

2015—Pub. L. 114-81 designated existing provisions as subsec. (h), inserted heading, and added subsecs. (a) to (g).

#### 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.

#### § 1826h. Biennial report on international compliance

The Secretary, in consultation with the Secretary of State, shall provide to Congress, by not later than 2 years after January 12, 2007, and every 2 years thereafter, on June 1 of that year a report that includes—

(1) the state of knowledge on the status of international living marine resources shared by the United States or subject to treaties or agreements to which the United States is a party, including a list of all such fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with management or conservation of living marine resources;

(2) a list of nations that have been identified under section 1826j(a) or 1826k(a) of this title, including the specific offending activities and any subsequent actions taken pursuant to section 1826j or 1826k of this title;

(3) a description of efforts taken by nations on those lists to comply take appropriate corrective action consistent with sections 1826j and 1826k of this title, and an evaluation of the progress of those efforts, including steps taken by the United States to implement those sections and to improve international compliance;

(4) progress at the international level, consistent with section 1826i of this title, to strengthen the efforts of international fishery management organizations to end illegal, unreported, or unregulated fishing; and

(5) steps taken by the Secretary at the international level to adopt international measures comparable to those of the United States to reduce impacts of fishing and other practices on protected living marine resources, if no international agreement to achieve such goal exists, or if the relevant international fishery or conservation organization has failed to implement effective measures to end or reduce the adverse impacts of fishing practices on such species.

(Pub. L. 104-43, title VI, § 607, as added Pub. L. 109-479, title IV, § 403(a), Jan. 12, 2007, 120 Stat. 3626; amended Pub. L. 114-81, title I, § 101(i)(1), Nov. 5, 2015, 129 Stat. 655; Pub. L. 114-327, title IV, § 401(b), Dec. 16, 2016, 130 Stat. 1994.)

#### CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

#### AMENDMENTS

2016—Pub. L. 114-327, in introductory provisions, inserted “on June 1 of that year” after “every 2 years thereafter,”.

2015—Par. (2). Pub. L. 114-81 substituted “that” for “whose vessels”.

#### § 1826i. Action to strengthen international fishery management organizations

##### (a) In general

The Secretary, in consultation with the Secretary of State, and in cooperation with relevant fishery management councils and any relevant advisory committees, shall take actions to improve the effectiveness of international fishery management organizations, or arrangements made pursuant to an international fishery agreement, in conserving and managing fish stocks under their jurisdiction. These actions shall include—

(1) urging international fishery management organizations to which the United States is a member—

(A) to incorporate multilateral market-related measures against member or non-member governments whose vessels engage in illegal, unreported, or unregulated fishing;

(B) to seek adoption of lists that identify fishing vessels and vessel owners engaged in illegal, unreported, or unregulated fishing that can be shared among all members and other international fishery management organizations;

(C) to seek international adoption of a centralized vessel monitoring system in order to monitor and document capacity in fleets of all nations involved in fishing in areas under an international fishery management organization's jurisdiction;

(D) to increase use of observers and technologies needed to monitor compliance with conservation and management measures established by the organization, including vessel monitoring systems and automatic identification systems;

(E) to seek adoption of stronger port state controls in all nations, particularly those nations in whose ports vessels engaged in illegal, unreported, or unregulated fishing land or transship fish; and

(F) to adopt shark conservation measures, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea;

(2) urging international fishery management organizations to which the United States is a member, as well as all members of those organizations, to adopt and expand the use of market-related measures to combat illegal, unreported, or unregulated fishing, including—

(A) import prohibitions, landing restrictions, or other market-based measures needed to enforce compliance with international fishery management organization measures, such as quotas and catch limits;

(B) import restrictions or other market-based measures to prevent the trade or importation of fish caught by vessels identified

multilaterally as engaging in illegal, unreported, or unregulated fishing; and

(C) catch documentation and certification schemes to improve tracking and identification of catch of vessels engaged in illegal, unreported, or unregulated fishing, including advance transmission of catch documents to ports of entry;

(3) seeking to enter into international agreements that require measures for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that are comparable to those of the United States, taking into account different conditions; and

(4) urging other nations at bilateral, regional, and international levels, including the Convention on International Trade in Endangered Species of Fauna and Flora and the World Trade Organization to take all steps necessary, consistent with international law, to adopt measures and policies that will prevent fish or other living marine resources harvested by vessels engaged in illegal, unreported, or unregulated fishing from being traded or imported into their nation or territories.

## (b) Disclosure of information

### (1) In general

The Secretary, subject to the data confidentiality provisions in section 402 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a) except as provided in paragraph (2), may disclose, as necessary and appropriate, information, including information collected under joint authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 71 et seq.), the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.), any other statute implementing an international fishery agreement, to any other Federal or State government agency, the Food and Agriculture Organization of the United Nations, or the secretariat or equivalent of an international fishery management organization or arrangement made pursuant to an international fishery agreement, if such government, organization, or arrangement, respectively, has policies and procedures to protect such information from unintended or unauthorized disclosure.

### (2) Exceptions

The data confidentiality provisions in section 402 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a) shall not apply with respect to this Act—

(A) for obligations of the United States to share information under a regional fisheries management organization (as that term is defined by the United Nation's<sup>1</sup> Food and Agriculture Organization Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated

Fishing) of which the United States is a member; or

(B) to any information collected by the Secretary regarding foreign vessels.

## (c) IUU vessel lists

The Secretary may—

(1) develop, maintain, and make public a list of vessels and vessel owners engaged in illegal, unreported, or unregulated fishing or fishing-related activities in support of illegal, unreported, or unregulated fishing, including vessels or vessel owners identified by an international fishery management organization or arrangement made pursuant to an international fishery agreement, that—

(A) the United States is party to; or

(B) the United States is not party to, but whose procedures and criteria in developing and maintaining a list of such vessels and vessel owners are substantially similar to such procedures and criteria adopted pursuant to an international fishery agreement to which the United States is a party; and

(2) take appropriate action against listed vessels and vessel owners, including action against fish, fish parts, or fish products from such vessels, in accordance with applicable United States law and consistent with applicable international law, including principles, rights, and obligations established in applicable international fishery management agreements and trade agreements.

## (d) Regulations

The Secretary may promulgate regulations to implement this section.

(Pub. L. 104-43, title VI, § 608, as added Pub. L. 109-479, title IV, § 403(a), Jan. 12, 2007, 120 Stat. 3627; amended Pub. L. 111-348, title I, § 102(a), Jan. 4, 2011, 124 Stat. 3668; Pub. L. 114-81, title I, § 101(b), Nov. 5, 2015, 129 Stat. 653.)

### REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (b)(1), 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 Atlantic Tunas Convention Act of 1975, referred to in subsec. (b)(1), is Pub. L. 94-70, Aug. 5, 1975, 89 Stat. 385, which is classified generally to chapter 16A (§ 971 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 971 of this title and Tables.

The Western and Central Pacific Fisheries Convention Implementation Act, referred to in subsec. (b)(1), is Pub. L. 109-479, title V, Jan. 12, 2007, 120 Stat. 3635, which is classified generally to chapter 88 (§ 6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

This Act, referred to in subsec. (b)(2), probably means title VI of Pub. L. 104-43, Nov. 3, 1995, 109 Stat. 391, known as the High Seas Driftnet Fishing Moratorium Protection Act, which is classified generally to sections 1826d to 1826k of this title. For complete classification of title VI to the Code, see Short Title of 1995 Amendment note set out under section 1801 of this title and Tables.

### CODIFICATION

Section was enacted as part of the High Seas Driftnet Fishing Moratorium Protection Act, and also as part of

<sup>1</sup> So in original.

the Fisheries Act of 1995, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

#### AMENDMENTS

2015—Pub. L. 114-81 designated existing provisions as subsec. (a), inserted heading and “, or arrangements made pursuant to an international fishery agreement,” after “organizations” in introductory provisions, and added subsecs. (b) to (d).

2011—Par. (1)(F). Pub. L. 111-348, §102(a)(1), added subpar. (F).

Par. (2)(C). Pub. L. 111-348, §102(a)(2), struck out “and” at end.

Par. (3). Pub. L. 111-348, §102(a)(4), added par. (3). Former par. (3) redesignated (4).

Par. (4). Pub. L. 111-348, §102(a)(3), redesignated par. (3) as (4).

#### CONSTRUCTION

Pub. L. 111-348, title I, §104, as added by Pub. L. 115-228, §2(1), Aug. 2, 2018, 132 Stat. 1628, provided that: “Nothing in this title [see Short Title of 2011 Amendment note set out under section 1801 of this title] or the amendments made by this title shall be construed as affecting, altering, or diminishing in any way the authority of the Secretary of Commerce to establish such conservation and management measures as the Secretary considers necessary and appropriate under sections 302(a)(3) and 304(g) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(3), 1854(g)).”

[Another section 104 of Pub. L. 111-348 amended section 4107 of this title, prior to repeal by Pub. L. 115-228, §2(1), Aug. 2, 2018, 132 Stat. 1628.]

### § 1826j. Illegal, unreported, or unregulated fishing

#### (a) Identification

##### (1) Identification for actions of fishing vessels

The Secretary shall, based on a cumulative compilation and analysis of data collected and provided by international fishery management organizations and other nations and organizations, identify, and list in the report under section 1826h of this title, a nation if any fishing vessel of that nation is engaged, or has been engaged at any point during the preceding 3 years, in illegal, unreported, or unregulated fishing—

(A) that undermines the effectiveness of measures required by an international fishery management organization, taking into account whether the relevant international fishery management organization has failed to implement effective measures to end the illegal, unreported, or unregulated fishing activity by that nation or the nation is not a party to, or does not maintain cooperating status with, such organization; or

(B) where no international fishery management organization exists with a mandate to regulate the fishing activity in question.

##### (2) Identification for actions of nation

Taking into account the factors described under subsection (a)(1), the Secretary shall also identify, and list in such report, a nation—

(A) if it is violating, or has violated at any point during the preceding 3 years, conservation and management measures required under an international fishery management agreement to which the United States is a

party and the violations undermine the effectiveness of such measures; or

(B) if it is failing, or has failed in the preceding 3-year period, to effectively address or regulate illegal, unreported, or unregulated fishing in areas described under paragraph (1)(B).

#### (3) Application to other entities

Where the provisions of this Act are applicable to nations, they shall also be applicable, as appropriate, to other entities that have competency to enter into international fishery management agreements.

#### (b) Notification

The Secretary shall notify the President and that nation of such an identification.

#### (c) Consultation

No later than 60 days after submitting a report to Congress under section 1826h of this title, the Secretary, acting through the Secretary of State, shall—

(1) notify nations listed in the report of the requirements of this section;

(2) initiate consultations for the purpose of encouraging such nations to take the appropriate corrective action with respect to the offending activities of their fishing vessels identified in the report; and

(3) notify any relevant international fishery management organization of the actions taken by the United States under this section.

#### (d) IUU certification procedure

##### (1) Certification

The Secretary shall establish a procedure, consistent with the provisions of subchapter II of chapter 5 of title 5, for determining if a nation identified under subsection (a) and listed in the report under section 1826h of this title has taken appropriate corrective action with respect to the offending activities identified in the report under section 1826h of this title. The certification procedure shall provide for notice and an opportunity for comment by any such nation. The Secretary shall determine, on the basis of the procedure, and certify to the Congress no later than 90 days after the date on which the Secretary promulgates a final rule containing the procedure, and biennially thereafter in the report under section 1826h of this title—

(A) whether the government of each nation identified under subsection (a) has provided documentary evidence that it has taken corrective action with respect to the offending activities identified in the report; or

(B) whether the relevant international fishery management organization has implemented measures that are effective in ending the illegal, unreported, or unregulated fishing activity by vessels of that nation.

##### (2) Alternative procedure

The Secretary may establish a procedure to authorize, on a shipment-by-shipment, shipper-by-shipper, or other basis the importation of fish or fish products from a vessel of a nation issued a negative certification under paragraph (1) if the Secretary determines that—