

## AMENDMENTS

1998—Subsec. (e). Pub. L. 105-384 made technical amendment to reference in original act which appears in text as reference to section 1858 of this title.

1995—Subsec. (e). Pub. L. 104-43 amended subsec. (e) generally, substituting present provisions for provisions establishing civil penalties for violations of this section, providing for authority of Secretary to assess, remit, or mitigate any civil penalty, providing for notice and hearing prior to assessment, and providing for civil action upon failure to pay penalty.

**§ 971f. Enforcement****(a) Particular powers**

Any person authorized in accordance with the provisions of this chapter to enforce the provisions of this chapter and the regulations issued thereunder may—

(1) with or without a warrant, board any vessel subject to the jurisdiction of the United States and inspect such vessel and its catch and, if as a result of such inspection, he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of this chapter or any regulations issued thereunder, he may, with or without a warrant or other process, arrest such person;

(2) arrest, with or without a warrant, any person who violates the provisions of this chapter or any regulation issued thereunder in his presence or view;

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

(4) seize, whenever and wherever lawfully found, all fish taken or retained by a vessel subject to the jurisdiction of the United States in violation of the provisions of this chapter or any regulations issued pursuant thereto. Any fish so seized may be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulation of the Secretary.

**(b) International enforcement**

To the extent authorized under the convention or by agreements between the United States and any contracting party concluded pursuant to section 971c(b) of this title for international enforcement, the duly authorized officials of such party shall have the authority to carry out the enforcement activities specified in subsection (a) of this section with respect to persons or vessels subject to the jurisdiction of the United States, and the officials of the United States authorized pursuant to this section shall have the authority to carry out the enforcement activities specified in subsection (a) of this section with respect to persons or vessels subject to the jurisdiction of such party, except that where any agreement provides for arrest or seizure of persons or vessels under United States jurisdiction it shall also provide that the person or vessel arrested or seized shall be promptly handed over to a United States enforcement officer or another authorized United States official.

**(c) Bonds or stipulations**

Notwithstanding the provisions of section 2464 of title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay

the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value at the time of seizure and the proceeds of such sale placed in the registry of the court pending judgment in the case.

(Pub. L. 94-70, § 8, Aug. 5, 1975, 89 Stat. 391.)

**§ 971g. Cooperation in carrying out Convention****(a) Federal and State agencies; private institutions and organizations**

The United States Commissioners, through the Secretary of State and with the concurrence of the agency, institution, or organization concerned, may arrange for the cooperation of agencies of the United States Government, and of State and private institutions and organizations in carrying out the provisions of article IV of the Convention.

**(b) Scientific and other programs; facilities and personnel**

All agencies of the Federal Government are authorized, upon the request of the Commission, 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 Convention.

**(c) Fishing operations and biological experiments**

None of the prohibitions deriving from this chapter, or contained in the laws or regulations of any State, shall prevent the Commission from conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation, or shall prevent the Commission from discharging any other duties prescribed by the Convention.

**(d) State jurisdiction; preemption by Federal regulations**

(1) Except as provided in paragraph (2) of this subsection, nothing in this chapter shall be construed so as to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

(2) In the event a State does not request a formal hearing and after notice by the Secretary, the regulations promulgated pursuant to this chapter to implement recommendations of the Commission shall apply within the boundaries of any State bordering on any Convention area if the Secretary determines that any such State—

(A) has not, within a reasonable period of time after the promulgation of regulations

pursuant to this chapter, enacted laws or promulgated regulations which implement any such recommendation of the Commission within the boundaries of such State; or

(B) has enacted laws or promulgated regulations which (i) are less restrictive than the regulations promulgated pursuant to this chapter, or (ii) are not effectively enforced.

If a State requests the opportunity for an agency hearing on the record, the Secretary shall not apply regulations promulgated pursuant to this chapter within that State's boundaries unless the hearing record supports a determination under paragraph (A) or (B). Such regulations shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures which are not less restrictive than such regulations.

**(e) Continuing review of State laws and regulations**

To insure that the purposes of subsection (d) of this section are carried out, the Secretary shall undertake a continuing review of the laws and regulations of all States to which subsection (d) of this section applies or may apply and the extent to which such laws and regulations are enforced.

(Pub. L. 94-70, § 9, Aug. 5, 1975, 89 Stat. 392.)

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

**§ 971h. Authorization of appropriations**

**(a) In general**

There are authorized to be appropriated to the Secretary to carry out this chapter, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention—

- (1) \$5,770,000 for each of fiscal years 2007 and 2008;
- (2) \$6,058,000 for each of fiscal years 2009 and 2010; and
- (3) \$6,361,000 for each of fiscal years 2011 and 2013.

**(b) Allocation**

Of the amounts made available under subsection (a) for each fiscal year—

- (1) \$160,000 are authorized for the advisory committee established under section 971b of this title and the species working groups established under section 971b-1 of this title; and
- (2) \$7,500,000 are authorized for research activities under this chapter and section 971i of this title, of which \$3,000,000 shall be for the cooperative research program under section 971i(b)(2)(H) of this title.<sup>1</sup>

(Pub. L. 94-70, § 10, Aug. 5, 1975, 89 Stat. 393; Pub. L. 95-33, § 1, May 26, 1977, 91 Stat. 173; Pub. L. 96-339, § 1(2), Sept. 4, 1980, 94 Stat. 1069; Pub. L. 98-44, title I, § 101, July 12, 1983, 97 Stat. 216; Pub. L. 99-659, title IV, § 404, Nov. 14, 1986, 100 Stat. 3737; Pub. L. 101-627, title II, § 208, Nov. 28, 1990, 104 Stat. 4462; Pub. L. 104-43, title III, § 307, Nov.

3, 1995, 109 Stat. 386; Pub. L. 105-384, title II, § 202(a), Nov. 13, 1998, 112 Stat. 3452; Pub. L. 107-372, title III, § 304, Dec. 19, 2002, 116 Stat. 3095; Pub. L. 109-479, title IV, § 405(a), Jan. 12, 2007, 120 Stat. 3633.)

REFERENCES IN TEXT

Section 971i(b)(2)(H) of this title, referred to in subsec. (b)(2), was in the original "section 3(b)(2)(H) of that section" and was translated as reading "section 3(b)(2)(H) of that Act", meaning Pub. L. 96-339, to reflect the probable intent of Congress.

AMENDMENTS

2007—Pub. L. 109-479 amended section generally, substituting provisions authorizing appropriations for fiscal years 2007 to 2013 for provisions authorizing appropriations for fiscal years 2003 to 2006.

2002—Pub. L. 107-372 amended section generally, substituting provisions authorizing appropriations for fiscal years 2003 to 2006 for provisions authorizing appropriations for fiscal years 1995 to 2001.

1998—Par. (4). Pub. L. 105-384 substituted "For each of fiscal years 1998, 1999, 2000, and 2001," for "For fiscal year 1998,".

1995—Pub. L. 104-43 amended section generally, substituting provisions authorizing appropriations for fiscal years 1995 to 1998 for provisions authorizing appropriations for fiscal years 1989 to 1993.

1990—Pub. L. 101-627 amended section generally, substituting provisions authorizing appropriations for fiscal years 1989 to 1993 for provisions authorizing appropriations for fiscal years 1986 to 1989 and striking out provisions relating to use of sums for travel expenses.

1986—Pub. L. 99-659 substituted authorization of appropriations for fiscal years 1986 through 1989 for former authorization of appropriations for fiscal year 1976, the period beginning July 1, 1976, and ending Sept. 30, 1976, and fiscal years 1977 through 1986.

1983—Pub. L. 98-44 authorized appropriations for fiscal years 1984 through 1986.

1980—Pub. L. 96-339 authorized appropriations for fiscal years 1981 through 1983.

1977—Pub. L. 95-33 authorized appropriations for fiscal years 1978 through 1980.

**§ 971i. Research on Atlantic highly migratory species**

**(a) Omitted**

**(b) Highly migratory species research and monitoring**

(1) Within 6 months after November 3, 1995, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the "Commission") and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall—

- (A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and
- (B) provide for appropriate participation by nations which are members of the Commission.

(2) The program shall provide for, but not be limited to—

<sup>1</sup> See References in Text note below.