

- (1) the seizure, forfeiture, and condemnation of property for violation of the customs law;
- (2) the disposition of such property or the proceeds from the sale thereof; and
- (3) 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.

(d) Procedure

(1) Any officer authorized to serve any process in rem that is issued by a court under section 5506(b) of this title shall—

- (A) stay the execution of such process; or
- (B) discharge any living marine resources 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.

(2) Any living marine resources seized pursuant to this chapter may be sold, subject to the approval 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.

(e) Rebuttable presumption

For purposes of this section, all living marine resources found on board a high seas fishing vessel and which are seized in connection with an act prohibited by section 5505 of this title are presumed to have been taken or retained in violation of this chapter, but the presumption can be rebutted by an appropriate showing of evidence to the contrary.

(Pub. L. 104-43, title I, §110, Nov. 3, 1995, 109 Stat. 375.)

CHAPTER 76—NORTHWEST ATLANTIC FISHERIES CONVENTION

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§ 5601. Representation of United States under Convention

(a) Commissioners

(1) Appointments, generally

The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the General Council and the Fisheries Commission, who shall each—

- (A) be known as a “United States Commissioner to the Northwest Atlantic Fisheries Organization”; and
- (B) serve at the pleasure of the Secretary.

(2) Requirements for appointments

(A) The Secretary shall ensure that of the individuals serving as Commissioners—

- (i) at least 1 is appointed from among representatives of the commercial fishing industry;
- (ii) 1 (but no more than 1) is an official of the Government; and
- (iii) 1, other than the individual appointed under clause (ii), is a voting member of the New England Fishery Management Council.

(B) The Secretary may not appoint as a Commissioner an individual unless the individual is knowledgeable and experienced concerning the fishery resources to which the Convention applies.

(3) Terms

(A) The term of an individual appointed as a Commissioner—

- (i) shall be specified by the Secretary at the time of appointment; and
- (ii) may not exceed 4 years.

(B) An individual who is not a Government official may not serve more than 2 consecutive terms as a Commissioner.

(b) Alternate Commissioners

(1) Appointment

The Secretary may, for any anticipated absence of a duly appointed Commissioner at a meeting of the General Council or the Fisheries Commission, designate an individual to serve as an Alternate Commissioner.

(2) Functions

An Alternate Commissioner may exercise all powers and perform all duties of the Commissioner for whom the Alternate Commissioner is designated, at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated.

(c) Representatives

(1) Appointment

The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Scientific Council, who shall each be known as a “United States Representative to the Northwest Atlantic Fisheries Organization Scientific Council”.

(2) Eligibility for appointment

(A) The Secretary may not appoint an individual as a Representative unless the individual is knowledgeable and experienced concerning the scientific issues dealt with by the Scientific Council.

(B) The Secretary shall appoint as a Representative at least 1 individual who is an official of the Government.

(3) Term

An individual appointed as a Representative—

(A) shall serve for a term of not to exceed 4 years, as specified by the Secretary at the time of appointment;

(B) may be reappointed; and

(C) shall serve at the pleasure of the Secretary.

(d) Alternate Representatives

(1) Appointment

The Secretary may, for any anticipated absence of a duly appointed Representative at a meeting of the Scientific Council, designate an individual to serve as an Alternate Representative.

(2) Functions

An Alternate Representative may exercise all powers and perform all duties of the Representative for whom the Alternate Representative is designated, at any meeting of the Scientific Council for which the Alternate Representative is designated.

(e) Experts and advisers

The Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives may be accompanied at meetings of the Organization by experts and advisers.

(f) Coordination and consultation

(1) In general

In carrying out their functions under the Convention, Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives shall—

(A) coordinate with the appropriate Regional Fishery Management Councils established by section 1852 of this title; and

(B) consult with the committee established under section 5607 of this title.

(2) Relationship to other law

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to coordination and consultations under this subsection.

(Pub. L. 104-43, title II, §202, Nov. 3, 1995, 109 Stat. 377.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f)(2), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

SHORT TITLE

Pub. L. 104-43, title II, §201, Nov. 3, 1995, 109 Stat. 377, provided that: "This title [enacting this chapter] may be cited as the 'Northwest Atlantic Fisheries Convention Act of 1995'."

§ 5602. Requests for scientific advice

(a) Restriction

The Representatives may not make a request or specification described in subsection (b)(1) or (2) of this section, respectively, unless the Representatives have first—

(1) consulted with the appropriate Regional Fishery Management Councils; and

(2) received the consent of the Commissioners for that action.

(b) Requests and terms of reference described

The requests and specifications referred to in subsection (a) of this section are, respectively—

(1) any request, under Article VII(1) of the Convention, that the Scientific Council consider and report on a question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the jurisdiction of the United States within the Convention Area; and

(2) any specification, under Article VIII(2) of the Convention, of the terms of reference for the consideration of a question referred to the Scientific Council pursuant to Article VII(1) of the Convention.

(Pub. L. 104-43, title II, §203, Nov. 3, 1995, 109 Stat. 378.)

§ 5603. Authorities of Secretary of State with respect to Convention

The Secretary of State may, on behalf of the Government of the United States—

(1) receive and transmit reports, requests, recommendations, proposals, and other communications of and to the Organization and its subsidiary organs;

(2) object, or withdraw an objection, to the proposal of the Fisheries Commission;

(3) give or withdraw notice of intent not to be bound by a measure of the Fisheries Commission;

(4) object or withdraw an objection to an amendment to the Convention; and

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

(Pub. L. 104-43, title II, §204, Nov. 3, 1995, 109 Stat. 379.)

§ 5604. Interagency cooperation

(a) Authorities of Secretary

In carrying out the provisions of the Convention and this chapter, the Secretary may arrange for cooperation with other agencies of the United States, the States, the New England and the Mid-Atlantic Fishery Management Councils, and private institutions and organizations.

(b) Other agencies

The head of any Federal agency may—

(1) cooperate in the conduct of scientific and other programs, and furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention; and

(2) accept reimbursement from the Organization for providing such services, facilities, and personnel.

(Pub. L. 104-43, title II, §205, Nov. 3, 1995, 109 Stat. 379.)

§ 5605. Rulemaking

The Secretary shall promulgate regulations as may be necessary to carry out the purposes and