

SUBCHAPTER II—UNITED STATES RIGHTS
AND AUTHORITY REGARDING FISH AND
FISHERY RESOURCES

§ 1811. United States sovereign rights to fish and
fishery management authority

(a) In the exclusive economic zone

Except as provided in section 1812 of this title, the United States claims, and will exercise in the manner provided for in this chapter, sovereign rights and exclusive fishery management authority over all fish, and all Continental Shelf fishery resources, within the exclusive economic zone.

(b) Beyond the exclusive economic zone

The United States claims, and will exercise in the manner provided for in this chapter, exclusive fishery management authority over the following:

(1) All anadromous species throughout the migratory range of each such species beyond the exclusive economic zone; except that that management authority does not extend to any such species during the time they are found within any waters of a foreign nation.

(2) All Continental Shelf fishery resources beyond the exclusive economic zone.

(Pub. L. 94-265, title I, §101, Apr. 13, 1976, 90 Stat. 336; Pub. L. 99-659, title I, §101(b), Nov. 14, 1986, 100 Stat. 3706; Pub. L. 101-627, title I, §102(b), Nov. 28, 1990, 104 Stat. 4438; Pub. L. 102-251, title III, §301(c), Mar. 9, 1992, 106 Stat. 62.)

AMENDMENT OF SECTION

Pub. L. 102-251, title III, §301(c), 308, Mar. 9, 1992, 106 Stat. 62, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, subsection (a) is amended by inserting "and special areas" before the period at the end and subsection (b) is amended by inserting after paragraph (2) the following new paragraph:

(3) All fishery resources in the special areas.

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, 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.

AMENDMENTS

1990—Subsec. (b)(1). Pub. L. 101-627 substituted "any waters of a foreign nation" for "any foreign nation's territorial sea or exclusive economic zone (or the equivalent), to the extent that that sea or zone is recognized by the United States".

1986—Pub. L. 99-659 amended section generally. Prior to amendment, section read as follows: "There is estab-

lished a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. The inner boundary of the fishery conservation zone is a line coterminous with the seaward boundary of each of the coastal States, and the outer boundary of such zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured."

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102-251, set out as a note under section 773 of this title.

§ 1812. Highly migratory species

(a) In general

The United States shall cooperate directly or through appropriate international organizations with those nations involved in fisheries for highly migratory species with a view to ensuring conservation and shall promote the achievement of optimum yield of such species throughout their range, both within and beyond the exclusive economic zone.

(b) Traditional participation

In managing any fisheries under an international fisheries agreement to which the United States is a party, the appropriate Council or Secretary shall take into account the traditional participation in the fishery, relative to other nations, by fishermen of the United States on fishing vessels of the United States.

(c) Promotion of stock management

If a relevant international fisheries organization does not have a process for developing a formal plan to rebuild a depleted stock, an overfished stock, or a stock that is approaching a condition of being overfished, the provisions of this chapter in this regard shall be communicated to and promoted by the United States in the international or regional fisheries organization.

(Pub. L. 94-265, title I, §102, Apr. 13, 1976, 90 Stat. 336; Pub. L. 99-659, title I, §101(b), Nov. 14, 1986, 100 Stat. 3707; Pub. L. 101-627, title I, §103(a), Nov. 28, 1990, 104 Stat. 4439; Pub. L. 104-297, title I, §104, Oct. 11, 1996, 110 Stat. 3563; Pub. L. 109-479, §4, Jan. 12, 2007, 120 Stat. 3578.)

Editorial Notes

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, 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.

AMENDMENTS

2007—Pub. L. 109-479 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

1996—Pub. L. 104-297 substituted “shall promote the achievement of optimum yield” for “promoting the objective of optimum utilization”.

1990—Pub. L. 101-627 amended section generally. Prior to amendment, section read as follows: “The sovereign rights and exclusive fishery management authority asserted by the United States under section 1811 of this title over fish do not include, and may not be construed to extend to, highly migratory species of fish.”

1986—Pub. L. 99-659 amended section generally. Prior to amendment, section read as follows: “The United States shall exercise exclusive fishery management authority, in the manner provided for in this chapter, over the following:

“(1) All fish within the fishery conservation zone.

“(2) All anadromous species throughout the migratory range of each such species beyond the fishery conservation zone; except that such management authority shall not extend to such species during the time they are found within any foreign nation’s territorial sea or fishery conservation zone (or the equivalent), to the extent that such sea or zone is recognized by the United States.

“(3) All Continental Shelf fishery resources beyond the fishery conservation zone.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-627, title I, §103(c), Nov. 28, 1990, 104 Stat. 4439, provided that: “The amendments made by this section [amending this section] shall take effect on January 1, 1992.”

§ 1813. Omitted

Editorial Notes

CODIFICATION

Section, Pub. L. 94-265, title I, §103, Apr. 13, 1976, 90 Stat. 336, which related to exclusion of highly migratory species of fish from exclusive fishery management authority, was omitted in the general revision of this subchapter by section 101(b) of Pub. L. 99-659. See section 1812 of this title.

SUBCHAPTER III—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

§ 1821. Foreign fishing

(a) In general

After February 28, 1977, no foreign fishing is authorized within the exclusive economic zone, or for anadromous species or Continental Shelf fishery resources beyond the exclusive economic zone, unless such foreign fishing—

(1) is authorized under subsections (b) or (c) or section 1824(e) of this title, or under a permit issued under section 1824(d) of this title;

(2) is not prohibited under subsection (f); and

(3) is conducted under, and in accordance with, a valid and applicable permit issued pursuant to section 1824 of this title.

(b) Existing international fishery agreements

Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (subject to the provisions of section 1822(b) or (c) of this title), if such agreement—

(1) was in effect on April 13, 1976; and

(2) has not expired, been renegotiated, or otherwise ceased to be of force and effect with respect to the United States.

(c) Governing international fishery agreements

Foreign fishing described in subsection (a) may be conducted pursuant to an international

fishery agreement (other than a treaty) which meets the requirements of this subsection if such agreement becomes effective after application of section 1823 of this title. Any such international fishery agreement shall hereafter in this chapter be referred to as a “governing international fishery agreement”. Each governing international fishery agreement shall acknowledge the exclusive fishery management authority of the United States, as set forth in this chapter. It is the sense of the Congress that each such agreement shall include a binding commitment, on the part of such foreign nation and its fishing vessels, to comply with the following terms and conditions:

(1) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by all regulations promulgated by the Secretary pursuant to this chapter, including any regulations promulgated to implement any applicable fishery management plan or any preliminary fishery management plan.

(2) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by the requirement that—

(A) any officer authorized to enforce the provisions of this chapter (as provided for in section 1861 of this title) be permitted—

(i) to board, and search or inspect, any such vessel at any time,

(ii) to make arrests and seizures provided for in section 1861(b) of this title whenever such officer has reasonable cause to believe, as a result of such a search or inspection, that any such vessel or any person has committed an act prohibited by section 1857 of this title, and

(iii) to examine and make notations on the permit issued pursuant to section 1824 of this title for such vessel;

(B) the permit issued for any such vessel pursuant to section 1824 of this title be prominently displayed in the wheelhouse of such vessel;

(C) transponders, or such other appropriate position-fixing and identification equipment as the Secretary of the department in which the Coast Guard is operating determines to be appropriate, be installed and maintained in working order on each such vessel;

(D) United States observers required under subsection (h) be permitted to be stationed aboard any such vessel and that all of the costs incurred incident to such stationing, including the costs of data editing and entry and observer monitoring, be paid for, in accordance with such subsection, by the owner or operator of the vessel;

(E) any fees required under section 1824(b)(10) of this title be paid in advance;

(F) agents be appointed and maintained within the United States who are authorized to receive and respond to any legal process issued in the United States with respect to such owner or operator; and

(G) responsibility be assumed, in accordance with any requirements prescribed by the Secretary, for the reimbursement of United States citizens for any loss of, or