

quota program, on any fisheries outside of the authority of the North Pacific Council, and such other matters as the North Pacific Council deems appropriate.

“(e) REPORT ON FILLET PRODUCTION.—Not later than June 1, 2000, the General Accounting Office [now Government Accountability Office] shall submit a report to the North Pacific Council, the Secretary, and the Congress on whether this Act has negatively affected the market for fillets and fillet blocks, including through the reduction in the supply of such fillets and fillet blocks. If the report determines that such market has been negatively affected, the North Pacific Council shall recommend measures for the Secretary’s approval to mitigate any negative effects.

“(f) SEVERABILITY.—If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

“(g) INTERNATIONAL AGREEMENTS.—In the event that any provision of section 12102(c) [now 12113(b)(2) to (d)] or section 31322(a) of title 46, United States Code, as amended by this Act, is determined to be inconsistent with an existing international agreement relating to foreign investment to which the United States is a party with respect to the owner or mortgagee on [sic] of a vessel with a fishery endorsement, such provision shall not apply to that owner or mortgagee with respect to their ownership or mortgage interest in such vessel on that date to the extent of any such inconsistency. The provisions of section 12102(c) [now 12113(b)(2) to (d)] and section 31322(a) of title 46, United States Code, as amended by this Act, shall apply to all subsequent owners and mortgagees of such vessel, and shall apply, notwithstanding the preceding sentence, to the owner on [sic] of such vessel if any ownership interest in that owner is transferred to or otherwise acquired by a foreign individual or entity after or if the percentage of foreign ownership in the vessel is increased after the effective date of this subsection [July 24, 2001].”

[Pub. L. 107–20, title II, §2202(e)(2), July 24, 2001, 115 Stat. 170, provided that: “Section 213(g) of the American Fisheries Act (Public Law 105–277, division C, title II) [set out above] shall take effect on the date of enactment of this Act [July 24, 2001].”]

#### RESTRICTION ON FUNDING CERTAIN NEW FISHERY MANAGEMENT PLANS, AMENDMENTS OR REGULATIONS

Pub. L. 104–208, div. A, title I, §101(a) [title II, §§208, 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–40, 3009–41, provided that: “None of the funds appropriated under this Act or any other Act henceforth may be used to develop new fishery management plans, amendments, or regulations which create new individual fishing quota programs (whether such quotas are transferable or not) or to implement any such plans, amendments or regulations approved by a Regional Fishery Management Council or the Secretary after January 4, 1995, until offsetting fees to pay for the cost of administering such plans, amendments, or regulations are expressly authorized under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.). This restriction shall also apply to any program relating to the Gulf of Mexico commercial red snapper fishery that authorizes the consolidation of licenses, permits or endorsements that result in different trip limits for vessels in the same class. This restriction shall not apply in any way to the North Pacific halibut and sablefish, South Atlantic wreckfish, or the Mid-Atlantic surfclam and ocean (including mahogany) quohog individual fishing quota programs. The term ‘individual fishing quota’ does not include a community development quota.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 104–134, title I, §101[(a)] [title II, §210], Apr. 26, 1996, 110 Stat. 1321, 1321–31; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; repealed by

Pub. L. 104–297, title I, §108(f)(6), Oct. 11, 1996, 110 Stat. 3579.

#### ALBEMARLE SOUND-ROANOKE RIVER BASIN: STRIPED BASS STUDY

Pub. L. 100–589, §5, Nov. 3, 1988, 102 Stat. 2984, related to requirement of biological study of striped bass fishery resources and habitats of Albemarle Sound-Roanoke River basin area and development of short-term and long-term recommendations for restoring and conserving these resources and habitats, prior to repeal by Pub. L. 105–146, §3(b), Dec. 16, 1997, 111 Stat. 2677.

#### EXCLUSIVE ECONOMIC ZONE: ATLANTIC STRIPED BASS PROTECTION

Pub. L. 100–589, §6(a)–(f), Nov. 3, 1988, 102 Stat. 2986, as amended by Pub. L. 102–130, §4, Oct. 17, 1991, 105 Stat. 627; Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, directed Secretary of Commerce to regulate fishing for Atlantic striped bass in exclusive economic zone determined to be consistent with national standards set forth in this section, prior to repeal by Pub. L. 105–146, §3(c), Dec. 16, 1997, 111 Stat. 2677.

#### ATLANTIC STRIPED BASS CONSERVATION

Pub. L. 98–613, §§1–9, Oct. 31, 1984, 98 Stat. 3187–3190, as amended, formerly set out as a note under this section, was transferred to chapter 71A (§5151 et seq.) of this title.

### § 1852. Regional Fishery Management Councils

#### (a) Establishment

(1) There shall be established, within 120 days after April 13, 1976, eight Regional Fishery Management Councils, as follows:

##### (A) New England Council

The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The New England Council shall have 18 voting members, including 12 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).

##### (B) Mid-Atlantic Council

The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except North Carolina, and as provided in paragraph (3)). The Mid-Atlantic Council shall have 21 voting members, including 13 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).

##### (C) South Atlantic Council

The South Atlantic Fishery Management Council shall consist of the States of North Carolina, South Carolina, Georgia, and Florida and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The South Atlantic Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) of this sec-

tion (at least one of whom shall be appointed from each such State).

**(D) Caribbean Council**

The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States and of commonwealths, territories, and possessions of the United States in the Caribbean Sea (except as provided in paragraph (3)). The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).

**(E) Gulf Council**

The Gulf of Mexico Fishery Management Council shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida and shall have authority over the fisheries in the Gulf of Mexico seaward of such States (except as provided in paragraph (3)). The Gulf Council shall have 17 voting members, including 11 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).

**(F) Pacific Council**

The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally<sup>1</sup> recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5) of this section.

**(G) North Pacific Council**

The North Pacific Fishery Management Council shall consist of the States of Alaska, Washington, and Oregon and shall have authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The North Pacific Council shall have 11 voting members, including 7 appointed by the Secretary in accordance with subsection (b)(2) of this section (5 of whom shall be appointed from the State of Alaska and 2 of whom shall be appointed from the State of Washington).

**(H) Western Pacific Council**

The Western Pacific Fishery Management Council shall consist of the States of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area. The Western Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance

with subsection (b)(2) of this section (at least one of whom shall be appointed from each of the following States: Hawaii, American Samoa, Guam, and the Northern Mariana Islands).

(2) Each Council shall reflect the expertise and interest of the several constituent States in the ocean area over which such Council is granted authority.

(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

**(b) Voting members**

(1) The voting members of each Council shall be:

(A) The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official.

(B) The regional director of the National Marine Fisheries Service for the geographic area concerned, or his designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member.

(C) The members required to be appointed by the Secretary in accordance with paragraphs (2) and (5).

(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. Within nine months after November 28, 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.

(B) The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

(i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;

(ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and

<sup>1</sup> So in original. Probably should not be capitalized.

(iii) state the Secretary's plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.

(C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k)<sup>2</sup> of this section.

(D)(i) The Governor of a State submitting a list of names of individuals for appointment by the Secretary of Commerce to the Gulf of Mexico Fisheries Management Council under subparagraph (C) shall include—

(I) at least 1 nominee each from the commercial, recreational, and charter fishing sectors; and

(II) at least 1 other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.

(ii) Notwithstanding the requirements of subparagraph (C), if the Secretary determines that the list of names submitted by the Governor does not meet the requirements of clause (i) the Secretary shall—

(I) publish a notice in the Federal Register asking the residents of that State to submit the names and pertinent biographical data of individuals who would meet the requirement not met for appointment to the Council; and

(II) add the name of any qualified individual submitted by the public who meets the unmet requirement to the list of names submitted by the Governor.

(iii) For purposes of clause (i) an individual who owns or operates a fish farm outside of the United States shall not be considered to be a representative of the commercial or recreational fishing sector.

(iv) The requirements of this subparagraph shall expire at the end of fiscal year 2012.

(E) Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.

(3) Each voting member appointed to a Council by the Secretary in accordance with paragraphs (2) and (5) shall serve for a term of 3 years; except that the Secretary may designate a shorter term if necessary to provide for balanced expiration to terms of office. No member appointed after January 1, 1986, may serve more than three consecutive terms. Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member.

(4) Successors to the voting members of any Council shall be appointed in the same manner as the original voting members. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(5)(A) The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally<sup>3</sup> recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph.

(B) Representation shall be rotated among the tribes taking into consideration—

(i) the qualifications of the individuals on the list referred to in subparagraph (A),

(ii) the various rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and

(iii) the geographic area in which the tribe of the representative is located.

(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.

(D) The tribal representative appointed under subparagraph (A) may designate as an alternate, during the period of the representative's term, an individual knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.

(6) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with paragraphs<sup>4</sup> (2) or (5) if—

(A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or

(B) the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 1857(1)(O) of this title.

<sup>3</sup> So in original. Probably should not be capitalized.

<sup>4</sup> So in original. Probably should be "paragraph".

<sup>2</sup> So in original. Probably should be subsection "(j)".

**(c) Nonvoting members**

(1) The nonvoting members of each Council shall be:

(A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or his designee.

(B) The Commander of the Coast Guard district for the geographical area concerned, or his designee; except that, if two Coast Guard districts are within such geographical area, the commander designated for such purpose by the commandant of the Coast Guard.

(C) The executive director of the Marine Fisheries Commission for the geographical area concerned, if any, or his designee.

(D) One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.

(2) The Pacific Council shall have one additional nonvoting member who shall be appointed by, and serve at the pleasure of, the Governor of Alaska.

**(d) Compensation and expenses**

The voting members of each Council who are required to be appointed by the Secretary and who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS-15, step 7 of the General Schedule, when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C) of this section, and the nonvoting member appointed pursuant to subsection (c)(2) of this section shall be reimbursed for actual expenses incurred in the performance of such duties, and other nonvoting members and Council staff members may be reimbursed for actual expenses.

**(e) Transaction of business**

(1) A majority of the voting members of any Council shall constitute a quorum, but one or more such members designated by the Council may hold hearings. All decisions of any Council shall be by majority vote of the voting members present and voting.

(2) The voting members of each Council shall select a Chairman for such Council from among the voting members.

(3) Each Council shall meet at appropriate times and places in any of the constituent States of the Council at the call of the Chairman or upon the request of a majority of its voting members.

(4) If any voting member of a Council disagrees with respect to any matter which is transmitted to the Secretary by such Council, such member may submit a statement to the Secretary setting forth the reasons for such disagreement. The regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.

(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official

minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.

**(f) Staff and administration**

(1) Each Council may appoint, and assign duties to, an executive director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.

(2) Upon the request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail to such Council, on a reimbursable basis, any of the personnel of such agency, to assist such Council in the performance of its functions under this chapter.

(3) The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council.

(4) The Administrator of General Services shall furnish each Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(5) The Secretary and the Secretary of State shall furnish each Council with relevant information concerning foreign fishing and international fishery agreements.

(6) Each Council shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, in accordance with such uniform standards as are prescribed by the Secretary. The procedures of a Council, and of its scientific and statistical committee and advisory panels established under subsection (g) of this section, must be consistent with the procedural guidelines set forth in subsection (i)(2) of this section. Each Council shall publish and make available to the public a statement of its organization, practices, and procedures.

(7) The Secretary shall pay—

(A) the compensation and expenses provided for in subsection (d) of this section;

(B) appropriate compensation to employees appointed under paragraph (1);

(C) the amounts required for reimbursement of other Federal agencies under paragraphs (2) and (4);

(D) the actual expenses of the members of the committees and panels established under subsection (g) of this section; and

(E) such other costs as the Secretary determines are necessary to the performance of the functions of the Councils.

**(g) Committees and advisory panels**

(1)(A) Each Council shall establish, maintain, and appoint the members of a scientific and statistical committee to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

(B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, includ-

ing recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.

(C) Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials and experience.

(D) Each member of a scientific and statistical committee shall be treated as an affected individual for purposes of paragraphs (2), (3)(B), (4), and (5)(A) of subsection (j). The Secretary shall keep disclosures made pursuant to this subparagraph on file.

(E) The Secretary and each Council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of the fishery. The review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106-554—Appendix C; 114 Stat. 2763A-153).

(F) In addition to the provisions of subsection (f)(7), the Secretary shall, subject to the availability of appropriations, pay a stipend to members of the scientific and statistical committees or advisory panels who are not employed by the Federal Government or a State marine fisheries agency.

(G) A science and statistical committee shall hold its meetings in conjunction with the meeting of the Council, to the extent practicable.

(2) Each Council shall establish such advisory panels as are necessary or appropriate to assist it in carrying out its functions under this chapter.

(3)(A) Each Council shall establish and maintain a fishing industry advisory committee which shall provide information and recommendations on, and assist in the development of, fishery management plans and amendments to such plans.

(B) Appointments to a committee established under subparagraph (A) shall be made by each Council in such a manner as to provide fair representation to commercial fishing interests in the geographical area of authority of the Council.

(4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery to which subsection (a)(3) of this section applies. Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among—

(A) members of advisory committees and species working groups appointed under Acts

implementing relevant international fishery agreements pertaining to highly migratory species; and

(B) other interested persons.

(5) Decisions and recommendations made by committees and panels established under this subsection shall be considered to be advisory in nature.

#### (h) Functions

Each Council shall, in accordance with the provisions of this chapter—

(1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);

(2) prepare comments on any application for foreign fishing transmitted to it under section 1824(b)(4)(C) of this title or section 1824(d) of this title, and any fishery management plan or amendment transmitted to it under section 1854(c)(4) of this title;

(3) conduct public hearings, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this chapter (and for purposes of this paragraph, the term “geographical area concerned” may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area);

(4) submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary;

(5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 1853(a)(3) and (4) of this title with respect to the optimum yield from, the capacity and extent to which United States fish processors will process United States harvested fish from, and the total allowable level of foreign fishing in, each fishery (except as provided in section<sup>5</sup> subsection (a)(3) of this section) within its geographical area of authority;

(6) develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g);

(7) develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of re-

<sup>5</sup>So in original. The word “section” probably should not appear.

search that are necessary for management purposes, that shall—

(A) establish priorities for 5-year periods;

(B) be updated as necessary; and

(C) be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council; and

(8) conduct any other activities which are required by, or provided for in, this chapter or which are necessary and appropriate to the foregoing functions.

**(i) Procedural matters**

(1) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Councils, the Council coordination committee established under subsection (l), or to the scientific and statistical committees or other committees or advisory panels established under subsection (g).

(2) The following guidelines apply with respect to the conduct of business at meetings of a Council, of the Council coordination committee established under subsection (l), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g):

(A) Unless closed in accordance with paragraph (3), each regular meeting and each emergency meeting shall be open to the public.

(B) Emergency meetings shall be held at the call of the chairman or equivalent presiding officer.

(C) Timely public notice of each regular meeting and each emergency meeting, including the time, place, and agenda of the meeting, shall be provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient. Timely notice of each regular meeting shall also be published in the Federal Register. The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 1855(c) of this title, in which case public notice shall be given immediately.

(D) Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings. All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.

(E) Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each such meeting and submit a copy there-

of to the Secretary. The minutes shall be made available to any court of competent jurisdiction.

(F) Subject to the procedures established under paragraph (4), and the guidelines prescribed by the Secretary under section 1881a(b) of this title, relating to confidentiality, the administrative record, including minutes required under subparagraph (E), of each meeting, and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council or the Secretary, as appropriate.

(3)(A) Each Council, the Council Coordination Committee established under subsection (l), scientific, and statistical committee, other committees, and advisory panel—

(i) shall close any meeting, or portion thereof, that concerns matters or information that bears a national security classification; and

(ii) may close any meeting, or portion thereof, that concerns matters or information that pertains to national security, employment matters, or briefings on litigation in which the Council is interested.

Subparagraphs (D) and (F) of paragraph (2) shall not apply to any meeting or portion thereof that is so closed.

(B) If any meeting or portion is closed, the Council concerned shall provide notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient, including in that notification the time and place of the meeting. This subparagraph<sup>6</sup> does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters.

(4) Each Council shall establish appropriate procedures applicable to it and to its committee and advisory panels for ensuring the confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited to, procedures for the restriction of Council employee access and the prevention of conflicts of interest; except that such procedures, in the case of statistics submitted to the Council by a State or by the Secretary under section 1881a(b) of this title, must be consistent with the laws and regulations of that State, or with the procedures of the Secretary, as the case may be, concerning the confidentiality of the statistics.

(5) Each Council shall specify those procedures that are necessary or appropriate to ensure that the committees and advisory panels established under subsection (g) of this section are involved, on a continuing basis, in the development and amendment of fishery management plans.

(6) At any time when a Council determines it appropriate to consider new information from a

<sup>6</sup> So in original. Probably should be "subparagraph".

State or Federal agency or from a Council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.

**(j) Disclosure of financial interest and recusal**

(1) For the purposes of this subsection—

(A) the term “affected individual” means an individual who—

(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2) of this section; or

(ii) is a voting member of a Council appointed—

(I) under subsection (b)(2) of this section; or

(II) under subsection (b)(5) of this section who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and

(B) the term “designated official” means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).

(2) Each affected individual must disclose any financial interest held by—

(A) that individual;

(B) the spouse, minor child, or partner of that individual; and

(C) any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee;

in any harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction, or with respect to an individual or organization with a financial interest in such activity.

(3) The disclosure required under paragraph (2) shall be made—

(A) in the case of an affected individual referred to in paragraph (1)(A)(i), before appointment by the Secretary; and

(B) in the case of an affected individual referred to in paragraph (1)(A)(ii), within 45 days of taking office.

(4) An affected individual referred to in paragraph (1)(A)(ii) must update his or her disclosure form at any time any such financial interest is acquired, or substantially changed, by any person referred to in paragraph (2)(A), (B), or (C).

(5) The financial interest disclosures required by this subsection shall—

(A) be made on such forms, in accordance with such procedures, and at such times, as the Secretary shall by regulation prescribe;

(B) be kept on file by the Council and made available on the Internet and for public inspection at the Council offices during reasonable hours; and

(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.

(6) The participation by an affected individual referred to in paragraph (1)(A)(ii) in an action by a Council during any time in which that individual is not in compliance with the regulations prescribed under paragraph (5) may not be treated as cause for the invalidation of that action.

(7)(A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

(F) The Secretary, in consultation with the Councils and by not later than one year from October 11, 1996, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).

(8) Section 208 of title 18 does not apply to an affected individual referred to in paragraph (1)(A)(ii) during any time in which that individual is in compliance with the regulations prescribed under paragraph (5).

(9) On January 1, 2008, and annually thereafter, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements of this subsection, including identification of any conflict of interest problems with respect to the Councils and scientific and statistical committees and recommendations for addressing any such problems.

**(k) Council training program****(1) Training course**

Within 6 months after January 12, 2007, the Secretary, in consultation with the Councils and the National Sea Grant College Program, shall develop a training course for newly appointed Council members. The course may cover a variety of topics relevant to matters before the Councils, including—

(A) fishery science and basic stock assessment methods;

(B) fishery management techniques, data needs, and Council procedures;

(C) social science and fishery economics;

(D) tribal treaty rights and native customs, access, and other rights related to Western Pacific indigenous communities;

(E) legal requirements of this chapter, including conflict of interest and disclosure provisions of this section and related policies;

(F) other relevant legal and regulatory requirements, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.);

(G) public process for development of fishery management plans;

(H) other topics suggested by the Council; and

(I) recreational and commercial fishing information, including fish harvesting techniques, gear types, fishing vessel types, and economics for the fisheries within each Council's jurisdiction.

**(2) Member training**

The training course shall be available to both new and existing Council members, staff from the regional offices and regional science centers of the National Marine Fisheries Service, and may be made available to committee or advisory panel members as resources allow.

**(3) Required training**

Council members appointed after January 12, 2007, shall complete a training course that meets the requirements of this section not later than 1 year after the date on which they were appointed. Any Council member who has completed a training course within 24 months before January 12, 2007, shall be considered to have met the training requirement of this paragraph.

**(l) Council coordination committee**

The Councils may establish a Council coordination committee consisting of the chairs, vice chairs, and executive directors of each of the 8 Councils described in subsection (a)(1), or other Council members or staff, in order to discuss issues of relevance to all Councils, including issues related to the implementation of this chapter.

(Pub. L. 94-265, title III, §302, Apr. 13, 1976, 90 Stat. 347; Pub. L. 95-354, §5(1), Aug. 28, 1978, 92 Stat. 521; Pub. L. 96-561, title II, §234, Dec. 22, 1980, 94 Stat. 3299; Pub. L. 97-453, §5, Jan. 12, 1983, 96 Stat. 2484; Pub. L. 99-659, title I, §104(a)(1), (b)-(e)(1), Nov. 14, 1986, 100 Stat. 3709, 3710; Pub. L. 101-627, title I, §§108(a)-(j), 120(c), Nov. 28, 1990, 104 Stat. 4444-4446, 4459; Pub. L. 102-582, title IV, §403, Nov. 2, 1992, 106 Stat. 4909; Pub. L.

104-297, title I, §107, Oct. 11, 1996, 110 Stat. 3570; Pub. L. 106-113, div. B, §1000(a)(1) [title II, §210], Nov. 29, 1999, 113 Stat. 1535, 1501A-33; Pub. L. 109-479, title I, §§102, 103, Jan. 12, 2007, 120 Stat. 3579.)

## REFERENCES IN TEXT

The General Schedule, referred to in subsec. (d), is set out under section 5332 of Title 5, Government Organization and Employees.

This chapter, referred to in subsecs. (f)(2), (6), (g)(2), (h), (k)(1)(E), and (l), was in the original "this Act", meaning Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, 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 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001, referred to in subsec. (g)(1)(E), is section 1(a)(3) [title V, §515] of Pub. L. 106-554, which is set out as a note under section 3516 of Title 44, Public Printing and Documents.

The Federal Advisory Committee Act, referred to in subsec. (i)(1), 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.

The National Environmental Policy Act, referred to in subsec. (k)(1)(F), probably means the National Environmental Policy Act of 1969, Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

## AMENDMENTS

2007—Subsec. (a)(1)(D). Pub. L. 109-479, §102, inserted "and of commonwealths, territories, and possessions of the United States in the Caribbean Sea" after "seaward of such States".

Subsec. (b)(2)(D), (E). Pub. L. 109-479, §103(j), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (b)(5)(D). Pub. L. 109-479, §103(a), added subpar. (D).

Subsec. (g). Pub. L. 109-479, §103(b)(1), substituted "Committees and advisory panels" for "Committees and panels" in heading.

Subsec. (g)(1). Pub. L. 109-479, §103(b)(1), added par. (1) and struck out former par. (1) which read as follows: "Each Council shall establish and maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan."

Subsec. (g)(2). Pub. L. 109-479, §103(b)(2), (3), struck out "other" before "advisory panels" and realigned margins.

Subsec. (g)(3) to (5). Pub. L. 109-479, §103(b)(3), realigned margins.

Subsec. (h)(5). Pub. L. 109-479, §103(c)(1), which directed substitution of "authority;" for "authority, and", was executed by making the substitution for "authority; and" to reflect the probable intent of Congress.

Subsec. (h)(6). Pub. L. 109-479, §103(c)(3), added par. (6). Former par. (6) redesignated (7).

Subsec. (h)(7). Pub. L. 109-479, §103(d)(1), (3), added par. (7). Former par. (7) redesignated (8).

Pub. L. 109-479, §103(c)(2), redesignated par. (6) as (7). Subsec. (h)(8). Pub. L. 109-479, §103(d)(2), redesignated par. (7) as (8).

Subsec. (i)(1). Pub. L. 109-479, §103(h)(1), substituted "to the Councils, the Council coordination committee established under subsection (l), or to the scientific and statistical committees or other committees or advisory panels established under subsection (g)." for "to the Councils or to the scientific and statistical committees



or advisory panels established under subsection (g) of this section.”

Subsec. (i)(2). Pub. L. 109-479, §103(h)(2), in introductory provisions, substituted “of a Council, of the Council coordination committee established under subsection (l), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g):” for “of a Council, and of the scientific and statistical committee and advisory panels established under subsection (g) of this section:”.

Subsec. (i)(2)(C). Pub. L. 109-479, §103(e), substituted “provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient.” for “published in local newspapers in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery) and such notice may be given by such other means as will result in wide publicity.”

Subsec. (i)(3)(A). Pub. L. 109-479, §103(h)(3), (4), in introductory provisions, inserted “the Council Coordination Committee established under subsection (l),” after “Council,” and “other committees,” after “committee.”

Subsec. (i)(3)(B). Pub. L. 109-479, §103(f), which directed substitution of “provide notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient,” for “notify local newspapers in the major fishing ports within its region (and in other major, affected fishing ports,” was executed by making the substitution for text which ended with “ports,” to reflect the probable intent of Congress.

Subsec. (j)(2). Pub. L. 109-479, §103(i)(1), (2), in concluding provisions, inserted “lobbying, advocacy,” after “processing,” and substituted “jurisdiction, or with respect to an individual or organization with a financial interest in such activity.” for “jurisdiction.”

Subsec. (j)(5)(B). Pub. L. 109-479, §103(i)(3), added subpar. (B) and struck out former subpar. (B) which read as follows: “be kept on file, and made available for public inspection at reasonable hours, at the Council offices; and”.

Subsec. (j)(9). Pub. L. 109-479, §103(i)(4), added par. (9).  
Subsecs. (k), (l). Pub. L. 109-479, §103(g), added subsecs. (k) and (l).

1999—Subsec. (a)(1)(A). Pub. L. 106-113 substituted “18” for “17” and “12” for “11”.

1996—Subsec. (a). Pub. L. 104-297, §107(a)(1), (2), (6), inserted “(1)” before “There shall be established”, redesignated former pars. (1) to (8) as subpars. (A) to (H), respectively, adjusted margin of last sentence, and inserted “(2)” before “Each Council”.

Subsec. (a)(1)(A). Pub. L. 104-297, §107(a)(3), substituted “paragraph (3)” for “section 1854(f)(3) of this title”.

Subsec. (a)(1)(B). Pub. L. 104-297, §107(a)(3), (4), substituted “Virginia, and North Carolina” for “and Virginia”, inserted “North Carolina, and” after “except”, and substituted “paragraph (3)” for “section 1854(f)(3) of this title”, “21 voting” for “19 voting”, and “13 appointed” for “12 appointed”.

Subsec. (a)(1)(C) to (E). Pub. L. 104-297, §107(a)(3), substituted “paragraph (3)” for “section 1854(f)(3) of this title”.

Subsec. (a)(1)(F). Pub. L. 104-297, §107(a)(5), amended heading and text of subpar. (F) generally. Prior to amendment, text read as follows: “The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) of this section (at least one of whom shall be appointed from each such State).”

Subsec. (a)(3). Pub. L. 104-297, §107(a)(7), added par. (3).

Subsec. (b)(1)(C). Pub. L. 104-297, §107(b)(1), substituted “paragraphs (2) and (5)” for “subsection (b)(2) of this section”.

Subsec. (b)(3). Pub. L. 104-297, §107(b)(1), (2), substituted “paragraphs (2) and (5)” for “subsection (b)(2) of this section” and “Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member.” for “Any term completed prior to December 31, 1987, shall not be counted in determining the number of consecutive terms served by any Council member.”

Subsec. (b)(5), (6). Pub. L. 104-297, §107(b)(3), added pars. (5) and (6) and struck out former par. (5) which read as follows: “The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with subsection (b)(2) of this section if the Council concerned first recommends removal by not less than two-thirds of the members who are voting members. A removal recommendation of a Council must be in writing and accompanied by a statement of the reasons upon which the recommendation is based.”

Subsec. (d). Pub. L. 104-297, §107(c), substituted “each Council who are required to be appointed by the Secretary and” for “each Council,” and “shall receive compensation at the daily rate for GS-15, step 7” for “shall, until January 1, 1992, receive compensation at the daily rate for GS-18 of the General Schedule, and after December 31, 1991, at the daily rate for GS-16”.

Subsec. (e)(5). Pub. L. 104-297, §107(d), added par. (5).

Subsec. (g)(4), (5). Pub. L. 104-297, §107(e), added par. (4) and redesignated former par. (4) as (5).

Subsec. (h)(1). Pub. L. 104-297, §107(f)(1), added par. (1) and struck out former par. (1) which read as follows: “prepare and submit to the Secretary a fishery management plan with respect to each fishery (except as provided in section 1854(f)(3) of this title) within its geographical area of authority that requires conservation and management and, from time to time, such amendments to each such plan as are necessary;”.

Subsec. (h)(2). Pub. L. 104-297, §107(f)(2), substituted “section 1824(b)(4)(C) of this title or section 1824(d) of this title” for “section 1824(b)(4)(C) of this title” and “section 1854(c)(4)” for “section 1854(c)(2)”.

Subsec. (h)(5). Pub. L. 104-297, §107(f)(3), substituted “subsection (a)(3) of this section” for “1854(f)(3) of this title”.

Subsec. (i). Pub. L. 104-297, §107(g), redesignated subsec. (j) as (i) and struck out heading and text of former subsec. (i). Text read as follows:

“(1) Each Council—

“(A) may comment on and make recommendations concerning any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction; and

“(B) shall comment on and make recommendations concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.

“(2) Within 45 days after receiving a comment or recommendation under paragraph (1) from a Council, a Federal agency shall provide a detailed response, in writing, to the Council regarding the matter. In the case of a comment or recommendation under paragraph (1)(B), the response shall include a description of measures being considered by the agency for mitigating or offsetting the impact of the activity on such habitat.”

Subsec. (i)(1). Pub. L. 104-297, §107(h)(1), substituted “established under subsection (g) of this section” for “of the Councils”.

Subsec. (i)(2). Pub. L. 104-297, §107(h)(2), substituted “established under subsection (g) of this section” for “of a Council” in introductory provisions.

Subsec. (i)(2)(C). Pub. L. 104-297, §107(h)(3), (4), struck out “Council’s” after “fishing ports of the” and in-

serted at end “The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 1855(c) of this title, in which case public notice shall be given immediately.”

Subsec. (i)(2)(D). Pub. L. 104-297, §107(h)(5), inserted at end “All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.”

Subsec. (i)(2)(E). Pub. L. 104-297, §107(h)(6), added subpar. (E) and struck out former subpar. (E) which read as follows: “Minutes of each meeting shall be kept and shall contain a record of the persons present, an accurate description of matters discussed and conclusions reached, and copies of all statements filed.”

Subsec. (i)(2)(F). Pub. L. 104-297, §107(h)(7)-(9), struck out “by the Council” after “procedures established”, substituted “section 1881a(b)” for “section 1853(d)”, and inserted “or the Secretary, as appropriate” after “of the Council”.

Subsec. (i)(4). Pub. L. 104-297, §107(h)(10), substituted “section 1881a(b)” for “section 1853(d)”.

Subsec. (j). Pub. L. 104-297, §107(g), (i)(1), redesignated subsec. (k) as (j) and inserted “and recusal” at the end of subsection heading. Former subsec. (j) redesignated (i).

Subsec. (j)(1). Pub. L. 104-297, §107(i)(2), added par. (1) and struck out former par. (1) which read as follows: “For purposes of this subsection, the term ‘affected individual’ means an individual who—

“(A) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2) of this section;

“(B) is a voting member of a Council appointed under subsection (b)(2) of this section; or

“(C) is the executive director of a Council.”

Subsec. (j)(3)(A). Pub. L. 104-297, §107(i)(3), substituted “(1)(A)(i)” for “(1)(A)”.

Subsec. (j)(3)(B), (4). Pub. L. 104-297, §107(i)(4), (5), substituted “(1)(A)(ii)” for “(1)(B) or (C)”.

Subsec. (j)(5)(C). Pub. L. 104-297, §107(i)(6), added subpar. (C).

Subsec. (j)(6). Pub. L. 104-297, §107(i)(7), substituted “(1)(A)(ii)” for “(1)(B) or (C)”.

Subsec. (j)(7). Pub. L. 104-297, §107(i)(8), added par. (7). Former par. (7) redesignated (8).

Subsec. (j)(8). Pub. L. 104-297, §107(i)(9), substituted “(1)(A)(ii)” for “(1)(B) or (C)”.

Pub. L. 104-297, §107(i)(8), redesignated par. (7) as (8).  
Subsec. (k). Pub. L. 104-297, §107(g), redesignated subsec. (k) as (j).

1992—Subsec. (b)(3). Pub. L. 102-582 substituted “December 31, 1987” for “January 1, 1986”.

1990—Subsec. (a). Pub. L. 101-627, §108(a), inserted “(except as provided in section 1854(f)(3) of this title)” before period at end of first sentence in pars. (1) to (5).

Subsec. (b)(2). Pub. L. 101-627, §108(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

“(A) The members of each Council required to be appointed by the Secretary must be individuals who are knowledgeable and experienced with regard to the conservation and management, or the recreational or commercial harvest, of the fishery resources of the geographical area concerned. The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair apportionment, on a rotating or other basis, of the active participants (or their representatives) involved in the fisheries under Council jurisdiction.

“(B) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has, to

the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the state regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy. The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of the required knowledge and experience required by subparagraph (A). If the Secretary determines that any individual is not qualified, he shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k) of this section.

“(C) Whenever the Secretary makes an appointment to a Council, he shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.”

Subsec. (b)(3). Pub. L. 101-627, §108(c), inserted at end “No member appointed after January 1, 1986, may serve more than three consecutive terms. Any term completed prior to January 1, 1986, shall not be counted in determining the number of consecutive terms served by any Council member.”

Subsec. (d). Pub. L. 101-627, §108(d), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “The voting members of each Council, who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS-18 of the General Schedule when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C) of this section, and the nonvoting member appointed pursuant to subsection (c)(2) of this section shall be reimbursed for actual expenses incurred in the performance of such duties, and other nonvoting members may be reimbursed for actual expenses.”

Subsec. (e)(3). Pub. L. 101-627, §108(e)(1), substituted “at appropriate times and places in any of the constituent States of the Council” for “in the geographical area concerned”.

Subsec. (e)(4). Pub. L. 101-627, §108(e)(2), inserted at end “The regional director of the National Marine Fisheries Service serving on the Council, or the regional director’s designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.”

Subsec. (g)(3), (4). Pub. L. 101-627, §108(f), added pars. (3) and (4).

Subsec. (h). Pub. L. 101-627, §108(g), inserted “(except as provided in section 1854(f)(3) of this title)” before “within its geographical” in pars. (1) and (5).

Subsec. (i). Pub. L. 101-627, §108(h), amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: “Each Council may comment on, or make recommendations concerning, any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction. Within 45 days after receiving such a comment or recommendation from a Council, a Federal agency must provide a detailed response, in writing, to the Council regarding the matter.”

Subsec. (j)(3)(A). Pub. L. 101-627, §108(i)(1), substituted period for semicolon in cl. (ii), and in concluding provisions struck out “and if any meeting or portion is closed, the Council, committee, or panel concerned shall publish notice of the closure in local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including the time and place of the meeting.” before “Subparagraphs (D) and (F)” and inserted “of paragraph (2)” after “Subparagraphs (D) and (F)”.

Subsec. (j)(3)(B). Pub. L. 101-627, §108(i)(2), added subpar. (B).

Subsec. (j)(4). Pub. L. 101-627, §120(c), substituted "Council employee" for "council employee".

Subsec. (j)(6). Pub. L. 101-627, §108(j), added par. (6).

1986—Subsec. (b)(2)(A). Pub. L. 99-659, §104(a)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "The members of each Council required to be appointed by the Secretary must be individuals who are knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest of the fishery resources of the geographical area concerned."

Subsec. (b)(2)(B). Pub. L. 99-659, §104(a)(1)(B), inserted provision that a Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the state regarding those individuals, substituted "knowledge and experience" for "knowledge or experience", and inserted provision that an individual is not eligible for appointment by the Secretary until that individual complies with applicable financial disclosure requirements under subsec. (k) of this section.

Subsec. (b)(3). Pub. L. 99-659, §104(a)(1)(C), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Each voting member appointed to a Council by the Secretary in accordance with subsection (b)(2) of this section shall serve for a term of 3 years; except that, with respect to the members initially so appointed, the Secretary shall designate up to one-third thereof to serve for a term of 1 year, up to one-third thereof to serve for a term of 2 years, and the remaining such members to serve for a term of 3 years."

Subsec. (i). Pub. L. 99-659, §104(b), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 99-659, §104(b)(1), redesignated former subsec. (i) as (j).

Subsec. (j)(4). Pub. L. 99-659, §104(c), substituted "; except that such procedures, in the case of statistics submitted to the Council by a State or by the Secretary under section 1853(d) of this title, must be consistent with the laws and regulations of that State, or with the procedures of the Secretary, as the case may be, concerning the confidentiality of the statistics" for "; except that such procedures must, in the case of statistics submitted to the Council by a State, be consistent with the laws and regulations of that State concerning the confidentiality of such statistics".

Subsec. (j)(5). Pub. L. 99-659, §104(d), added par. (5).

Subsec. (k). Pub. L. 99-659, §104(e)(1), added subsec. (k).

1983—Subsec. (a)(1) to (7). Pub. L. 97-453, §5(1)(A), substituted "in accordance with subsection (b)(2)" for "pursuant to subsection (b)(1)(C)" wherever appearing.

Subsec. (a)(8). Pub. L. 97-453, §5(1)(B), substituted provision that the Western Pacific Fishery Management Council shall consist of the States of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area, for provision that the Western Pacific Fishery Management Council would consist of the State of Hawaii, American Samoa, and Guam and have authority over the fisheries in the Pacific Ocean seaward of such States, and provision that the Western Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) of this section at least one of whom shall be appointed from each of Hawaii, American Samoa, Guam, and the Northern Mariana Islands, for provision that the Western Pacific Council would have 11 voting members, including 7 appointed by the Secretary pursuant to former subsection (b)(1)(C) of this section (at least one of whom would be appointed from each such State).

Subsec. (b)(1)(C). Pub. L. 97-453, §5(2)(A), substituted reference to subsec. (b)(2) of this section for character-

ization of the members to be appointed as members of a list of qualified individuals submitted by the Governor of each applicable constituent State, that with respect to initial appointments, such Governors submit such lists to the Secretary as soon as practicable, not later than 45 days after April 13, 1976, that "list of qualified individuals" included the names (including pertinent biographical data) of not less than three such individuals for each applicable vacancy, and that "qualified individual" meant an individual knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest, of the fishery resources of the geographical area concerned.

Subsec. (b)(2) to (5). Pub. L. 97-453, §5(2)(B)-(E), added pars. (2) and (5), redesignated existing pars. (2) and (3) as (3) and (4), respectively, and in par. (3), as redesignated, substituted "by the Secretary in accordance with subsection (b)(2) of this section" for "pursuant to paragraph (1)(C)" after "appointed to a Council".

Subsec. (f)(6). Pub. L. 97-453, §5(3), inserted requirement that the procedures of a Council and associated committees and panels be consistent with the procedural guidelines set forth in subsec. (i)(2).

Subsec. (h)(1). Pub. L. 97-453, §5(4)(A), inserted "that requires conservation and management" after "authority".

Subsec. (h)(2). Pub. L. 97-453, §5(4)(B), substituted "section 1824(b)(4)(C)" for "section 1824(b)(4)(B)".

Subsec. (h)(3). Pub. L. 97-453, §5(4)(C), inserted parenthetical definition of "geographical area concerned".

Subsec. (h)(4). Pub. L. 97-453, §5(4)(D), struck out subpar. (A) which provided for a report, before Feb. 1 of each year, on the Council's activities during the immediately preceding calendar year, and struck out the subparagraph designators before subpars. (B) and (C).

Subsec. (i). Pub. L. 97-453, §5(5), added subsec. (i).

1980—Subsec. (d). Pub. L. 96-561 inserted provision that other nonvoting members may be reimbursed for actual expenses.

1978—Subsec. (h)(5). Pub. L. 95-354 inserted provisions relating to capacity and extent to which United States fish processors will process harvested fish.

#### CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-659, title I, §104(a)(2), Nov. 14, 1986, 100 Stat. 3709, provided that: "The amendments made by paragraph (1) [amending this section] shall apply with respect to voting members of regional fishery management councils who are appointed, and to individuals who are nominated for appointment as voting members, on or after the date of the enactment of this Act [Nov. 14, 1986]."

#### 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.

#### ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of

Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DISCLOSURE OF FINANCIAL INTEREST BY INCUMBENT  
VOTING MEMBERS AND EXECUTIVE DIRECTORS

Pub. L. 99-659, title I, §104(e)(2), Nov. 14, 1986, 100 Stat. 3711, provided that for purposes of applying subsec. (k) of this section to voting members and executive directors of regional fishery management councils who were serving in those capacities on date on which regulations prescribed to carry out subsec. (k) first took effect, each such member or director must file a disclosure form under subsec. (k) within 45 days after that date.

DIRECTIONS REGARDING FISHERY MANAGEMENT COUNCIL  
MEMBERSHIP

Pub. L. 99-659, title I, §113, Nov. 14, 1986, 100 Stat. 3715, provided that: "Notwithstanding section 302 of the Act (16 U.S.C. 1852) and effective on and after the date of the enactment of this Act [Nov. 14, 1986], the Secretary shall take action to ensure, to the extent practicable, that those persons dependent for their livelihood upon the fisheries within the respective jurisdictions of the Regional Fishery Management Councils are fairly represented as voting members of the Councils."

**§ 1853. Contents of fishery management plans**

**(a) Required provisions**

Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery, to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b) of this section, or both; and

(C) consistent with the national standards, the other provisions of this chapter, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interests in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the

fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational,<sup>1</sup> charter fishing, and fish processing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, economic information necessary to meet the requirements of this chapter, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;<sup>2</sup>

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 1855(b)(1)(A) of this title, minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 1854(a) of this title (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

<sup>1</sup> So in original. Probably should be followed by "and".

<sup>2</sup> So in original. The comma probably should be a semicolon.