and the Bering Sea; and

(2) include an evaluation of the potential use of unmanned aircraft and offshore platforms for detecting or interdicting such incursions.

(c) Biennial updates

The Secretary shall provide biannual reports updating the Coast Guard’s progress in detecting or interdicting such incursions to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(Pub. L. 109-241, title VIII, § 804, July 11, 2006, 120 Stat. 563.)

CODIFICATION

Section was enacted as part of the Coast Guard and Maritime Transportation Act of 2006, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

COMBINATION OF FISHERIES ENFORCEMENT PLANS AND FOREIGN FISHING INCURSION REPORTS

Pub. L. 111-207, §4(b), July 27, 2010, 124 Stat. 2251, provided that: “The Secretary of the department in which

the Coast Guard is operating shall combine the reports required under section 224 of the Coast Guard and Maritime Transportation Act of 2004 (16 U.S.C. 1861b) and section 804 of the Coast Guard and Maritime Transportation Act of 2006 (16 U.S.C. 1828) into a single annual report for fiscal years beginning after fiscal year 2010.”

§ 1829. International monitoring and compliance

(a) In general

The Secretary may undertake activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and to implement the requirements of this subchapter.

(b) Specific authorities

In carrying out subsection (a), the Secretary may—

(1) share information on harvesting and processing capacity and illegal, unreported and unregulated fishing on the high seas, in areas covered by international fishery management agreements, and by vessels of other nations within the United States exclusive economic zone, with relevant law enforcement organizations of foreign nations and relevant international organizations;

(2) further develop real time information sharing capabilities, particularly on harvesting and processing capacity and illegal, unreported and unregulated fishing;

(3) participate in global and regional efforts to build an international network for monitoring, control, and surveillance of high seas fishing and fishing under regional or global agreements;

(4) support efforts to create an international registry or database of fishing vessels, including by building on or enhancing registries developed by international fishery management organizations;

(5) enhance enforcement capabilities through the application of commercial or governmental remote sensing technology to locate or identify vessels engaged in illegal, unreported, or unregulated fishing on the high seas, including encroachments into the exclusive economic zone by fishing vessels of other nations;

(6) provide technical or other assistance to developing countries to improve their monitoring, control, and surveillance capabilities; and

(7) support coordinated international efforts to ensure that all large-scale fishing vessels operating on the high seas are required by their flag State to be fitted with vessel monitoring systems no later than December 31, 2008, or earlier if so decided by the relevant flag State or any relevant international fishery management organization.

(Pub. L. 94-265, title II, §207, as added Pub. L. 109-479, title IV, §401, Jan. 12, 2007, 120 Stat. 3625.)