

(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

objectives of the Convention and this chapter. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

(Pub. L. 104-43, title II, §206, Nov. 3, 1995, 109 Stat. 379.)

§ 5606. Prohibited acts and penalties

(a) Prohibition

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

(1) to violate any regulation issued under this chapter or any measure that is legally binding on the United States under the Convention;

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter, any regulation issued under this chapter, or any measure that is legally binding on the United States under the Convention;

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this section; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that the other person has committed an act prohibited by this section.

(b) Civil penalty

Any person who commits any act that is unlawful under subsection (a) of this section shall be liable to the United States for a civil penalty, or may be subject to a permit sanction, under section 1858 of this title.

(c) Criminal penalty

Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) of this section shall be guilty of an offense punishable under section 1859(b) of this title.

(d) Civil forfeitures

(1) In general

Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act that is unlawful under subsection (a) of this section, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act that is unlawful under subsection (a) of this section, shall be subject to seizure and forfeiture as provided in section 1860 of this title.

(2) Disposal of fish

Any fish seized pursuant to this chapter may be disposed of pursuant to the order of a court

of competent jurisdiction or, if perishable, in a manner prescribed by regulations issued by the Secretary.

(e) Enforcement

The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this chapter and shall have the authority specified in section 1861(a), (b)(1), and (c) of this title for that purpose.

(f) Jurisdiction of courts

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interests of justice.

(Pub. L. 104-43, title II, §207, Nov. 3, 1995, 109 Stat. 379; Pub. L. 105-384, title II, §201(b)(1), Nov. 13, 1998, 112 Stat. 3451.)

AMENDMENTS

1998—Subsec. (e). Pub. L. 105-384 substituted “section” for “sections”.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 5607. Consultative committee

(a) Establishment

The Secretary of State and the Secretary, shall jointly establish a consultative committee to advise the Secretaries on issues related to the Convention.

(b) Membership

(1) The membership of the Committee shall include representatives from the New England and Mid-Atlantic Fishery Management Councils, the States represented on those Councils, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries in the Northwest Atlantic Ocean.

(2) TERMS AND REAPPOINTMENT.—Each member of the consultative committee shall serve for a term of two years and shall be eligible for reappointment.

(c) Duties of committee

Members of the consultative committee may attend—

(1) all public meetings of the General Council or the Fisheries Commission;

(2) any other meetings to which they are invited by the General Council or the Fisheries Commission; and