

## 16 USC Ch. 70: NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

### From Title 16—CONSERVATION

#### CHAPTER 70—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

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### §5001. Purpose

It is the purpose of this chapter to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992.

(Pub. L. 102–567, title VIII, §802, Oct. 29, 1992, 106 Stat. 4309; Pub. L. 102–587, title VIII, §8002, Nov. 4, 1992, 106 Stat. 5098; Pub. L. 106–562, title III, §304(a), Dec. 23, 2000, 114 Stat. 2806.)

#### EDITORIAL NOTES

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title VIII of Pub. L. 102–567, which is classified generally to this chapter. For complete classification of title VIII to the Code, see Short Title note below and Tables.

#### 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 L. 102–587 was repealed by Pub.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.

#### STATUTORY NOTES AND RELATED SUBSIDIARIES

#### SHORT TITLE

Pub. L. 102–587, title VIII, §8001, Nov. 4, 1992, 106 Stat. 5098, which provided that title VIII of Pub. L. 102–587, which enacted this chapter and repealed sections 1021 to 1023, 1025 to 1027, 1029, 1030, and 1032 to 1035 of this title and provisions set out as notes under section 1021 of this title, could be cited as the "North Pacific Anadromous Stocks Convention Act of 1992", was repealed by Pub. L. 106–562, title III, §304(a), Dec. 23, 2000, 114 Stat. 2806.

Pub. L. 102–567, title VIII, §801, Oct. 29, 1992, 106 Stat. 4309, provided that: "This title [enacting this chapter and repealing sections 1021 to 1023, 1025 to 1027, 1029, 1030, and 1032 to 1035 of this title and provisions set out as notes under section 1021 of this title] may be cited as the 'North Pacific Anadromous Stocks Act of 1992'."

### §5002. Definitions

As used in this chapter, the term—

(1) "Anadromous stocks" means stocks of species listed in the Annex to the Convention that migrate into the Convention area.

(2) "Anadromous fish" means fish of the species listed in the Annex to the Convention that migrate into the Convention area.

(3) "Authorized officer" means a law enforcement official authorized to enforce this chapter under section 5008(a) of this title.

(4) "Commission" means the North Pacific Anadromous Fish Commission provided for by article VIII of the Convention.

(5) "Convention" means the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean, signed in Moscow, February 11, 1992.

(6) "Convention area" means the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude,<sup>1</sup> beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

(7) "Directed fishing" means fishing targeted at a particular species or stock of fish.

(8) "Ecologically related species" means living marine species which are associated with anadromous stocks found in the Convention area, including, but not restricted to, both predators and prey of anadromous fish.

(9) "Enforcement officer" means a law enforcement official authorized by any Party to enforce this chapter.

(10) "Exclusive economic zone" means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this chapter, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(11) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(12) "Fishing" means—

(A) the catching, taking, or harvesting of fish, or any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(B) any operation at sea in preparation for or in direct support of any activity described in subparagraph (A).

(13) "Fishing vessel" means—

(A) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(B) any vessel outfitted to engage in any activity described in subparagraph (A);

(C) any vessel supporting a vessel described in subparagraph (A) or (B).

(14) "Incidental taking" means catching, taking, or harvesting a species or stock of fish while conducting directed fishing for another species or stock of fish.

(15) "Party" means Canada, Japan, the Russian Federation, the United States, and any other nation that may accede to the Convention.

(16) "Secretary" means the Secretary of State.

(17) "United States Section" means the United States Commissioners of the Commission.

(Pub. L. 102–567, title VIII, §803, Oct. 29, 1992, 106 Stat. 4309; Pub. L. 102–587, title VIII, §8003, Nov. 4, 1992, 106 Stat. 5098; Pub. L. 104–43, title IV, §404(b), Nov. 3, 1995, 109 Stat. 391; Pub. L. 106–562, title III, §304(a), Dec. 23, 2000, 114 Stat. 2806.)

#### EDITORIAL NOTES

#### REFERENCES IN TEXT

Proclamation Numbered 5030, dated March 10, 1983, referred to in par. (10), is set out as a note under section 1453 of this title.

#### 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.

#### AMENDMENTS

**1995**—Par. (13)(C). Pub. L. 104–43 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "any vessel described in subparagraph (A) or (B)."

<sup>1</sup> So in original. Probably should not be capitalized.

## §5003. United States Commissioners

### (a) Commissioners

The United States shall be represented on the Commission by not more than three United States Commissioners to be appointed by and serve at the pleasure of the President. Each United States Commissioner shall be appointed for a term of office not to exceed 4 years, but is eligible for reappointment. Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28. Of the Commissioners—

- (1) one shall be an official of the United States Government;
- (2) one shall be a resident of the State of Alaska; and
- (3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the anadromous stocks and ecologically related species of the North Pacific Ocean.

**(b) Alternate Commissioners**

The Secretary, 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 all designated 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.

**(c) United States Section**

The United States Section, in consultation with the Advisory Panel established in section 5004 of this title, shall identify and recommend to the Commission research needs and priorities for anadromous stocks and ecologically related species subject to the Convention, and oversee the United States research programs involving such fisheries, stocks, and species.

**(d) Compensation**

United States Commissioners and Alternate United States Commissioners shall receive no compensation for their services as Commissioners and Alternate Commissioners.

**(e) Travel expenses**

**(1) In general**

The Secretary may pay the necessary travel expenses of the United States Commissioners and Alternate United States Commissioners in carrying out the duties of the Commission in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5.

**(2) Reimbursement**

The Secretary of Commerce may reimburse the Secretary for amounts expended by the Secretary under this subparagraph.<sup>1</sup>

(Pub. L. 102–567, title VIII, §804, Oct. 29, 1992, 106 Stat. 4310; Pub. L. 102–587, title VIII, §8004, Nov. 4, 1992, 106 Stat. 5099; Pub. L. 106–562, title III, §304, Dec. 23, 2000, 114 Stat. 2806; Pub. L. 114–327, title I, §121(b)(1), Dec. 16, 2016, 130 Stat. 1984.)

**EDITORIAL NOTES**

**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.

**AMENDMENTS**

**2016**—Subsec. (e). Pub. L. 114–327 added subsec. (e).

**2000**—Subsec. (a). Pub. L. 106–562, §304(b), inserted after second sentence "Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28."

<sup>1</sup> So in original. Probably should be "subsection".

## **§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), 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) 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 nonexecutive 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**

The members of the Advisory Panel shall receive no compensation for their service as such members.

**(f) Travel expenses**

**(1) In general**

The Secretary may pay the necessary travel expenses of the members of the Advisory Panel in carrying out their service as such members in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5.

**(2) Reimbursement**

The Secretary of Commerce may reimburse the Secretary for amounts expended by the Secretary under this subparagraph.<sup>1</sup>

(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; Pub. L. 114–327, title I, §121(b) (2), Dec. 16, 2016, 130 Stat. 1985.)

**EDITORIAL NOTES**

**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.

**AMENDMENTS**

**2016**—Subsecs. (e), (f). Pub. L. 114–327 added subsecs. (e) and (f) and struck out former subsec. (e) which related to compensation and expenses.

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**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 1001(2) and 1013 of Title 5, Government Organization and Employees.

<sup>1</sup> *So in original. Probably should be "subsection".*

**§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.)

**EDITORIAL NOTES**

## 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.)

## EDITORIAL NOTES

## 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 Commerce 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.)

## EDITORIAL NOTES

## 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) If <sup>1</sup> 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.)

**EDITORIAL NOTES**

**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.

<sup>1</sup> So in original. Probably should not be capitalized.

**§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;

(3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this chapter, or any regulation issued under this chapter;

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search, investigation, or inspection in connection with the enforcement of the Convention, this chapter, or any regulation issued under this chapter;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search, investigation, or inspection described in paragraph (5);

(7) to resist a lawful arrest or detection for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or

(9) to violate any provision of the Convention, this chapter, or any regulation issued under this chapter.

(Pub. L. 102–567, title VIII, §810, Oct. 29, 1992, 106 Stat. 4313; Pub. L. 102–587, title VIII, §8010, Nov. 4, 1992, 106 Stat. 5103; Pub. L. 106–562, title III, §304(a), Dec. 23, 2000, 114 Stat. 2806; Pub. L. 114–81, title I, §103(a), Nov. 5, 2015, 129 Stat. 657.)

#### EDITORIAL NOTES

#### 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.

#### AMENDMENTS

**2015**—Pars. (5), (6). Pub. L. 114–81 inserted ", investigation," after "search".

### §5010. Additional prohibitions and enforcement

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

(Pub. L. 102–567, title VIII, §811, Oct. 29, 1992, 106 Stat. 4314; Pub. L. 102–587, title VIII, §8011, Nov. 4, 1992, 106 Stat. 5103; Pub. L. 106–562, title III, §304(a), Dec. 23, 2000, 114 Stat. 2806; Pub. L. 114–81, title I, §103(b), Nov. 5, 2015, 129 Stat. 657.)

#### EDITORIAL NOTES

#### 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.

#### AMENDMENTS

**2015**—Pub. L. 114–81 amended section generally. Prior to amendment, section related to civil penalties, offenses, and forfeiture.

### §5011. Funding requirements

#### (a) Authorization

There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this chapter, including—

- (1) necessary travel expenses of the United States Commissioners or Alternate Commissioners; and
- (2) the United States' share of the joint expenses of the Commission.

#### (b) Research

Such funds as shall be made available to the Secretary of Commerce for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs pursuant to the Convention.

(Pub. L. 102–567, title VIII, §812, Oct. 29, 1992, 106 Stat. 4316; Pub. L. 102–587, title VIII, §8012, Nov. 4, 1992, 106 Stat. 5105; Pub. L. 106–562, title III, §304(a), Dec. 23, 2000, 114 Stat. 2806.)

#### EDITORIAL NOTES

#### 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.

### §5012. Disposition of property

The Secretary shall dispose of any United States property held by the International North Pacific Fisheries Commission on the date of its termination in a manner that would further the purposes of this chapter.

(Pub. L. 102–567, title VIII, §813, Oct. 29, 1992, 106 Stat. 4316; Pub. L. 102–587, title VIII, §8013, Nov. 4, 1992, 106 Stat. 5106; Pub. L. 106–562, title III, §304(a), Dec. 23, 2000, 114 Stat. 2806.)

#### **EDITORIAL NOTES**

#### **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.