

Public Law 97-453  
97th Congress

An Act

To improve fishery conservation and management.

Jan. 12, 1983

[H.R. 5002]

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

Fishery  
conservation and  
management,  
improvement.

SECTION 1. AMENDMENT REFERENCE.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or subsection, the reference shall be considered to be made to a section or subsection of the Act entitled "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (90 Stat. 331 et seq., 16 U.S.C. 1801 et seq.).

SEC. 2. FOREIGN FISHING.

(a) Section 201 (16 U.S.C. 1821) is amended as follows:

(1) Subsection (c)(2)(D) is amended to read as follows:

"(D) United States observers required under subsection (i) be permitted to be stationed aboard any such vessel and that all of the costs incurred incident to such stationing, including the costs of data editing and entry and observer monitoring, be paid for, in accordance with such subsection, by the owner or operator of the vessel;"

(2) Subsection (c)(4) is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(D) take, or refrain from taking, as appropriate, actions of the kind referred to in subsection (e)(1) in order to receive favorable allocations under such subsection."

(3) The first sentence of subsection (d)(4) is amended by striking out "shall be allocated" in the matter following subparagraph (B) and inserting in lieu thereof "may be allocated".

(4) Subsection (e)(1) is amended to read as follows:

"(e) ALLOCATION OF ALLOWABLE LEVEL.—(1)(A) The Secretary of State, in cooperation with the Secretary, shall determine the allocation among foreign nations of the total allowable level of foreign fishing which is permitted with respect to each fishery subject to the exclusive fishery management authority of the United States.

"(B) From the determinations made under subparagraph (A), the Secretary of State shall compute the aggregate of all of the fishery allocations made to each foreign nation.

"(C) The Secretary of State shall initially release to each foreign nation for harvesting up to 50 percent of the allocations aggregate computed for such nation under subparagraph (B), and such release of allocation shall be apportioned by the Secretary of State, in cooperation with the Secretary, among the individual fishery allocations determined for that nation under subparagraph (A). The basis

on which each apportionment is made under this subparagraph shall be stated in writing by the Secretary of State.

"(D) After the initial release of fishery allocations under subparagraph (C) to a foreign nation, any subsequent release of an allocation for any fishery to such nation shall only be made—

"(i) after the lapse of such period of time as may be sufficient for purposes of making the determination required under clause (ii); and

"(ii) if the Secretary of State and the Secretary, after taking into account the size of the allocation for such fishery and the length and timing of the fishing season, determine in writing that such nation is complying with the purposes and intent of this paragraph with respect to such fishery.

If the foreign nation is not determined under clause (ii) to be in such compliance, the Secretary of State shall reduce, in a manner and quantity he considers to be appropriate (I) the remainder of such allocation, or (II) if all of such allocation has been released, the next allocation of such fishery, if any, made to such nation.

"(E) The determinations required to be made under subparagraphs (A) and (D)(ii), and the apportionments required to be made under subparagraph (C), with respect to a foreign nation shall be based on—

"(i) whether, and to what extent, such nation imposes tariff barriers or nontariff barriers on the importation, or otherwise restricts the market access, of United States fish or fishery products;

"(ii) whether, and to what extent, such nation is cooperating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen;

"(iii) whether, and to what extent, such nation and the fishing fleets of such nation have cooperated with the United States in the enforcement of United States fishing regulations;

"(iv) whether, and to what extent, such nation requires the fish harvested from the fishery conservation zone for its domestic consumption;

"(v) whether, and to what extent, such nation otherwise contributes to, or fosters the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

"(vi) whether, and to what extent, the fishing vessels of such nation have traditionally engaged in fishing in such fishery;

"(vii) whether, and to what extent, such nation is cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

"(viii) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate."

(5)(A) Subsection (i) is amended—

(i) by amending paragraph (3) to read as follows:

"(3) Observers, while stationed aboard foreign fishing vessels, shall carry out such scientific, compliance monitoring, and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this Act; and shall cooperate in carrying out

such other scientific programs relating to the conservation and management of living resources as the Secretary deems appropriate.”; and

(ii) by adding at the end thereof the following new paragraph:

“(6) If at any time the requirement set forth in paragraph (1) cannot be met because of insufficient appropriations, the Secretary shall, in implementing a supplementary observer program:

Supplementary  
observer  
program.

“(A) certify as observers, for the purposes of this subsection, individuals who are citizens or nationals of the United States and who have the requisite education or experience to carry out the functions referred to in paragraph (3);

“(B) establish standards of conduct for certified observers equivalent to those applicable to Federal personnel;

“(C) establish a reasonable schedule of fees that certified observers or their agents shall be paid by the owners and operators of foreign fishing vessels for observer services; and

“(D) monitor the performance of observers to ensure that it meets the purposes of this Act.”.

(6) Such section is further amended by adding at the end thereof the following new subsection:

“(j) RECREATIONAL FISHING.—Notwithstanding any other provision of this title, foreign fishing vessels which are not operated for profit may engage in recreational fishing within the fishery conservation zone and the waters within the boundaries of a State subject to obtaining such permits, paying such reasonable fees, and complying with such conditions and restrictions as the Secretary and the Governor of the State (or his designee) shall impose as being necessary or appropriate to insure that the fishing activity of such foreign vessels within such zone or waters, respectively, is consistent with all applicable Federal and State laws and any applicable fishery management plan implemented under section 305. The Secretary shall consult with the Secretary of State and the Secretary of the Department in which the Coast Guard is operating in formulating the conditions and restrictions to be applied by the Secretary under the authority of this subsection.”.

Post, p. 2490.

(b) The amendments made by subsection (a)(1) and (5)(A)(ii) shall take effect January 1, 1984.

Effective date.  
16 USC 1821  
note.

### SEC. 3. FOREIGN FISHING PERMITS.

Section 204(b) (16 U.S.C. 1824(b)) is amended—

(1) by inserting “hold” immediately before “capacity” in paragraph (3)(B);

(2) by striking out “and shall be set forth under the name of each Council to which it will be transmitted for comment” in that portion of paragraph (4) which precedes subparagraph (A);

(3) by striking out subparagraphs (B) and (C) of paragraph (4) and inserting in lieu thereof the following:

“(B) a copy of the application to the Secretary of the department in which the Coast Guard is operating; and

“(C) a copy or a summary of the application to the appropriate council, upon its request.”; and

(4) by striking out “After receipt of an application transmitted under paragraph (4)(B), each appropriate Council shall” in paragraph (5) and inserting in lieu thereof “After receiving a copy or summary of an application under paragraph (4)(C), the Council may”.

## SEC. 4. NATIONAL STANDARDS.

Section 301(b) (16 U.S.C. 1851(b)) is amended to read as follows:

"(b) The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans."

## SEC. 5. REGIONAL FISHERY MANAGEMENT COUNCIL ORGANIZATION AND FUNCTIONS.

Section 302 (16 U.S.C. 1852) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "pursuant to subsection (b)(1)(C)" each place it appears therein and inserting in lieu thereof "in accordance with subsection (b)(2)"; and

(B) by amending paragraph (8) to read as follows:

"(8) WESTERN PACIFIC COUNCIL.—The Western Pacific Fishery Management Council shall consist of the States of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area. The Western Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each of the following States: Hawaii, American Samoa, Guam, and the Northern Mariana Islands)."

(2) Subsection (b) is amended—

(A) by amending paragraph (1)(C) to read as follows:

"(C) The members required to be appointed by the Secretary in accordance with subsection (b)(2).";

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting immediately after paragraph (1) the following new paragraph:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who are knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest of the fishery resources of the geographical area concerned.

"(B) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy. The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of the required knowledge or experience required by subparagraph (A). If the Secretary determines that any individual is not qualified, he shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question.

"(C) Whenever the Secretary makes an appointment to a Council, he shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.";

(D) by striking out "pursuant to paragraph (1)(C)" in subsection (b)(3) (as redesignated by subparagraph (B)) and

Members,  
qualifications.

List of  
applicants.

Announcement  
of appointment.

inserting in lieu thereof "by the Secretary in accordance with subsection (b)(2)"; and

(E) by adding at the end thereof the following new paragraph:

"(5) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with subsection (b)(2) if the Council concerned first recommends removal by not less than two-thirds of the members who are voting members. A removal recommendation of a Council must be in writing and accompanied by a statement of the reasons upon which the recommendation is based."

Removal of member.

(3) Subsection (f)(6) is amended by inserting after the first sentence thereof the following new sentence: "The procedures of a Council, and of its scientific and statistical committee and advisory panels established under subsection (g), must be consistent with the procedural guidelines set forth in subsection (i)(2)."

(4) Subsection (h) is amended as follows:

(A) Paragraph (1) is amended by inserting "that requires conservation and management" immediately after "authority".

(B) Paragraph (2) is amended by striking out "204(b)(4)(B)" and inserting in lieu thereof "204(b)(4)(C)".

(C) Paragraph (3) is amended by inserting immediately before the semicolon at the end thereof the following: "(and for purposes of this paragraph, the term 'geographical area concerned' may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area)".

(D) Paragraph (4) is amended to read as follows:

"(4) submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary;"

Report.

(5) Such section is further amended by adding at the end thereof the following new subsection:

"(i) PROCEDURAL MATTERS.—(1) The Federal Advisory Committee Act (5 U.S.C. App. 1) shall not apply to the Councils or to the scientific and statistical committees or advisory panels of the Councils.

5 USC app.

"(2) The following guidelines apply with respect to the conduct of business at meetings of a Council, and of the scientific and statistical committee and advisory panels of a Council:

Meetings, guidelines.

"(A) Unless closed in accordance with paragraph (3), each regular meeting and each emergency meeting shall be open to the public.

"(B) Emergency meetings shall be held at the call of the chairman or equivalent presiding officer.

"(C) Timely public notice of each regular meeting and each emergency meeting, including the time, place, and agenda of the meeting, shall be published in local newspapers in the major fishing ports of the Council's region (and in other major fishing ports having a direct interest in the affected fishery) and such notice may be given by such other means as will result in wide



Publication in  
Federal  
Register.

publicity. Timely notice of each regular meeting shall also be published in the Federal Register.

"(D) Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings.

"(E) Minutes of each meeting shall be kept and shall contain a record of the persons present, an accurate description of matters discussed and conclusions reached, and copies of all statements filed.

Public  
availability.  
16 USC 1853.

"(F) Subject to the procedures established by the Council under paragraph (4), and the guidelines prescribed by the Secretary under section 303(d), relating to confidentiality, the administrative record, including minutes required under subparagraph (E), of each meeting, and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council.

Closed meetings.

"(3)(A) Each Council, scientific and statistical committee, and advisory panel—

"(i) shall close any meeting, or portion thereof, that concerns matters or information that bears a national security classification; and

"(ii) may close any meeting, or portion thereof, that concerns matters or information that pertains to national security, employment matters, or briefings on litigation in which the Council is interested;

and if any meeting or portion is closed, the Council, committee, or panel concerned shall publish notice of the closure in local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including the time and place of the meeting. Subparagraphs (D) and (F) shall not apply to any meeting or portion thereof that is so closed.

"(4) Each Council shall establish appropriate procedures applicable to it and to its committee and advisory panels for ensuring the confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited to, procedures for the restriction of council employee access and the prevention of conflicts of interest; except that such procedures must, in the case of statistics submitted to the Council by a State, be consistent with the laws and regulations of that State concerning the confidentiality of such statistics."

#### SEC. 6. CONTENTS OF PLANS.

Section 303 (16 U.S.C. 1853) is amended as follows:

(1) Subsection (b) is amended—

(A) by striking out "and" at the end of paragraph (6);

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting immediately after paragraph (6) the following new paragraph:

"(7) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region; and"

(2) Subsection (c) is amended to read as follows:

"(c) PROPOSED REGULATIONS.—The proposed regulations which the Council deems necessary or appropriate for purposes of carrying out

a plan or amendment to a plan shall be submitted to the Secretary simultaneously with the plan or amendment for action by the Secretary under sections 304 and 305.”; and

*Infra; post, p. 2490.*

(3) Such section is amended by adding at the end thereof the following new subsection:

“(e) DATA COLLECTION PROGRAMS.—If a Council determines that additional information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for the purposes of—

“(1) determining whether a fishery management plan is needed for a fishery; or

“(2) preparing a fishery management plan;

the Council may request that the Secretary implement a data collection program for the fishery which would provide the types of information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall approve such a data collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for a data collection program is not justified, he shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after he receives that request.”.

Regulations.

#### SEC. 7. ACTION BY SECRETARY.

(a) Section 304 (16 U.S.C. 1854) is amended as follows:

(1) Subsections (a) and (b) are amended to read as follows:

“(a) ACTION BY THE SECRETARY AFTER RECEIPT OF PLAN.—(1) After the Secretary receives a fishery management plan, or amendment to a plan, which was prepared by a Council (the date of receipt of which is hereafter in this section referred to as the ‘receipt date’), the Secretary shall—

“(A) immediately commence a review of the management plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law;

Review.

“(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 75-day period beginning on the receipt date; and

Publication in Federal Register.

“(C) by the 30th day after the receipt date—

“(i) make such changes in the proposed regulations submitted for the plan or amendment under section 303(c) as may be necessary for the implementation of the plan, and

*Ante, p. 2486.*

“(ii) publish such proposed regulations, including any changes made thereto under clause (i), in the Federal Register together with an explanation of those changes which are substantive.

Publication in Federal Register.

“(2) In undertaking the review required under paragraph (1)(A), the Secretary shall—

“(A) take into account the data, views, and comments received from interested persons;

"(B) consult with the Secretary of State with respect to foreign fishing; and

"(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

Plan  
implementation.  
*Post*, p. 2490.

"(b)(1) A plan or amendment shall take effect and be implemented in accordance with section 305(c) if—

"(A) the Secretary does not notify the Council in writing of his disapproval, or partial disapproval, under paragraph (2), of the plan or amendment before the close of the 95th day after the receipt date; or

"(B) at any time subsequent to the 75th day after the receipt date and before such 95th day, the Secretary notifies the Council in writing that he does not intend to disapprove, or partially disapprove, the plan or amendment.

Notification of  
disapproval.

"(2) If after review under subsection (a) the Secretary determines that the plan or amendment is not consistent with the criteria set forth in paragraph (1)(A) of that subsection, the Secretary shall notify the Council in writing of his disapproval or partial disapproval of the plan or amendment. Such notice shall specify—

"(A) the applicable law with which the plan or amendment is inconsistent;

"(B) the nature of such inconsistency; and

"(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

Revised plan.

"(3)(A) If the Secretary disapproves, or partially disapproves, a proposed plan or amendment under paragraph (2), the Council may submit a revised plan or amendment, accompanied by appropriately revised proposed regulations, to the Secretary.

"(B) After the Secretary receives a revised plan or amendment under subparagraph (A) or (C)(ii), the Secretary shall immediately—

"(i) commence a review of the plan or amendment to determine whether it complies with the criteria set forth in subsection (a)(1)(A);

Publications in  
Federal  
Register.

"(ii) publish in the Federal Register a notice stating that the revised plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 30-day period beginning on the date (hereinafter in this paragraph referred to as the 'revised receipt date') the plan or amendment was submitted to the Secretary under subparagraph (A) or (C)(ii); and

"(iii) review the revised proposed regulations, if any, submitted by the Council and make such changes to them as may be necessary for the implementation of the plan, and thereafter publish such revised proposed regulations (as so changed) in the Federal Register together with an explanation of each of such changes that is substantive.

Publication in  
Federal  
Register.

"(C)(i) Before the close of the 60th day after the revised receipt date, the Secretary, after taking into account any data, views, or comments received under subparagraph (B)(ii), shall complete the review required under subparagraph (B)(i) and determine whether the plan or amendment complies with the criteria set forth in subsection (a)(1)(A). If the Secretary determines that a plan or amendment is not in compliance with such criteria, he shall immediately notify the Council of his disapproval of the plan or amendment.

Notification of  
disapproval.



"(ii) After notifying a Council of disapproval under clause (i), the Secretary shall promptly provide to the Council a written statement of the reasons on which the disapproval was based and advise the Council that it may submit a further revised plan or amendment, together with appropriately revised proposed regulations, for review and determination under this paragraph.

"(D) A revised plan or amendment shall take effect and be implemented in accordance with section 305(c) if the Secretary does not notify the Council, in writing, by the close of the 60th day after the revised receipt date of his disapproval of the plan or amendment."

Post, p. 2490.

(2) Subsection (c)(1) is amended—

(A) by amending paragraph (1)—

(i) by amending subparagraph (B) to read as follows:

"(B) the Secretary disapproves or partially disapproves any such plan or amendment, or disapproves a revised plan or amendment, and the Council involved fails to submit a revised or further revised plan or amendment, as the case may be.", and

(ii) by adding immediately after the last sentence thereof the following flush sentence:

"The Secretary shall also prepare such proposed regulations as he deems necessary or appropriate to carry out each plan or amendment prepared by him under this paragraph."; and

(B) by amending paragraph (2) to read as follows:

"(2)(A) Whenever, under paragraph (1), the Secretary prepares a fishery management plan or amendment, the Secretary shall immediately—

"(i) submit such plan or amendment, and proposed regulations to implement such plan or amendment, to the appropriate Council for consideration and comment;

"(ii) publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 75-day period beginning on the date the plan or amendment was submitted under clause (i); and

"(iii) by the 30th day after the date of submission under clause (i), submit for publication in the Federal Register the proposed regulations to implement the plan or amendment.

"(B) The appropriate council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 75-day period referred to in subparagraph (A)(ii). After the close of such 75-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, data, or comments submitted under subparagraph (A)(ii), may implement such plan or amendment under section 305(c)."

Publication in Federal Register.

Comments and recommendations.

(3) Subsection (d) is amended by striking out the last sentence and inserting in lieu thereof the following: "The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this subsection shall not exceed the administrative costs incurred in issuing the permits."

(b) The amendments made by subsection (a) shall only apply with respect to fishery management plans and amendments thereto that

16 USC 1854 note.

are initially submitted to the Secretary of Commerce on or after the date of the enactment of this Act for action under section 304.

#### SEC. 8. IMPLEMENTATION OF PLANS.

Section 305 (16 U.S.C. 1855) is amended as follows:

(1) Subsections (a) and (b) are repealed.

(2) Subsection (c) is amended to read as follows:

Regulations.

“(c) IMPLEMENTATION.—The Secretary shall promulgate each regulation that is necessary to carry out a plan or amendment—

*Ante*, p. 2487.

“(1) within 110 days after the plan or amendment was received by him for action under section 304(a), if such plan or amendment takes effect under section 304(b)(1);

“(2) within 75 days after a revised plan or amendment was received by him under section 304(b), if such plan or amendment takes effect under paragraph (3)(D) of such section; or

“(3) within such time as he deems appropriate in the case of a plan or amendment prepared by him under section 304(c).”

(3) Subsection (e) is amended to read as follows:

Regulations.

“(e) EMERGENCY ACTIONS.—(1) If the Secretary finds that an emergency exists involving any fishery, he may promulgate emergency regulations necessary to address the emergency, without regard to whether a fishery management plan exists for such fishery.

“(2) If a Council finds that an emergency exists involving any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery—

“(A) the Secretary shall promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by unanimous vote of the members who are voting members, requests the taking of such action; and

“(B) the Secretary may promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by less than a unanimous vote, requests the taking of such action.

“(3) Any emergency regulation which changes any existing fishery management plan or amendment shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection—

Publication in  
Federal  
Register.

“(A) shall be published in the Federal Register together with the reasons therefor;

“(B) shall remain in effect for not more than 90 days after the date of such publication, except that any such regulation may, by agreement of the Secretary and the Council, be promulgated for one additional period of not more than 90 days; and

Notice of  
termination,  
publication in  
Federal  
Register.

“(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the Council concerned.”

(4) Subsection (f) is repealed.

(5) Such section is further amended by adding at the end thereof the following new subsection:

44 USC 101 note.

“(h) EFFECT OF CERTAIN LAWS ON CERTAIN TIME REQUIREMENTS.—The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and Executive Order Numbered 12291, dated February 17, 1981, shall be complied with within the time limitations specified in subsection (c) or section 304 (a) and (b) as they apply to the functions of the Secretary under such provisions.”

3 CFR, 1981  
Comp., p. 127.  
*Ante*, p. 2487.

**SEC. 9. STATE JURISDICTION.**

Section 306(a) (16 U.S.C. 1856(a)) is amended by inserting immediately after the first sentence thereof the following new sentence: "For purposes of this Act, except as provided in subsection (b), the jurisdiction and authority of a State shall extend (1) to any pocket of waters that is adjacent to the State and totally enclosed by lines delimiting the territorial sea of the United States pursuant to the Geneva Convention on the Territorial Sea and Contiguous Zone or any successor convention to which the United States is a party and (2) with respect to the body of water commonly known as Nantucket Sound, to the pocket of water west of the seventieth meridian west of Greenwich."

**SEC. 10. SUBPENA POWER.**

Section 308 (16 U.S.C. 1858) is amended by adding at the end thereof the following new subsection:

"(e) **SUBPENAS.**—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof."

**SEC. 11. OFFENSES.**

(a) Section 309(b) (16 U.S.C. 1859(b)) is amended by striking out " , or imprisonment for not more than 1 year, or both".

(b) The amendment made by subsection (a) applies with respect to offenses committed under section 309 on or after the date of the enactment of this Act.

16 USC 1859  
note.

**SEC. 12. CIVIL FORFEITURES.**

Section 310(a) (16 U.S.C. 1860(a)) is amended by inserting "(or the fair market value thereof)" immediately after "fish" each place it appears.

**SEC. 13. POWERS OF AUTHORIZED OFFICERS.**

Section 311(b) (16 U.S.C. 1861(b)) is amended—

- (1) by inserting "(1)" immediately before "Any officer";
- (2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;
- (3) by redesignating subparagraphs (A), (B), (C), (D), and (E) as clauses (i), (ii), (iii), (iv), and (v), respectively; and
- (4) by adding at the end thereof the following new paragraph:  
"(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence,

or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony. The arrest authority described in the preceding sentence may be conferred upon an officer or employee of a State agency, subject to such conditions and restrictions as are set forth by agreement between the State agency, the Secretary, and, with respect to enforcement operations within the fishery conservation zone, the Secretary of the department in which the Coast Guard is operating.”.

#### SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) Section 406 (16 U.S.C. 1882) is amended by adding at the end thereof the following new paragraphs:

“(9) \$59,000,000 for the fiscal year ending September 30, 1983.

“(10) \$64,000,000 for the fiscal year ending September 30, 1984.

“(11) \$69,000,000 for the fiscal year ending September 30, 1985.”.

(b)(1) Subsection (c) of the first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a(c)) is amended—

(A) by inserting “(1)” immediately before “Whenever”; and

(B) by adding at the end thereof the following new paragraph:

“(2) In the case of any State that has implemented an interstate fisheries management plan for anadromous fishery resources, the Federal share of any grant made under this section to carry out activities required by such plan shall be 90 percent.”.

(2) Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended by adding after paragraph (3) the following new paragraph:

“(4) \$7,500,000 for each of fiscal years 1983, 1984, and 1985.”.

(3) The first sentence of section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking out “and” after “1981,” and by inserting immediately before the period the following: “, and not to exceed \$1,000,000 for each of the fiscal years ending September 30, 1983, and September 30, 1984”.

#### SEC. 15. TECHNICAL AMENDMENTS.

(a) Section 3(27) (16 U.S.C. 1802(27)) is amended to read as follows:

“(27) The term ‘vessel of the United States’ means—

“(A) any vessel documented under the laws of the United States;

“(B) any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 et seq.) and measuring less than 5 net tons; or

“(C) any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 et seq.) and used exclusively for pleasure.”.

(b) Section 307(2) (16 U.S.C. 1857(2)) is amended—

(A) by amending subparagraph (A) to read as follows:

“(A) in fishing within the boundaries of any State, except recreational fishing permitted under section 201(j);” and

(B) by striking out "in fishing" in subparagraph (B) and inserting in lieu thereof "in fishing, except recreational fishing permitted under section 201(j)."

*Ante*, p. 107.

(c) The last sentence of section 311(a) (16 U.S.C. 1861(a)) is repealed.

(d) Section 8 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended by striking out "and 1982" and inserting in lieu thereof "1982, 1983, 1984, and 1985".

Approved January 12, 1983.

**LEGISLATIVE HISTORY—H.R. 5002 (S. 2450):**

HOUSE REPORTS: No. 97-549 (Comm. on Merchant Marine and Fisheries) and Nos. 97-981 and 97-982 (Comm. of Conference).

SENATE REPORT No. 97-519 accompanying S. 2450 (Comm. on Commerce, Science and Transportation).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Dec. 16, considered and passed House.

Dec. 17, considered and passed Senate, amended.

Dec. 20, House considered and rejected conference report 97-981 and agreed to conference report 97-982.

Dec. 21, Senate agreed to conference report 97-982.