

ute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

**(e) Resource assessments**

(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry—

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

(Pub. L. 94-265, title IV, § 402, as added Pub. L. 104-297, title II, § 203, Oct. 11, 1996, 110 Stat. 3607; amended Pub. L. 109-479, § 3(d)(1)(A), title II, §§ 202, 203(a), Jan. 12, 2007, 120 Stat. 3578, 3612, 3613.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1), (3) and (c)(1), was in the original "this Act", meaning Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, 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.

The Marine Mammal Protection Act of 1972, referred to in subsec. (c)(1), is Pub. L. 92-522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

The Endangered Species Act, referred to in subsec. (c)(1), probably means the Endangered Species Act of 1973, Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

PRIOR PROVISIONS

A prior section 402 of Pub. L. 94-265 repealed former sections 1081 to 1086 and 1091 to 1094 of this title, prior to being amended generally by Pub. L. 104-297.

AMENDMENTS

2007—Subsec. (a). Pub. L. 109-479, § 202, substituted "Collection programs" for "Council requests" in head-

ing, designated existing provisions as par. (1), inserted heading, realigned margins, in first sentence, struck out "(other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations)" after "additional information" and "types of information", in last sentence, substituted "paragraph" for "subsection", and added par. (2).

Subsec. (b). Pub. L. 109-479, § 203(a)(1), (2), added pars. (1) and (2), redesignated former par. (2) as (3) and realigned margins, and struck out former par. (1) which related to confidentiality of information submitted to the Secretary and exceptions.

Subsec. (b)(1)(D). Pub. L. 109-479, § 3(d)(1)(A), substituted "a limited access privilege" for "an individual fishing quota".

Subsec. (b)(3). Pub. L. 109-479, § 203(a)(3), substituted "(2)(A)." for "(1)(E)."

**§ 1881b. Observers**

**(a) Guidelines for carrying observers**

Within one year after October 11, 1996, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

**(b) Training**

The Secretary, in cooperation with the appropriate States and the National Sea Grant College Program, shall—

(1) establish programs to ensure that each observer receives adequate training in collecting and analyzing the information necessary for the conservation and management purposes of the fishery to which such observer is assigned;

(2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position;

(3) ensure that an observer has received adequate training in basic vessel safety; and

(4) make use of university and any appropriate private nonprofit organization training facilities and resources, where possible, in carrying out this subsection.

**(c) Observer status**

An observer on a vessel and under contract to carry out responsibilities under this chapter or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall be deemed to be a Federal employee for the purpose of compensation under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.).

(Pub. L. 94-265, title IV, § 403, as added Pub. L. 104-297, title II, § 204, Oct. 11, 1996, 110 Stat. 3609.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 94-265, Apr. 13,

1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, 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.

The Marine Mammal Protection Act of 1972, referred to in subsec. (c), is Pub. L. 92-522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

The Federal Employee Compensation Act, referred to in subsec. (c), is act Sept. 7, 1916, ch. 458, 39 Stat. 742, as amended, which was repealed and the provisions thereof were reenacted as subchapter I (§8101 et seq.) of chapter 81 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

#### PRIOR PROVISIONS

A prior section 403 of Pub. L. 94-265 amended sections 1972 and 1973 of Title 22, Foreign Relations and Intercourse, and enacted provisions formerly set out as notes under sections 1972 and 1973 of Title 22, prior to being amended generally by Pub. L. 104-297.

### § 1881c. Fisheries research

#### (a) In general

The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this chapter. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics and social characteristics of the fisheries.

#### (b) Strategic plan

Within one year after October 11, 1996, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the 5 years immediately following such publication. The plan shall—

- (1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);
- (2) indicate goals and timetables for the program described in paragraph (1);
- (3) provide a role for commercial fishermen in such research, including involvement in field testing;
- (4) provide for collection and dissemination, in a timely manner, of complete and accurate information concerning fishing activities, catch, effort, stock assessments, and other research conducted under this section; and
- (5) be developed in cooperation with the Councils and affected States, and provide for coordination with the Councils, affected States, and other research entities.

#### (c) Areas of research

Areas of research are as follows:

- (1) Research to support fishery conservation and management, including but not limited to, biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine

degradation, and other factors affecting the abundance and availability of fish.

(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

(3) Research on the fisheries, including the social, cultural, and economic relationships among fishing vessel owners, crew, United States fish processors, associated shoreside labor, seafood markets and fishing communities.

(4) Information management research, including the development of a fishery information base and an information management system that will permit the full use of information in the support of effective fishery conservation and management.

#### (d) Public notice

In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

#### (e) Improving data collection and analysis

##### (1) In general

Not later than 1 year after December 31, 2018, the Secretary shall develop, in consultation with the science and statistical committees of the Councils established under section 1852(g) of this title and the Marine Fisheries Commissions, and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on facilitating greater incorporation of data, analysis, stock assessments, and surveys from State agencies and nongovernmental sources described in paragraph (2), to the extent such information is consistent with section 1851(a)(2) of this title, into fisheries management decisions.

##### (2) Content

In developing the report under paragraph (1), the Secretary shall—

- (A) identify types of data and analysis, especially concerning recreational fishing, that can be used for purposes of this chapter as the basis for establishing conservation and management measures as required by section 1853(a)(1) of this title, including setting standards for the collection and use of that data and analysis in stock assessments and surveys and for other purposes;