

**(d) Recommended Commission actions regarding large-scale driftnet fishing and conservation of Atlantic swordfish**

(1) It is the sense of the Congress that the Secretary, in consultation with the Secretary of State, should seek support for a recommendation by the Commission to ban large-scale driftnet fishing (as that term is defined in section 3(16)<sup>1</sup> of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1802(16)]) in the Convention area.

(2) The Secretary, in consultation with the Secretary of State, shall request the Commission to adopt recommendations necessary for the conservation and management of Atlantic swordfish. In making the request, the Secretary shall seek the establishment of an international minimum harvest size and a reduction in harvest levels to the extent necessary to conserve the stock. Until the Commission adopts all the conservation and management measures requested by the Secretary, the Secretary, within 3 months after each annual meeting of the Commission, shall notify Congress as to the nature and results of his request. These notifications shall identify those nations not acting to conserve and manage Atlantic swordfish, and recommend measures which could be taken to achieve effective international conservation and management of the stock.

(Pub. L. 94-70, § 6, Aug. 5, 1975, 89 Stat. 387; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784; Pub. L. 101-627, title II, §§ 206, 207, Nov. 28, 1990, 104 Stat. 4461; Pub. L. 104-43, title III, §§ 303(3), 305, Nov. 3, 1995, 109 Stat. 384, 385; Pub. L. 105-384, title II, § 202(b)(1)(C), (F), Nov. 13, 1998, 112 Stat. 3452, 3453.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (c)(1)(C), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 3 of the Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (d)(1), was subsequently amended, and section 3(16) no longer defines the term “large-scale driftnet fishing”. However, such term is defined elsewhere in that section.

AMENDMENTS

1998—Subsec. (c)(1)(C). Pub. L. 105-384, § 202(b)(1)(F), substituted “Magnuson-Stevens Fishery” for “Magnuson Fishery”.

Subsecs. (c)(6)(A)(iii), (B). Pub. L. 105-384, § 202(b)(1)(C), substituted “clause (i)” for “subparagraph (A)” in cl. (iii), and redesignated last sentence of subpar. (A) as subpar. (B) and realigned margin.

Subsec. (d)(1). Pub. L. 105-384, § 202(b)(1)(F), substituted “Magnuson-Stevens Fishery” for “Magnuson Fishery”.

1995—Subsec. (a). Pub. L. 104-43, § 303(3), substituted “exclusive economic zone” for “fisheries zone” after “any vessel in the” in third sentence.

Subsec. (c). Pub. L. 104-43, § 305(1), inserted “and other measures” after “Regulations” in heading.

Subsec. (c)(3). Pub. L. 104-43, § 305(2), inserted “or fishing mortality level” after “quota of fish” in concluding provisions.

Subsec. (c)(6), (7). Pub. L. 104-43, § 305(3), added pars. (6) and (7).

1990—Subsec. (c)(1). Pub. L. 101-627, § 206(a), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (c)(3). Pub. L. 101-627, § 206(b), added subpars. (I) to (K) and concluding provisions and struck out former subpar. (I) which read as follows: “impose such other requirements and provide for such other measures as the Secretary may deem necessary to implement any recommendation of the Commission.”

Subsec. (d). Pub. L. 101-627, § 207, amended subsec. (d) generally, substituting provisions relating to recommended Commission actions regarding large-scale driftnet fishing and conservation of Atlantic swordfish for provisions relating to Commission recommendations concerning bluefin tuna and issuance of regulations.

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.

“Director of the Office of Personnel Management” substituted for “Civil Service Commission” in subsec. (a) pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in the Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

USE OF AIRCRAFT IN ATLANTIC BLUEFIN TUNA FISHING

Pub. L. 106-553, § 1(a)(2) [title VI, § 634], Dec. 21, 2000, 114 Stat. 2762, 2762A-114, provided that none of the funds of the Department of Commerce would be available to issue or renew, for any fishing vessel, any general or harpoon category fishing permit for Atlantic bluefin tuna that would allow the vessel to use an aircraft to locate, or otherwise assist in fishing for, catching, or possessing Atlantic bluefin tuna, or to fish for, catch, or possess Atlantic bluefin tuna located by the use of an aircraft.

**§ 971e. Violations**

**(a) In general**

It shall be unlawful—

(1) for any person in charge of a fishing vessel or any fishing vessel subject to the jurisdiction of the United States to engage in fishing in violation of any regulation adopted pursuant to section 971d of this title; or

(2) for any person subject to the jurisdiction of the United States to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which he knows, or should have known, were taken or retained contrary to the recom-

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

recommendations of the Commission made pursuant to article VIII of the Convention and adopted as regulations pursuant to section 971d of this title, without regard to the citizenship of the person or vessel which took the fish.

**(b) Failure to furnish returns, records, or reports**

It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished by such master or person.

**(c) Refusal of request to board and inspect vessel**

It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to refuse to permit any person authorized to enforce the provisions of this chapter and any regulations adopted pursuant thereto, to board such vessel and inspect its catch, equipment, books, documents, records, or other articles or question the persons onboard in accordance with the provisions of this chapter, or the Convention, as the case may be, or to obstruct such officials in the execution of such duties.

**(d) Importation of ineligible species or species under investigation**

It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section 971d(c) or (d)<sup>1</sup> of this title, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 971d(c) or (d)<sup>1</sup> of this title. In the case of any fish as described in this subsection offered for entry in the United States, the Secretary shall require proof satisfactory to him that such fish is not ineligible for such entry under the terms of section 971d(c) or (d)<sup>1</sup> of this title.

**(e) Sanctions**

The civil penalty and permit sanctions of section 1858 of this title are hereby made applicable to violations of this section as if they were violations of section 1857 of this title.

**(f) Forfeiture**

All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.

**(g) Applicability of other laws**

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

(Pub. L. 94-70, §7, Aug. 5, 1975, 89 Stat. 390; Pub. L. 104-43, title III, §306, Nov. 3, 1995, 109 Stat. 385; Pub. L. 105-384, title II, §202(b)(1)(F), Nov. 13, 1998, 112 Stat. 3453.)

REFERENCES IN TEXT

Section 971d(d) of this title, referred to in subsec. (d), was amended generally by Pub. L. 101-627, title II, §207, Nov. 28, 1990, 104 Stat. 4461. Prior to amendment, subsec. (d) related to Commission recommendations concerning bluefin tuna and issuance of regulations in that regard.

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

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