

Sec.

- (d) Procedure.
- (e) Rebuttable presumption.

§ 5501. Purpose

It is the purpose of this chapter—

- (1) to implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993; and
- (2) to establish a system of permitting, reporting, and regulation for vessels of the United States fishing on the high seas.

(Pub. L. 104-43, title I, § 102, Nov. 3, 1995, 109 Stat. 367.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, and was translated as reading “this title”, meaning title I of Pub. L. 104-43, to reflect the probable intent of Congress.

EFFECTIVE DATE

Section 111 of title I of Pub. L. 104-43 provided that: “This title [enacting this chapter] shall take effect 120 days after the date of enactment of this Act [Nov. 3, 1995].”

SHORT TITLE

Section 1 of Pub. L. 104-43 provided that: “This Act [enacting this chapter, chapters 76 (§ 5601 et seq.) and 77 (§ 5701 et seq.) of this title, sections 971j, 971k, and 1826d to 1826g of this title, and sections 1980a and 1980b of Title 22, Foreign Relations and Intercourse, amending sections 971, 971b, 971c to 971e, 971h, 971i, 973g, 1383a, and 5002 of this title and section 1977 of Title 22, enacting provisions set out as notes under this section, sections 971, 971c, 1383a, 1801, 1821, 1823, 1826d, 5601, and 5701 of this title, and section 1980a of Title 22, and amending provisions set out as a note under section 1823 of this title] may be cited as the ‘Fisheries Act of 1995.’”

Section 101 of title I of Pub. L. 104-43 provided that: “This title [enacting this chapter] may be cited as the ‘High Seas Fishing Compliance Act of 1995.’”

§ 5502. Definitions

As used in this chapter—

(1) The term “Agreement” means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993.

(2) The term “FAO” means the Food and Agriculture Organization of the United Nations.

(3) The term “high seas” means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

(4) The term “high seas fishing vessel” means any vessel of the United States or subject to the jurisdiction of the United States used or intended for use—

(A) on the high seas;

(B) for the purpose of the commercial exploitation of living marine resources; and

(C) as a harvesting vessel, as a mother ship, or as any other support vessel directly engaged in a fishing operation.

(5) The term “international conservation and management measures” means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States. Such measures may be adopted by global, regional, or sub-regional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements.

(6) The term “length” means—

(A) for any high seas fishing vessel built after July 18, 1982, 96 percent of the total length on a waterline at 85 percent of the least molded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is greater, except that in ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and

(B) for any high seas fishing vessel built before July 18, 1982, registered length as entered on the vessel’s documentation.

(7) The term “person” means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(8) The term “Secretary” means the Secretary of Commerce.

(9) The term “vessel of the United States” means—

(A) a vessel documented under chapter 121 of title 46 or numbered in accordance with chapter 123 of title 46;

(B) a vessel owned in whole or part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States; unless the vessel has been granted the nationality of a foreign nation in accordance with article 92 of the 1982 United Nations Convention on the Law of the Sea and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of the United States law; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of

the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(10) The terms “vessel subject to the jurisdiction of the United States” and “vessel without nationality” have the same meaning as in section 1903(c) of title 46, Appendix.

(Pub. L. 104-43, title I, §103, Nov. 3, 1995, 109 Stat. 367; Pub. L. 106-562, title III, §305, Dec. 23, 2000, 114 Stat. 2807.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, and was translated as reading “this title”, meaning title I of Pub. L. 104-43, to reflect the probable intent of Congress.

AMENDMENTS

2000—Par. (4). Pub. L. 106-562 inserted “or subject to the jurisdiction of the United States” after “United States” in introductory provisions.

§ 5503. Permitting

(a) In general

No high seas fishing vessel shall engage in harvesting operations on the high seas unless the vessel has on board a valid permit issued under this section.

(b) Eligibility

(1) Any vessel of the United States is eligible to receive a permit under this section, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and

(A) the foreign nation suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(B) the foreign nation, within the last three years preceding application for a permit under this section, withdrew such authorization because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restriction in paragraph (1) does not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Secretary demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel.

(3) The restriction in paragraph (1) does not apply if the Secretary makes a determination that issuing a permit would not subvert the purposes of the Agreement.

(4) The Secretary may not issue a permit to a vessel unless the Secretary is satisfied that the United States will be able to exercise effectively its responsibilities under the Agreement with respect to that vessel.

(c) Application

(1) The owner or operator of a high seas fishing vessel may apply for a permit under this section by completing an application form prescribed by the Secretary.

(2) The application form shall contain—

(A) the vessel’s name, previous names (if known), official numbers, and port of record;

(B) the vessel’s previous flags (if any);

(C) the vessel’s International Radio Call Sign (if any);

(D) the names and addresses of the vessel’s owners and operators;

(E) where and when the vessel was built;

(F) the type of vessel;

(G) the vessel’s length; and

(H) any other information the Secretary requires for the purposes of implementing the Agreement.

(d) Conditions

The Secretary shall establish such conditions and restrictions on each permit issued under this section as are necessary and appropriate to carry out the obligations of the United States under the Agreement, including but not limited to the following:

(1) The vessel shall be marked in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels, or with regulations issued under section 1855 of this title; and

(2) The permit holder shall report such information as the Secretary by regulation requires, including area of fishing operations and catch statistics. The Secretary shall promulgate regulations concerning conditions under which information submitted under this paragraph may be released.

(e) Fees

(1) The Secretary shall by regulation establish the level of fees to be charged for permits issued under this section. The amount of any fee charged for a permit issued under this section shall not exceed the administrative costs incurred in issuing such permits. The permitting fee may be in addition to any fee required under any regional permitting regime applicable to high seas fishing vessels.

(2) The fees authorized by paragraph (1) shall be collected and credited to the Operations, Research and Facilities account of the National Oceanic and Atmospheric Administration. Fees collected under this subsection shall be available for the necessary expenses of the National Oceanic and Atmospheric Administration in implementing this chapter, and shall remain available until expended.

(f) Duration

A permit issued under this section is valid for 5 years. A permit issued under this section is void in the event the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

(Pub. L. 104-43, title I, §104, Nov. 3, 1995, 109 Stat. 369; 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

This chapter, referred to in subsec. (e)(2), was in the original “this Act”, and was translated as reading “this title”, meaning title I of Pub. L. 104-43, to reflect the probable intent of Congress.