

TITLE 16 - CONSERVATION**CHAPTER 38 - FISHERY CONSERVATION AND MANAGEMENT****SUBCHAPTER III - FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS****§ 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) of this section, 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 subsection (b)(1) of this section 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) of this section. 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) of this section.

(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) of this section. 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—

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

- (A) to violate any regulation issued under subsection (g) of this section;
 - (B) to refuse to pay the fee imposed under subsection (d) of this section 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.

Footnotes

¹ See References in Text note below.

(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.

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

Section 101 (a) [title II, § 211(b)] of div. A of Pub. L. 104–208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

Effective Date of 1980 Amendment

Section 238(b) of Pub. L. 96–561 provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.