

Public Law 92-471

AN ACT

October 9, 1972
[H. R. 9501]

To amend the North Pacific Fisheries Act of 1954, and for other purposes.

North Pacific
Fisheries Act of
1954, amendments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENT OF THE NORTH PACIFIC
FISHERIES ACT OF 1954

68 Stat. 698.
16 USC 1026.

SEC. 101. The North Pacific Fisheries Act of 1954 (hereinafter in this title referred to as the "Act") is amended by redesignating section 7 as section 8 and by inserting immediately after section 6 the following new section:

4 UST 380.

"SEC. 7. The Secretary of Commerce is authorized and directed to administer and enforce all the provisions of the Convention, this Act, and regulations issued pursuant thereto, except to the extent otherwise provided for in this Act. In carrying out such functions he is authorized and directed to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this Act, and, with the concurrence of the Secretary of State, he may cooperate with the duly authorized officials of the government of any party to the Convention. He shall adopt such regulations on consultation with the United States Section and they shall apply only to stocks of fish in the Convention area north of the parallel of north latitude of 48 degrees and 30 minutes. No such regulations shall apply in the Convention area south of the 49th parallel of north latitude with respect to sockeye salmon (*Oncorhynchus nerka*) or pink salmon (*Oncorhynchus gorbuscha*)."

Regulations.

Restricted
fishing areas.
16 USC 1027.

SEC. 102. Section 8 of the Act is amended—

(1) by redesignating such section as section 9;

(2) by redesignating subsections (a), (b), (c), and (d), as subsections (b), (c), (d), and (e), respectively;

(3) by striking out "subsection (a)" each place it appears in subsections (c), (d), and (e), as so redesignated by paragraph (1) of this section, and inserting in lieu thereof at each such place "subsection (b)"; and

Enforcement.

(4) by inserting immediately after "SEC. 9.", as so redesignated by paragraph (1) of this section, the following new subsection:

"(a) Enforcement activities under the provisions of this Act relating to vessels engaged in fishing and subject to the jurisdiction of the United States shall be primarily the responsibility of the Secretary of the Department in which the Coast Guard is operating, in cooperation with the Secretary of Commerce. The Secretary of the Department in which the Coast Guard is operating, with the concurrence of the Secretary of Commerce and the Secretary of State, is authorized to adopt such regulations as may be necessary to provide for procedures and methods of enforcement pursuant to articles 9 and 10 of the Convention."

Regulations.

16 USC 1028.

SEC. 103. Section 9 of the Act is redesignated as subsection (f) of section 9, as so redesignated by paragraph (1) of section 102 of this title.

Unlawful acts.
16 USC 1029.

SEC. 104. Section 10 of the Act is amended—

(1) by redesignating subsections (a), (b), (c), (d), and (e) as subsections (b), (c), (d), (e), and (f), respectively;

(2) by striking out "subsection (a)" each place it appears in subsection (c), as so redesignated by paragraph (1) of this section, and inserting in lieu thereof at each place "subsection (b)";

(3) by inserting immediately after "SEC. 10." the following new subsection:

"(a) It shall be unlawful for any person subject to the jurisdiction of the United States to engage in fishing in violation of any regulation adopted pursuant to this Act or of any order of a court issued pursuant to section 11 of this Act; to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of any such regulation or order; to fail to make, keep, submit, or furnish any record or report required of him by such regulation, or to refuse to permit any officer authorized to enforce such regulations to inspect such record or report at any reasonable time."; and

(4) by adding at the end thereof the following new subsection:

"(g) It shall be unlawful for any person or vessel subject to the jurisdiction of the United States to do any act prohibited or fail to do any act required by any regulation adopted pursuant to this Act."

SEC. 105. Section 11 of the Act is amended—

(1) by striking out "subsection (a), (b), or (c)" in subsection (a) of such section and inserting in lieu thereof "subsection (b), (c), or (d)";

(2) by striking out "subsection (d)" in subsection (b) of such section and inserting in lieu thereof "subsection (e)";

(3) by striking out "subsection (e)" in subsection (c) of such section and inserting in lieu thereof "subsection (f)"; and

(4) by amending subsection (d) of such section to read as follows:

"(d) Any person violating any other provision of this Act or any regulation adopted pursuant to this Act, upon conviction, shall be fined for a first offense not more than \$500 and for a subsequent offense committed within five years not more than \$1,000 and for such subsequent offense the court may order forfeited, in whole or in part, the fish taken by such person, or the fishing gear involved in such fishing, or both, or the monetary value thereof. Such forfeited fish or fishing gear shall be disposed of in accordance with the direction of the court."

SEC. 106. Section 12 of the Act is amended to read as follows:

"SEC. 12. (a) Any duly authorized enforcement officer or employee of the Department of Commerce; any Coast Guard officer; any United States marshal or deputy United States marshal; any customs officer; and any other person authorized to enforce the provisions of the Convention, this Act, and the regulations issued pursuant thereto, shall have power without warrant or other process to arrest any person subject to the jurisdiction of the United States committing in his presence or view a violation of the Convention or of this Act, or of the regulations issued pursuant thereto, and to take such person immediately for examination before a justice or judge or any other official designated in section 3041 of title 18 of the United States Code; and shall have power, without warrant or other process, to search any vessel subject to the jurisdiction of the United States when he has reasonable cause to believe that such vessel is engaging in fishing in violation of the provisions of the Convention or this Act, or the regulations issued pursuant thereto. Any person authorized to enforce the provisions of the Convention, this Act, or the regulations issued pursuant thereto, shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of this Act, and shall have power with a search warrant to search any vessel, vehicle, person, or place at any time. The judges of the United States district courts and the United States magistrates may,

68 Stat. 699.
16 USC 1029.

Penalties.
16 USC 1030.

Arrest, enforcement, search and seizure authority.
68 Stat. 700;
71 Stat. 310.
16 USC 1031.

62 Stat. 815;
82 Stat. 1115.

4 UST 380.

4 UST 380.

within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Any person authorized to enforce the provisions of the Convention, this Act, or the regulations issued pursuant thereto may, except in the case of a first offense, seize, whenever and wherever lawfully found, all fish taken or retained, and all fishing gear involved in fishing, contrary to the provisions of the Convention or this Act or to regulations issued pursuant thereto. Any property so seized shall not be disposed of except pursuant to the order of a court of competent jurisdiction or the provisions of subsection (b) of this section, or, if perishable, in the manner prescribed by regulations of the Secretary of Commerce.

62 Stat. 974.

“(b) Notwithstanding the provisions of section 2464 of title 28, United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any property seized if the process has been levied, on receiving from the claimant of the property a bond or stipulation for double the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the property seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court.”

Ante, p. 784.

SEC. 107. (a) In subsection (b) of section 9 of the Act, as so redesignated by section 102 of this title, strike out “Coast Guard in cooperation with the Fish and Wildlife Service and the Bureau of Customs” and insert in lieu thereof “Secretary of the Department in which the Coast Guard is operating, in cooperation with the Secretary of Commerce and the Secretary of the Treasury”.

(b) In subsections (c) and (e) of section 9 of the Act, as so redesignated by section 102 of this title, strike out “Fish and Wildlife Service” and insert in lieu thereof “Department of Commerce”.

68 Stat. 701.
16 USC 1032.

(c) In subsection (f) of section 9 of the Act, as so redesignated by section 103 of this title, and in subsection (b) of section 13 of such Act, strike out “Secretary of the Interior” and insert in lieu thereof “Secretary of Commerce”.

U.S. Commissioners.
16 USC 1022.

SEC. 108. (a) Section 3 of the Act is amended to read as follows:

“SEC. 3. (a) The United States shall be represented on the Commission by not more than four United States Commissioners to be appointed by the President and to serve at his pleasure; except that after January 1, 1973, (1) each United States Commissioner shall be appointed for a term of office of not to exceed four years, but is eligible for reappointment; and (2) any United States Commissioner may be appointed for a lesser term if necessary to insure that the term of office of not more than one Commissioner will expire in any one year. Of such Commissioners, who shall receive no compensation for their services as Commissioners, one shall be an official of the United States Government, and each of the others shall be a person residing in a State, the residents of which maintain a substantial fishery in the Convention area.

“(b) The Secretary of State, in consultation with the Secretary of Commerce, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise, at any meeting of the Commission or of the United States Section or of the Advisory Committee established pur-

suant to section 4, all powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present."

(b) The second sentence of section 4(d) of the Act is amended by striking out "may" and inserting in lieu thereof "shall".

(c) Section 5 of the Act is repealed.

(d) Section 13(a)(1) of the Act is amended by inserting immediately after "Commissioners" the following: "or Alternate Commissioners".

68 Stat. 698.
16 USC 1023.

Repeal.
16 USC 1024.
16 USC 1032.

TITLE II—ALTERNATE COMMISSIONERS

SEC. 201. In order to insure appropriate representation at meetings of international fisheries commissions, the Secretary of State, in consultation with the Secretary of Commerce or of the Interior as appropriate may designate from time to time Alternate United States Commissioners to the North Pacific Fur Seal Commission, the Inter-American Tropical Tuna Commission, the International Pacific Halibut Commission, the Great Lakes Fishery Commission, the International Whaling Commission, the Commission for the Conservation of Shrimp in the Eastern Gulf of Mexico, the International Commission for the Conservation of Atlantic Tunas, and any similar commission (other than the International Commission for the Northwest Atlantic Fisheries and the International North Pacific Fisheries Commission) established pursuant to a convention between the United States and other governments. Alternate United States Commissioners may exercise, at any meeting of the respective Commission or of the United States Section thereof, all powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present. In the event that there are Deputy United States Commissioners pursuant to the convention or statute, such Deputy United States Commissioners shall have precedence over any Alternate Commissioners so designated pursuant to this title.

SEC. 202. Alternate United States Commissioners shall receive no compensation for their services. They may be paid travel expenses and per diem in lieu of subsistence at the rates authorized by section 5703 of title 5, United States Code, when engaged in the performance of their duties.

SEC. 203. (a) Section 5 of the Great Lakes Fisheries Act of 1956 (16 U.S.C. 934) is repealed.

(b) Section 5 of the Tuna Conventions Act of 1950 (16 U.S.C. 954) is repealed.

Approved October 9, 1972.

Compensation.

80 Stat. 499;
83 Stat. 190.

Repeals.
70 Stat. 243.

64 Stat. 778.