

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. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 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 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)¹ 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)¹ 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)¹ of this title.

(e) 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

¹ See References in Text note below.

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; Pub. L. 114-81, title I, § 107(2), Nov. 5, 2015, 129 Stat. 658.)

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

2015—Subsecs. (e) to (g). Pub. L. 114-81 redesignated subsec. (g) as (e) and struck out former subsecs. (e) and (f), which related to sanctions and forfeiture, respectively.

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

(b) 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 enforcement activities with respect to this chapter that are otherwise authorized by law 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 enforcement activities with respect to this chapter that are otherwise authorized by law with respect to persons or vessels subject to the jurisdiction of such party, except that where any agreement provides for arrest or seizure of persons or vessels under United States jurisdiction it shall also provide that the person or vessel arrested or seized shall be promptly handed over to a United States enforcement officer or another authorized United States official.

(Pub. L. 94-70, § 8, Aug. 5, 1975, 89 Stat. 391; Pub. L. 114-81, title I, § 107(3), (4), Nov. 5, 2015, 129 Stat. 658.)

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-81, § 107(3), added subsec. (a) and struck out former subsec. (a) which related to particular powers of persons authorized to enforce the provisions of this chapter and the regulations issued thereunder.

Subsec. (b). Pub. L. 114-81, § 107(4), substituted “enforcement activities with respect to this chapter that

are otherwise authorized by law” for “the enforcement activities specified in subsection (a) of this section” in two places.

Subsec. (c). Pub. L. 114-81, § 107(3)(A), struck out subsec. (c) which related to bonds or stipulations.

§ 971g. Cooperation in carrying out Convention

(a) Federal and State agencies; private institutions and organizations

The United States Commissioners, through the Secretary of State and with the concurrence of the agency, institution, or organization concerned, may arrange for the cooperation of agencies of the United States Government, and of State and private institutions and organizations in carrying out the provisions of article IV of the Convention.

(b) Scientific and other programs; facilities and personnel

All agencies of the Federal Government are authorized, upon the request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention.

(c) Fishing operations and biological experiments

None of the prohibitions deriving from this chapter, or contained in the laws or regulations of any State, shall prevent the Commission from conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation, or shall prevent the Commission from discharging any other duties prescribed by the Convention.

(d) State jurisdiction; preemption by Federal regulations

(1) Except as provided in paragraph (2) of this subsection, nothing in this chapter shall be construed so as to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

(2) In the event a State does not request a formal hearing and after notice by the Secretary, the regulations promulgated pursuant to this chapter to implement recommendations of the Commission shall apply within the boundaries of any State bordering on any Convention area if the Secretary determines that any such State—

(A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this chapter, enacted laws or promulgated regulations which implement any such recommendation of the Commission within the boundaries of such State; or

(B) has enacted laws or promulgated regulations which (i) are less restrictive than the regulations promulgated pursuant to this chapter, or (ii) are not effectively enforced.

If a State requests the opportunity for an agency hearing on the record, the Secretary shall not apply regulations promulgated pursuant to this chapter within that State's boundaries unless the hearing record supports a determination under paragraph (A) or (B). Such regulations shall apply until the Secretary determines that the State is effectively enforcing within its