

Government of Canada, shall appoint 1 independent member to the joint technical committee selected from a list of names provided by the advisory panel.

(Pub. L. 109-479, title VI, §605, Jan. 12, 2007, 120 Stat. 3646; Pub. L. 111-348, title III, §302(a), Jan. 4, 2011, 124 Stat. 3672.)

AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 111-348 substituted “no more than 2” for “at least 6 but not more than 12”.

§ 7005. United States representation on advisory panel

(a) In general

(1) Appointment

The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as members of the advisory panel, selected from among individuals who are—

- (A) knowledgeable or experienced in the harvesting, processing, marketing, management, conservation, or research of the offshore whiting resource; and
- (B) not employees of the United States.

(2) Term of office

An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual’s predecessor shall be appointed for the remainder of that term.

(Pub. L. 109-479, title VI, §606, Jan. 12, 2007, 120 Stat. 3646.)

§ 7006. Responsibilities of the Secretary

(a) In general

The Secretary is responsible for carrying out the Agreement and this chapter, including the authority, to be exercised in consultation with the Secretary of State, to accept or reject, on behalf of the United States, recommendations made by the joint management committee.

(b) Regulations; cooperation with Canadian officials

In exercising responsibilities under this chapter, the Secretary—

- (1) may promulgate such regulations as may be necessary to carry out the purposes and objectives of the Agreement and this chapter; and
- (2) with the concurrence of the Secretary of State, may cooperate with officials of the Canadian Government duly authorized to carry out the Agreement.

(Pub. L. 109-479, title VI, §607, Jan. 12, 2007, 120 Stat. 3646.)

§ 7007. Rulemaking

(a) Application with Magnuson-Stevens Act

The Secretary shall establish the United States catch level for Pacific whiting according to the standards and procedures of the Agree-

ment and this chapter rather than under the standards and procedures of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), except to the extent necessary to address the rebuilding needs of other species. Except for establishing the catch level, all other aspects of Pacific whiting management shall be—

- (1) subject to the Magnuson-Stevens Fishery Conservation and Management Act; and
- (2) consistent with this chapter.

(b) Joint management committee recommendations

For any year in which both parties to the Agreement approve recommendations made by the joint management committee with respect to the catch level, the Secretary shall implement the approved recommendations. Any regulation promulgated by the Secretary to implement any such recommendation shall apply, as necessary, to all persons and all vessels subject to the jurisdiction of the United States wherever located.

(c) Years with no approved catch recommendations

If the parties to the Agreement do not approve the joint management committee’s recommendation with respect to the catch level for any year, the Secretary shall establish the total allowable catch for Pacific whiting for the United States catch. In establishing the total allowable catch under this subsection, the Secretary shall—

- (1) take into account any recommendations from the Pacific Fishery Management Council, the joint management committee, the joint technical committee, the scientific review group, and the advisory panel;
- (2) base the total allowable catch on the best scientific information available;
- (3) use the default harvest rate set out in paragraph 1 of Article III of the Agreement unless the Secretary determines that the scientific evidence demonstrates that a different rate is necessary to sustain the offshore whiting resource; and
- (4) establish the United State’s¹ share of the total allowable catch based on paragraph 2 of Article III of the Agreement and make any adjustments necessary under section 5 of Article II of the Agreement.

(Pub. L. 109-479, title VI, §608, Jan. 12, 2007, 120 Stat. 3647.)

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.

§ 7008. Administrative matters

(a) Employment status

Individuals appointed under section 7002, 7003, 7004, or 7005 of this title, other than officers or

¹ So in original.

employees of the United States Government, shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.

(b) Compensation

(1) In general

Except as provided in paragraph (2), an individual appointed under this chapter shall receive no compensation for the individual's service as a representative, alternate representative, scientific expert, or advisory panel member under this chapter.

(2) Scientific review group

Notwithstanding paragraph (1), the Secretary may employ and fix the compensation of an individual appointed under section 7003(a) of this title to serve as a scientific expert on the scientific review group who is not employed by the United States Government, a State government, or an Indian tribal government in accordance with section 3109 of title 5.

(c) Travel expenses

Except as provided in subsection (d), the Secretary shall pay the necessary travel expenses of individuals appointed under this chapter in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5.

(d) Joint appointees

With respect to the 2 independent members of the scientific review group and the 2 public advisors to the scientific review group jointly appointed under section 7003(c) of this title, and the 1 independent member to the joint technical committee jointly appointed under section 7004(b) of this title, the Secretary may pay up to 50 percent of—

- (1) any compensation paid to such individuals; and
- (2) the necessary travel expenses of such individuals.

(Pub. L. 109–479, title VI, § 609, Jan. 12, 2007, 120 Stat. 3647; Pub. L. 111–348, title III, § 302(b), Jan. 4, 2011, 124 Stat. 3672.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 111–348 amended subsec. (a) generally. Prior to amendment, text read as follows: “Individuals appointed under section 7002, 7003, 7004, or 7005 of this title who are 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—

- “(1) injury compensation under chapter 81 of title 5;
- “(2) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18; and
- “(3) any other criminal or civil statute or regulation governing the conduct of Federal employees.”

§ 7009. Enforcement

(a) In general

The Secretary may—

- (1) administer and enforce this chapter and any regulations issued under this chapter;
- (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 the administration and enforcement of this chapter; and

(3) collect, utilize, and disclose such information as may be necessary to implement the Agreement and this chapter, subject to sections 552 and 552a of title 5.

(b) Prohibited acts

It is unlawful for any person to violate any provision of this chapter or the regulations promulgated under this chapter.

(c) Actions by the Secretary

The Secretary shall prevent any person from violating this chapter in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this chapter. Any person that violates any provision of this chapter is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1801 et seq.] in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this chapter.

(d) Penalties

This chapter shall be enforced by the Secretary as if a violation of this chapter or of any regulation promulgated by the Secretary under this chapter were a violation of section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857).

(Pub. L. 109–479, title VI, § 610, Jan. 12, 2007, 120 Stat. 3648.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (c), 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.

§ 7010. Authorization of appropriations

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the obligations of the United States under the Agreement and this chapter.

(Pub. L. 109–479, title VI, § 611, Jan. 12, 2007, 120 Stat. 3649.)

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