

quests, recommendations and other communications of the Council, and, in consultation with the Secretary of Commerce, shall act directly thereon or by reference to the appropriate authorities.

(Pub. L. 98-445, § 4, Oct. 4, 1984, 98 Stat. 1716.)

#### § 972c. Application to other laws

(a) Notwithstanding section 4 of the Fishermen's Protective Act of 1967 [22 U.S.C. 1974], such Act [22 U.S.C. 1971 et seq.] applies with respect to a seizure by a Contracting Party to the Agreement of a vessel of the United States within the Agreement Area for violation of the Agreement if the Secretary of State determines that the violation is not of such seriousness as to diminish the effectiveness of the Agreement.

(b) The seizure by a Contracting Party to the Agreement of a vessel of the United States shall not be considered to be a seizure described in section 1825(a)(4)(C) of this title if the seizure is consistent with the Agreement.

(Pub. L. 98-445, § 5, Oct. 4, 1984, 98 Stat. 1716; 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 Fishermen's Protective Act of 1967, referred to in subsec. (a), is act Aug. 27, 1954, ch. 1018, 68 Stat. 883, as amended, which is classified generally to chapter 25 (§ 1971 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 1971 of Title 22 and Tables.

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104-208 made technical amendment to reference in original act which appears in text as reference to section 1825(a)(4)(C) of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

#### § 972d. Disposition of fees

All fees accruing to the United States under Article III of the Agreement shall be deposited into the Treasury of the United States.

(Pub. L. 98-445, § 6, Oct. 4, 1984, 98 Stat. 1716.)

#### § 972e. Regulations

The Secretary of Commerce, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall issue such regulations as may be necessary to carry out the purposes and objectives of the Agreement and this chapter. Regulations may be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located. Regulations concerning the conservation of a designated species of tuna may be issued only to implement conservation recommendations made by the Council under Article 3(D) of the Agreement.

(Pub. L. 98-445, § 7, Oct. 4, 1984, 98 Stat. 1716.)

#### 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.

#### § 972f. Prohibited acts

##### (a) Unlawful acts

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

(1) to engage in fishing for a designated species of tuna within the Agreement Area unless issued a license under the Agreement authorizing such fishing;

(2) to engage in fishing for a designated species of tuna within the Agreement area<sup>1</sup> in contravention of regulations promulgated by the Secretary of Commerce under the Agreement;

(3) knowingly to ship, transport, purchase, sell, offer for sale, export, or have in custody, possession, or control any designated species of tuna taken or retained in violation of regulations issued under section 972e of this title;

(4) to fail to make, keep, or furnish any catch return, statistical record, or other report required by regulations issued under section 972e of this title;

(5) being a person in charge of a vessel of the United States, to fail to stop upon being hailed by an authorized official of the United States, or to refuse to permit officials of the United States to board the vessel or inspect its catch, equipment, books, documents, records, or other articles, or to question individuals on board; or

(6) to import from any country, in violation of any regulation issued under section 972e of this title, any designated species of tuna.

##### (b) Penalties

Any person who is convicted of violating—

(1) subsection (a)(1), (a)(2), or (a)(3) of this section shall be fined or assessed a civil penalty not more than \$25,000, and for a subsequent violation shall be fined or assessed a civil penalty not more than \$50,000;

(2) subsection (a)(4) or (a)(5) of this section shall be fined or assessed a civil penalty not more than \$5,000, and for a subsequent violation shall be fined or assessed a civil penalty not more than \$5,000; or

(3) subsection (a)(6) of this section shall be fined or assessed a civil penalty not more than \$100,000.

##### (c) Forfeiture

All designated species of tuna taken or retained in violation of subsection (a)(1), (2), (3), or (6) of this section, or the monetary value thereof, is subject to forfeiture.

##### (d) Application of laws relating to seizures and forfeitures

All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale

<sup>1</sup> So in original. Probably should be capitalized.

thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter.

(Pub. L. 98-445, § 8, Oct. 4, 1984, 98 Stat. 1717.)

#### § 972g. Enforcement

##### (a) Warrants

The judges of the United States district courts and United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and the regulations issued under section 972e of this title.

##### (b) Joint responsibility for enforcement

The enforcement of this chapter and the regulations issued under section 972e of this title shall be the joint responsibility of the department in which the Coast Guard is operating, the Department of Commerce, and the United States Customs Service. In addition, the Secretary of Commerce may designate officers and employees of the States of the United States, of the Commonwealth of Puerto Rico, and of American Samoa to carry out enforcement activities under this section. When so designated, such officers and employees may function as Federal law enforcement agents for these purposes.

##### (c) Execution of warrants and process

An individual authorized to carry out enforcement activities under this section has power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this chapter.

##### (d) Arrest; search

An individual so authorized to carry out enforcement activities under this section has power—

(1) with or without a warrant or other process, to arrest any person subject to the jurisdiction of the United States at any place within the jurisdiction of the United States committing in his presence or view a violation of this chapter or the regulations issued under section 972e of this title;

(2) with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States, and, if, as a result of the search he has reasonable cause to believe that such vessel or any individual on board is engaging in operations in violation of this chapter or any regulation issued thereunder to arrest such person.

##### (e) Seizure

An individual authorized to enforce this chapter may seize, whenever or wherever lawfully found, all species of designated tuna taken or retained in violation of this chapter or the regulations issued under section 972e of this title. Any species so seized may be disposed of pursuant to the order of a court of competent jurisdiction, under subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary of Commerce.

##### (f) Bond or stipulation for value of the property

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 species of designated tuna seized if the process has been levied, on receiving from the claimant of the species 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 species 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 discretion of the court, the species may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

(Pub. L. 98-445, § 9, Oct. 4, 1984, 98 Stat. 1717; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

#### CHANGE OF NAME

“United States magistrate judges” substituted for “United States magistrates” in subsec. (a) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

#### 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.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 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.

#### § 972h. Authorization of appropriations

There are authorized to be appropriated for fiscal years after fiscal year 1984 such sums as may be necessary to carry out this chapter.

(Pub. L. 98-445, § 10, Oct. 4, 1984, 98 Stat. 1719.)

### CHAPTER 16C—SOUTH PACIFIC TUNA FISHING

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