

Pub. L. 111-348, §102(c)(1)(B)-(G), redesignated pars. (1) to (3) as subpars. (A) to (C), respectively, realigned margins, inserted “(1) a nation if—” before subpar. (A), as so redesignated, redesignated former subpars. (A) and (B) of par. (1) as cls. (i) and (ii) of subpar. (A), respectively, realigned margins, and added par. (2).

CONSTRUCTION

Nothing in section 102(c) of Pub. L. 111-348 (amending this section and enacting provisions set out as a note below) to be construed as affecting, altering, or diminishing the authority of the Secretary of Commerce to establish such conservation and management measures as the Secretary considers necessary and appropriate under sections 1852(a)(3) and 1854(g) of this title, see section 104 of Pub. L. 111-348, set out as a note under section 1826i of this title.

INITIAL IDENTIFICATIONS

Pub. L. 111-348, title I, §102(c)(2), Jan. 4, 2011, 124 Stat. 3669, provided that: “The Secretary of Commerce shall begin making identifications under paragraph (2) of section 610(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(a)), as added by paragraph (1)(G), not later than 1 year after the date of the enactment of this Act [Jan. 4, 2011].”

§ 1827. Observer program regarding certain foreign fishing

(a) Definitions

As used in this section—

(1) The term “Act of 1976” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) The term “billfish” means any species of marlin, spearfish, sailfish or swordfish.

(3) The term “Secretary” means the Secretary of Commerce.

(b) Observer program

The Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel—

(1) is in waters that are within—

(A) the fishery conservation zone established under section 101 of the Act of 1976 [16 U.S.C. 1811],¹ and

(B) the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas; and

(2) is taking or attempting to take any species of fish if such taking or attempting to take may result in the incidental taking of billfish.

The Secretary may acquire observers for such program through contract with qualified private persons.

(c) Functions of observers

United States observers, while aboard foreign fishing vessels as required under subsection (b), shall carry out such scientific and other functions as the Secretary deems necessary or appropriate to carry out this section.

(d) Fees

There is imposed for each year after 1980 on the owner or operator of each foreign fishing vessel that, in the judgment of the Secretary, will engage in fishing in waters described in sub-

section (b)(1) during that year which may result in the incidental taking of billfish a fee in an amount sufficient to cover all of the costs of providing an observer aboard that vessel under the program established under subsection (a). The fees imposed under this subsection for any year shall be paid to the Secretary before that year begins. All fees collected by the Secretary under this subsection shall be deposited in the Fund established by subsection (e).

(e) Fund

There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this section. The Fund shall consist of the fees deposited into it as required under subsection (d). All payments made by the Secretary to carry out this section shall be paid from the Fund, only to the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(f) Prohibited acts

(1) It is unlawful for any person who is the owner or operator of a foreign fishing vessel to which this section applies—

(A) to violate any regulation issued under subsection (g);

(B) to refuse to pay the fee imposed under subsection (d) after being requested to do so by the Secretary; or

(C) to refuse to permit an individual who is authorized to act as an observer under this section with respect to that vessel to board the vessel for purposes of carrying out observer functions.

(2) Section 308 of the Act of 1976 [16 U.S.C. 1858] (relating to civil penalties) applies to any act that is unlawful under paragraph (1), and for purposes of such application the commission of any such act shall be treated as an act the commission of which is unlawful under section 307 of the Act of 1976 [16 U.S.C. 1857].

(g) Regulations

The Secretary shall issue such regulations as are necessary or appropriate to carry out this section.

(Pub. L. 96-339, §2, Sept. 4, 1980, 94 Stat. 1069; Pub. L. 96-561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300; 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. (a)(1), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

Section 101 of the Act of 1976 [16 U.S.C. 1811], referred to in subsec. (b)(1)(A), which established the fishery conservation zone, was amended generally by Pub. L. 99-659, title I, §101(b), Nov. 14, 1986, 100 Stat. 3706, and now relates to United States sovereign rights to fish and fishery management authority within the exclusive economic zone.

¹ See References in Text note below.

CODIFICATION

Section was not enacted as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-208 substituted “Magnuson-Stevens Fishery” for “Magnuson Fishery”.

1980—Subsec. (a)(1). Pub. L. 96-561 substituted “Magnuson Fishery Conservation and Management Act” for “Fishery Conservation and Management Act of 1976”.

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.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300, provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

§ 1827a. Prohibition on sale of billfish

(a) Prohibition

No person shall offer for sale, sell, or have custody, control, or possession of for purposes of offering for sale or selling billfish or products containing billfish.

(b) Penalty

For purposes of section 1858(a) of this title, a violation of this section shall be treated as an act prohibited by section 1857 of this title.

(c) Exemptions for traditional fisheries and markets

(1) Subsection (a) does not apply to billfish caught by US fishing vessels and landed and retained in the State of Hawaii or Pacific Insular Areas as defined in section 1802(35) of this title.

(2) Subsection (a) does not apply to billfish landed by foreign fishing vessels in the Pacific Insular Areas when the foreign caught billfish is exported to non-US markets or retained within Hawaii and the Pacific Insular Areas for local consumption.

(d) Billfish defined

In this section the term “billfish”—

(1) means any fish of the species—

- (A) *Makaira nigricans* (blue marlin);
- (B) *Kajikia audax* (striped marlin);
- (C) *Istiompax indica* (black marlin);
- (D) *Istiophorus platypterus* (sailfish);
- (E) *Tetrapturus angustirostris* (shortbill spearfish);
- (F) *Kajikia albida* (white marlin);
- (G) *Tetrapturus georgii* (roundscale spearfish);
- (H) *Tetrapturus belone* (Mediterranean spearfish); and
- (I) *Tetrapturus pfluegeri* (longbill spearfish); and

(2) does not include the species *Xiphias gladius* (swordfish).

(Pub. L. 112-183, §4, Oct. 5, 2012, 126 Stat. 1422; Pub. L. 115-228, §1, Aug. 2, 2018, 132 Stat. 1628.)

CODIFICATION

Section was enacted as part of the Billfish Conservation Act of 2012 and not as part of the Magnuson-Stevens

fishery Conservation and Management Act which comprises this chapter.

AMENDMENTS

2018—Subsec. (c)(1). Pub. L. 115-228 inserted “and retained” after “landed”.

FINDINGS

Pub. L. 112-183, §2, Oct. 5, 2012, 126 Stat. 1422, provided that: “Congress finds the following:

“(1) The United States carefully regulates its domestic fisheries for billfish and participates in international fishery management bodies in the Atlantic and Pacific.

“(2) Global billfish populations have declined significantly, however, because of overfishing primarily through retention of bycatch by non-United States commercial fishing fleets.

“(3) Ending the importation of foreign-caught billfish for sale in the United States aligns with U.S. management measures of billfish and protects the significant economic benefits to the U.S. economy of recreational fishing and marine commerce and the traditional cultural fisheries.”

§ 1828. Foreign fishing incursions

(a) In general

Not later than 180 days after July 11, 2006, the Secretary of the department in which the Coast Guard is operating shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on steps that the Coast Guard will take to significantly improve the Coast Guard’s detection and interdiction of illegal incursions into the United States exclusive economic zone by foreign fishing vessels.

(b) Specific issues to be addressed

The report shall—

(1) focus on areas in the exclusive economic zone where the Coast Guard has failed to detect or interdict such incursions in the 4-fiscal-year period beginning with fiscal year 2000, including such areas in the Western/Central Pacific and the Bering Sea; and

(2) include an evaluation of the potential use of unmanned aircraft and offshore platforms for detecting or interdicting such incursions.

(c) Biennial updates

The Secretary shall provide biannual reports updating the Coast Guard’s progress in detecting or interdicting such incursions to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(Pub. L. 109-241, title VIII, §804, July 11, 2006, 120 Stat. 563.)

CODIFICATION

Section was enacted as part of the Coast Guard and Maritime Transportation Act of 2006, and not as part of the Magnuson-Stevens Fishery Conservation and Management Act which comprises this chapter.

COMBINATION OF FISHERIES ENFORCEMENT PLANS AND FOREIGN FISHING INCURSION REPORTS

Pub. L. 111-207, §4(b), July 27, 2010, 124 Stat. 2251, as amended by Pub. L. 113-281, title II, §221(a)(5), Dec. 18, 2014, 128 Stat. 3037, provided that: “The Secretary of the department in which the Coast Guard is operating shall