

AMENDMENTS

1996—Subsec. (d)(1). Pub. L. 104-208 made technical amendment to reference in original act which appears in text as reference to section 1855 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.

§ 5504. Responsibilities of Secretary**(a) Record**

The Secretary shall maintain an automated file or record of high seas fishing vessels issued permits under section 5503 of this title, including all information submitted under section 5503(c)(2) of this title.

(b) Information to FAO

The Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall—

(1) make available to FAO information contained in the record maintained under subsection (a) of this section;

(2) promptly notify FAO of changes in such information;

(3) promptly notify FAO of additions to or deletions from the record, and the reason for any deletion;

(4) convey to FAO information relating to any permit granted under section 5503(b)(3) of this title, including the vessel's identity, owner or operator, and factors relevant to the Secretary's determination to issue the permit;

(5) report promptly to FAO all relevant information regarding any activities of high seas fishing vessels that undermine the effectiveness of international conservation and management measures, including the identity of the vessels and any sanctions imposed; and

(6) provide the FAO a summary of evidence regarding any activities of foreign vessels that undermine the effectiveness of international conservation and management measures.

(c) Information to flag nations

If the Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, has reasonable grounds to believe that a foreign vessel has engaged in activities undermining the effectiveness of international conservation and management measures, the Secretary shall—

(1) provide to the flag nation information, including appropriate evidentiary material, relating to those activities; and

(2) when such foreign vessel is voluntarily in a United States port, promptly notify the flag nation and, if requested by the flag nation, make arrangements to undertake such lawful investigatory measures as may be considered necessary to establish whether the vessel has been used contrary to the provisions of the Agreement.

(d) Regulations

The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating,

may promulgate such regulations, in accordance with section 553 of title 5, as may be necessary to carry out the purposes of the Agreement and this chapter. The Secretary shall coordinate such regulations with any other entities regulating high seas fishing vessels, in order to minimize duplication of permit application and reporting requirements. To the extent practicable, such regulations shall also be consistent with regulations implementing fishery management plans under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(e) Notice of international conservation and management measures

The Secretary, in consultation with the Secretary of State, shall publish in the Federal Register, from time to time, a notice listing international conservation and management measures recognized by the United States.

(Pub. L. 104-43, title I, §105, Nov. 3, 1995, 109 Stat. 370; 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 Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (d), 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.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104-208 substituted “Magnuson-Stevens Fishery” for “Magnuson Fishery”.

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.

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.

§ 5505. Unlawful activities

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

(1) to use a high seas fishing vessel on the high seas in contravention of international conservation and management measures described in section 5504(e) of this title;

(2) to use a high seas fishing vessel on the high seas, unless the vessel has on board a valid permit issued under section 5503 of this title;

(3) to use a high seas fishing vessel in violation of the conditions or restrictions of a permit issued under section 5503 of this title;

(4) to falsify any information required to be reported, communicated, or recorded pursuant to this chapter or any regulation issued under this chapter, or to fail to submit in a timely

fashion any required information, or to fail to report to the Secretary immediately any change in circumstances that has the effect of rendering any such information false, incomplete, or misleading;

(5) to refuse to permit an authorized officer to board a high seas fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter or any regulation issued under this chapter;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detention for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section;

(9) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any living marine resource taken or retained in violation of this chapter or any regulation or permit issued under this chapter; or

(10) to violate any provision of this chapter or any regulation or permit issued under this chapter.

(Pub. L. 104-43, title I, § 106, Nov. 3, 1995, 109 Stat. 371.)

§ 5506. Enforcement provisions

(a) Duties of Secretaries

This chapter shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under this section may (if the agreement so provides), authorize officers to enforce the provisions of this chapter or any regulation or permit issued under this chapter.

(b) District court jurisdiction

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii.

(c) Powers of enforcement officers

(1) Any officer who is authorized under subsection (a) of this section to enforce the provisions of this chapter may—

(A) with or without a warrant or other process—

(i) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by paragraph (6), (7), (8), or (9) of section 5505 of this title;

(ii) board, and search or inspect, any high seas fishing vessel;

(iii) seize any high seas fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this chapter or any regulation or permit issued under this chapter;

(iv) seize any living marine resource (wherever found) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 5505 of this title;

(v) seize any other evidence related to any violation of any provision of this chapter or any regulation or permit issued under this chapter;

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

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(d) Issuance of citations

If any authorized officer finds that a high seas fishing vessel is operating or has been operated in violation of any provision of this chapter, such officer may issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (c) of this section. If a permit has been issued pursuant to this chapter for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(e) Liability for costs

Any person assessed a civil penalty for, or convicted of, any violation of this chapter shall be liable for the cost incurred in storage, care, and maintenance of any living marine resource or other property seized in connection with the violation.

(Pub. L. 104-43, title I, § 107, Nov. 3, 1995, 109 Stat. 372.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), was in the original "this Act", and was translated as reading "this title", meaning title I of Pub. L. 104-43, to reflect the probable intent of Congress.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities