

§ 5004. Advisory Panel**(a) Establishment of Panel**

An Advisory Panel to the United States Section is established. The Advisory Panel shall be composed of the following:

- (1) The Commissioner of the Alaska Department of Fish and Game.
- (2) The Director of the Washington Department of Fisheries.
- (3) One representative of the Pacific States Marine Fisheries Commission, designated by the Executive Director of that commission.
- (4) Eleven members (six of whom shall be residents of the State of Alaska and five of whom shall be residents of the State of Washington), appointed by the Secretary, in consultation with the Secretary of Commerce, from among a slate of 12 persons nominated by the Governor of Alaska and a slate of 10 persons nominated by the Governor of Washington.

(b) Qualifications

Persons appointed to the Advisory Panel shall be individuals who are knowledgeable or experienced concerning anadromous stocks and ecologically related species. In submitting a slate of nominees pursuant to subsection (a)(4) of this section, the Governors of Alaska and Washington shall seek to represent the broad range of parties interested in anadromous stocks and ecologically related species, and at a minimum shall include on each slate at least one representative of commercial salmon fishing interests and of environmental interests concerned with protection of living marine resources.

(c) Limitation on service

Any person appointed to the Advisory Panel pursuant to subsection (a)(4) of this section shall serve for a term not to exceed 4 years, and may not serve more than two consecutive terms.

(d) Functions

The Advisory Panel shall be invited to all non-executive meetings of the United States Section and at such meetings shall be granted the opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(e) Compensation and expenses

The members of the Advisory Panel shall receive no compensation or travel expenses for their services as such members.

(Pub. L. 102-567, title VIII, § 805, Oct. 29, 1992, 106 Stat. 4311; Pub. L. 102-587, title VIII, § 8005, Nov. 4, 1992, 106 Stat. 5100; Pub. L. 106-562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102-567 and Pub. L. 102-587 enacted identical sections. Title VIII of Pub. L. 102-587 was repealed by Pub. L. 106-562.

TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is

renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a panel established by Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5003 of this title.

§ 5005. Commission recommendations

The Secretary, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article IX of the Convention.

(Pub. L. 102-567, title VIII, § 806, Oct. 29, 1992, 106 Stat. 4311; Pub. L. 102-587, title VIII, § 8006, Nov. 4, 1992, 106 Stat. 5101; Pub. L. 106-562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102-567 and Pub. L. 102-587 enacted identical sections. Title VIII of Pub. L. 102-587 was repealed by Pub. L. 106-562.

§ 5006. Administration and enforcement of Convention**(a) Responsibilities**

The Secretary of Commerce shall be responsible for administering provisions of the Convention, this chapter, and regulations issued under this chapter. The Secretary, in consultation with the Secretary of Commerce and the Secretary of Transportation, shall be responsible for coordinating the participation of the United States in the Commission.

(b) Consultation and cooperation

In carrying out such functions, the Secretary of Commerce—

- (1) shall, in consultation with the Secretary of Transportation and the United States Section, issue such regulations as may be necessary to carry out the purposes and objectives of the Convention and this chapter; and
- (2) may, with the concurrence of the Secretary, cooperate with the authorized officials of the government of any Party.

(Pub. L. 102-567, title VIII, § 807, Oct. 29, 1992, 106 Stat. 4311; Pub. L. 102-587, title VIII, § 8007, Nov. 4, 1992, 106 Stat. 5101; Pub. L. 106-562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102-567 and Pub. L. 102-587 enacted identical sections. Title VIII of Pub. L. 102-587 was repealed by Pub. L. 106-562.

§ 5007. Cooperation with other agencies**(a) In general**

Any agency of the Federal Government is authorized, upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(b) Functions of Secretary of Commerce

In carrying out the provisions of the Convention and this chapter, the Secretary of Com-

merce may arrange for cooperation with agencies of the United States, the States, private institutions and organizations, and agencies of the government of any Party, to conduct scientific and other programs, and may execute such memoranda as may be necessary to reflect such agreements.

(Pub. L. 102-567, title VIII, § 808, Oct. 29, 1992, 106 Stat. 4312; Pub. L. 102-587, title VIII, § 8008, Nov. 4, 1992, 106 Stat. 5101; Pub. L. 106-562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102-567 and Pub. L. 102-587 enacted identical sections. Title VIII of Pub. L. 102-587 was repealed by Pub. L. 106-562.

§ 5008. Enforcement provisions

(a) Duties of Secretaries of Commerce and Transportation

This chapter shall be enforced by the Secretary of Commerce and the Secretary of Transportation. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers to enforce the provisions of the Convention, this chapter, and regulations issued under this chapter. Any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) District court jurisdiction

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter.

(c) Powers of enforcement officers

Authorized officers may, shoreward of the outer boundary of the exclusive economic zone, or during hot pursuit from the zone—

(1) with or without a warrant or other process—

(A) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by section 5009 of this title;

(B) board, and search or inspect, any fishing vessel subject to the provisions of the Convention and this chapter;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this chapter, or regulations issued under this chapter;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C);

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(d) Additional powers

(1) An authorized officer may in the Convention area—

(A) board a vessel of any Party that reasonably can be believed to be engaged in directed fishing for, incidental taking of, or processing of anadromous fish, and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons, on board the vessel, for the purpose of carrying out the provisions of the Convention, this chapter, or any regulation issued under this chapter; and

(B) If¹ any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the authorized officer, arrest or seize such person or vessel and further investigate the circumstance if necessary.

If an authorized officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall deliver the vessel or person as promptly as practicable to the enforcement officers of the appropriate Party, in accordance with the provisions of the Convention.

(2) When requested by the appropriate authorities of a Party, an authorized officer may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution by that Party of any violation of the provisions of the Convention or any law of that Party relating to the enforcement thereof.

(Pub. L. 102-567, title VIII, § 809, Oct. 29, 1992, 106 Stat. 4312; Pub. L. 102-587, title VIII, § 8009, Nov. 4, 1992, 106 Stat. 5101; Pub. L. 106-562, title III, § 304(a), Dec. 23, 2000, 114 Stat. 2806.)

CODIFICATION

Title VIII of Pub. L. 102-567 and Pub. L. 102-587 enacted substantially identical sections. Title VIII of Pub. L. 102-587 was repealed by Pub. L. 106-562.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5002, 5010 of this title.

§ 5009. Unlawful activities

It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

(1) to fish for any anadromous fish in the Convention area;

(2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

¹ So in original. Probably should not be capitalized.