

(a) pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in the Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

### § 971e. Violations

#### (a) In general

It shall be unlawful—

(1) for any person in charge of a fishing vessel or any fishing vessel subject to the jurisdiction of the United States to engage in fishing in violation of any regulation adopted pursuant to section 971d of this title; or

(2) for any person subject to the jurisdiction of the United States to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which he knows, or should have known, were taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention and adopted as regulations pursuant to section 971d of this title, without regard to the citizenship of the person or vessel which took the fish.

#### (b) Failure to furnish returns, records, or reports

It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished by such master or person.

#### (c) Refusal of request to board and inspect vessel

It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to refuse to permit any person authorized to enforce the provisions of this chapter and any regulations adopted pursuant thereto, to board such vessel and inspect its catch, equipment, books, documents, records, or other articles or question the persons onboard in accordance with the provisions of this chapter, or the Convention, as the case may be, or to obstruct such officials in the execution of such duties.

#### (d) Importation of ineligible species or species under investigation

It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section 971d(c) or (d)<sup>1</sup> of this title, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 971d(c) or (d)<sup>1</sup> of this title. In the case of any fish as described in this subsection offered for entry in the United States, the Secretary shall require proof satis-

factory to him that such fish is not ineligible for such entry under the terms of section 971d(c) or (d)<sup>1</sup> of this title.

#### (e) Applicability of other laws

All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter.

(Pub. L. 94-70, §7, Aug. 5, 1975, 89 Stat. 390; Pub. L. 104-43, title III, §306, Nov. 3, 1995, 109 Stat. 385; Pub. L. 105-384, title II, §202(b)(1)(F), Nov. 13, 1998, 112 Stat. 3453; Pub. L. 114-81, title I, §107(2), Nov. 5, 2015, 129 Stat. 658.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 971d(d) of this title, referred to in subsec. (d), was amended generally by Pub. L. 101-627, title II, §207, Nov. 28, 1990, 104 Stat. 4461. Prior to amendment, subsec. (d) related to Commission recommendations concerning bluefin tuna and issuance of regulations in that regard.

##### AMENDMENTS

2015—Subsecs. (e) to (g). Pub. L. 114-81 redesignated subsec. (g) as (e) and struck out former subsecs. (e) and (f), which related to sanctions and forfeiture, respectively.

1998—Subsec. (e). Pub. L. 105-384 made technical amendment to reference in original act which appears in text as reference to section 1858 of this title.

1995—Subsec. (e). Pub. L. 104-43 amended subsec. (e) generally, substituting present provisions for provisions establishing civil penalties for violations of this section, providing for authority of Secretary to assess, remit, or mitigate any civil penalty, providing for notice and hearing prior to assessment, and providing for civil action upon failure to pay penalty.

### § 971f. Enforcement

(a) For additional prohibitions relating to this chapter and enforcement of this chapter, see section 1826g of this title.

(b) To the extent authorized under the convention or by agreements between the United States and any contracting party concluded pursuant to section 971c(b) of this title for international enforcement, the duly authorized officials of such party shall have the authority to carry out enforcement activities with respect to this chapter that are otherwise authorized by law with respect to persons or vessels subject to the jurisdiction of the United States, and the officials of the United States authorized pursuant to this section shall have the authority to carry out enforcement activities with respect to this chapter that are otherwise authorized by law with respect to persons or vessels subject to the jurisdiction of such party, except that where any agreement provides for arrest or seizure of persons or vessels under United States jurisdiction it shall also provide that the person or vessel arrested or seized shall be promptly handed over to a United States enforcement officer or another authorized United States official.

<sup>1</sup> See References in Text note below.

(Pub. L. 94-70, §8, Aug. 5, 1975, 89 Stat. 391; Pub. L. 114-81, title I, §107(3), (4), Nov. 5, 2015, 129 Stat. 658.)

#### **Editorial Notes**

##### AMENDMENTS

2015—Subsec. (a). Pub. L. 114-81, §107(3), added subsec. (a) and struck out former subsec. (a) which related to particular powers of persons authorized to enforce the provisions of this chapter and the regulations issued thereunder.

Subsec. (b). Pub. L. 114-81, §107(4), substituted “enforcement activities with respect to this chapter that are otherwise authorized by law” for “the enforcement activities specified in subsection (a) of this section” in two places.

Subsec. (c). Pub. L. 114-81, §107(3)(A), struck out subsec. (c) which related to bonds or stipulations.

#### **§971g. Cooperation in carrying out Convention**

##### **(a) Federal and State agencies; private institutions and organizations**

The United States Commissioners, through the Secretary of State and with the concurrence of the agency, institution, or organization concerned, may arrange for the cooperation of agencies of the United States Government, and of State and private institutions and organizations in carrying out the provisions of article IV of the Convention.

##### **(b) Scientific and other programs; facilities and personnel**

All agencies of the Federal Government are authorized, upon the request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention.

##### **(c) Fishing operations and biological experiments**

None of the prohibitions deriving from this chapter, or contained in the laws or regulations of any State, shall prevent the Commission from conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation, or shall prevent the Commission from discharging any other duties prescribed by the Convention.

##### **(d) State jurisdiction; preemption by Federal regulations**

(1) Except as provided in paragraph (2) of this subsection, nothing in this chapter shall be construed so as to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

(2) In the event a State does not request a formal hearing and after notice by the Secretary, the regulations promulgated pursuant to this chapter to implement recommendations of the Commission shall apply within the boundaries of any State bordering on any Convention area if the Secretary determines that any such State—

(A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this chapter, enacted laws or promulgated regulations which implement any such recommendation of the Commission within the boundaries of such State; or

(B) has enacted laws or promulgated regulations which (i) are less restrictive than the regulations promulgated pursuant to this chapter, or (ii) are not effectively enforced.

If a State requests the opportunity for an agency hearing on the record, the Secretary shall not apply regulations promulgated pursuant to this chapter within that State's boundaries unless the hearing record supports a determination under paragraph (A) or (B). Such regulations shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures which are not less restrictive than such regulations.

##### **(e) Continuing review of State laws and regulations**

To insure that the purposes of subsection (d) are carried out, the Secretary shall undertake a continuing review of the laws and regulations of all States to which subsection (d) applies or may apply and the extent to which such laws and regulations are enforced.

(Pub. L. 94-70, §9, Aug. 5, 1975, 89 Stat. 392.)

#### **Executive Documents**

##### TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

#### **§971h. Authorization of appropriations**

##### **(a) In general**

There are authorized to be appropriated to the Secretary to carry out this chapter, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention—

- (1) \$5,770,000 for each of fiscal years 2007 and 2008;
- (2) \$6,058,000 for each of fiscal years 2009 and 2010; and
- (3) \$6,361,000 for each of fiscal years 2011 and 2013.

##### **(b) Allocation**

Of the amounts made available under subsection (a) for each fiscal year—

- (1) \$160,000 are authorized for the advisory committee established under section 971b of this title and the species working groups established under section 971b-1 of this title; and

(2) \$7,500,000 are authorized for research activities under this chapter and section 971i of this title, of which \$3,000,000 shall be for the cooperative research program under section 971i(b)(2)(H) of this title.<sup>1</sup>

(Pub. L. 94-70, §10, Aug. 5, 1975, 89 Stat. 393; Pub. L. 95-33, §1, May 26, 1977, 91 Stat. 173; Pub. L. 96-339, §1(2), Sept. 4, 1980, 94 Stat. 1069; Pub. L. 98-44, title I, §101, July 12, 1983, 97 Stat. 216; Pub. L. 99-659, title IV, §404, Nov. 14, 1986, 100 Stat. 3737; Pub. L. 101-627, title II, §208, Nov. 28, 1990, 104 Stat. 4462; Pub. L. 104-43, title III, §307, Nov. 3, 1995, 109 Stat. 386; Pub. L. 105-384, title II, §202(a), Nov. 13, 1998, 112 Stat. 3452; Pub. L. 107-372, title III, §304, Dec. 19, 2002, 116 Stat. 3095;

<sup>1</sup> See References in Text note below.