

zation, and prescribe its practices and procedures for carrying out its functions under this chapter,<sup>1</sup> the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the WCPFC Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures. A majority of the members of the advisory committee shall constitute a quorum. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.<sup>2</sup> and the advisory committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

**(D) Provision of information**

The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

**(2) Administrative matters**

**(A) Support services**

The Secretary shall provide to advisory committees in a timely manner such administrative and technical support services as are necessary for their effective functioning.

**(B) Compensation; status; expenses**

Individuals appointed to serve as a member of an advisory committee—

(i) shall serve without pay, but while away from their homes or regular places of business in the performance of services for the advisory committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5; and

(ii) shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.

**(f)<sup>3</sup> Memorandum of understanding**

For highly migratory species in the Pacific, the Secretary, in coordination with the Secretary of State, shall develop a memorandum of understanding with the Western Pacific, Pacific, and North Pacific Fishery Management Councils, that clarifies the role of the relevant Council or Councils with respect to—

(1) participation in United States delegations to international fishery organizations in the Pacific Ocean, including government-to-government consultations;

(2) providing formal recommendations to the Secretary and the Secretary of State regarding necessary measures for both domestic and foreign vessels fishing for these species;

(3) coordinating positions with the United States delegation for presentation to the appropriate international fishery organization; and

(4) recommending those domestic fishing regulations that are consistent with the actions of the international fishery organization, for approval and implementation under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

(Pub. L. 109-479, title V, § 503, Jan. 12, 2007, 120 Stat. 3636; Pub. L. 111-348, title III, § 301, Jan. 4, 2011, 124 Stat. 3672.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1)(C), probably should have been “this title” in the original, meaning title V of Pub. L. 109-479 which enacted this chapter.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsecs. (d)(1)(C) and (f)(4), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, 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.

The Federal Advisory Committee Act, referred to in subsec. (d)(1)(C), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2011—Subsec. (a). Pub. L. 111-348, § 301(1), substituted “Management Council, and one of whom shall be the chairman or a member of” for “Management Council and”.

Subsec. (c)(1). Pub. L. 111-348, § 301(2), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

“(A) injury compensation under chapter 81 of title 5;

“(B) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18; and

“(C) any other criminal or civil statute or regulation governing the conduct of Federal employees.”

Subsec. (d)(2)(B)(ii). Pub. L. 111-348, § 301(3), added cl. (ii) and struck out former cl. (ii) which read as follows: “shall be considered Federal employees while performing service as members of an advisory committee only for purposes of—

“(I) injury compensation under chapter 81 of title 5;

“(II) requirements concerning ethics, conflicts-of-interest, and corruption, as provided by title 18; and

“(III) any other criminal or civil statute or regulation governing the conduct of Federal employees in their capacity as Federal employees.”

**§ 6903. Authority and responsibility of the Secretary of State**

The Secretary of State may—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, decisions, and other communications of and to the Commission;

(2) in consultation with the Secretary approve, disapprove, object to, or withdraw objections to bylaws and rules, or amendments thereof, adopted by the WCPFC Commission, and, with the concurrence of the Secretary to approve or disapprove the general annual program of the WCPFC Commission with respect to conservation and management measures and other measures proposed or adopted in accordance with the WCPFC Convention; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1).

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

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

<sup>3</sup> So in original. No subsec. (e) has been enacted.

(Pub. L. 109-479, title V, §504, Jan. 12, 2007, 120 Stat. 3639.)

**§ 6904. Rulemaking authority of the Secretary of Commerce**

**(a) Promulgation of regulations**

The Secretary, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the Department in which the Coast Guard is operating, is authorized to promulgate such regulations as may be necessary to carry out the United States international obligations under the WCPFC Convention and this chapter, including recommendations and decisions adopted by the Commission. In cases where the Secretary has discretion in the implementation of one or more measures adopted by the Commission that would govern fisheries under the authority of a Regional Fishery Management Council, the Secretary may, to the extent practicable within the implementation schedule of the WCPFC Convention and any recommendations and decisions adopted by the Commission, promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

**(b) Additions to fishery regimes and regulations**

The Secretary may promulgate regulations applicable to all vessels and persons subject to the jurisdiction of the United States, including United States flag vessels wherever they may be operating, on such date as the Secretary shall prescribe.

(Pub. L. 109-479, title V, §505, Jan. 12, 2007, 120 Stat. 3639.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (a), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, 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.

**§ 6905. Enforcement**

**(a) In general**

The Secretary may—

(1) administer and enforce this chapter and any regulations issued under this chapter, except to the extent otherwise provided for in this Act;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in—

(A) the administration and enforcement of this chapter; and

(B) the conduct of scientific, research, and other programs under this chapter;

(3) conduct fishing operations and biological experiments for purposes of scientific investigation or other purposes necessary to implement the WCPFC Convention;

(4) collect, utilize, and disclose such information as may be necessary to implement the WCPFC Convention, subject to sections 552 and 552a of title 5 and section 402(b) of the

Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b));

(5) if recommended by the United States Commissioners or proposed by a Council with authority over the relevant fishery, assess and collect fees, not to exceed three percent of the ex-vessel value of fish harvested by vessels of the United States in fisheries managed pursuant to this chapter, to recover the actual costs to the United States of management and enforcement under this chapter, which shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Secretary under this chapter; and

(6) issue permits to owners and operators of United States vessels to fish in the convention area seaward of the United States Exclusive Economic Zone, under such terms and conditions as the Secretary may prescribe, and shall remain valid for a period to be determined by the Secretary.

**(b) Consistency with other laws**

The Secretary shall ensure the consistency, to the extent practicable, of fishery management programs administered under this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Tuna Conventions Act (16 U.S.C. 951 et seq.), the South Pacific Tuna Act (16 U.S.C. 973 et seq.), section 401 of Public Law 108-219 (16 U.S.C. 1821 note) (relating to Pacific albacore tuna), and the Atlantic Tunas Convention Act (16 U.S.C. 971 [et seq.]).

**(c) Additional prohibitions and enforcement**

For additional prohibitions relating to this chapter and enforcement of this chapter, see section 1826g of this title.

**(d) Confidentiality**

**(1) In general**

Any information submitted to the Secretary in compliance with any requirement under this Act shall be confidential and shall not be disclosed, except—

(A) to Federal employees who are responsible for administering, implementing, and enforcing this Act;

(B) to the Commission, in accordance with requirements in the Convention and decisions of the Commission, and, insofar as possible, in accordance with an agreement with the Commission that prevents public disclosure of the identity or business of any person;

(C) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

(D) when required by court order; or

(E) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act.

**(2) Use of information**

The Secretary shall, by regulation, prescribe such procedures as may be necessary to pre-