

PUBLIC LAW 111-348—JAN. 4, 2011

SHARK AND FISHERY CONSERVATION ACT

Public Law 111–348
111th Congress

An Act

Jan. 4, 2011
[H.R. 81]

To amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

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

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—SHARK CONSERVATION ACT OF 2010

Sec. 101. Short title.

Sec. 102. Amendment of the High Seas Driftnet Fishing Moratorium Protection Act.

Sec. 103. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.

Sec. 104. Offset of implementation cost.

TITLE II—INTERNATIONAL FISHERIES AGREEMENT

Sec. 201. Short title.

Sec. 202. International Fishery Agreement.

Sec. 203. Application with other laws.

Sec. 204. Effective date.

TITLE III—MISCELLANEOUS

Sec. 301. Technical corrections to the Western and Central Pacific Fisheries Convention Implementation Act.

Sec. 302. Pacific Whiting Act of 2006.

Sec. 303. Replacement vessel.

**TITLE I—SHARK CONSERVATION ACT
OF 2010**

Shark
Conservation Act
of 2010.

16 USC 1801
note.

SEC. 101. SHORT TITLE.

This title may be cited as the “Shark Conservation Act of 2010”.

SEC. 102. AMENDMENT OF HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.

(a) **ACTIONS TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.**—Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking “and” at the end;

(B) in subparagraph (E), by inserting “and” after the semicolon; and

(C) by adding at the end the following:

“(F) to adopt shark conservation measures, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea;”;

(2) in paragraph (2), by striking “and” at the end;

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

“(3) seeking to enter into international agreements that require measures for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that are comparable to those of the United States, taking into account different conditions; and”.

(b) **ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.**—Subparagraph (A) of section 609(e)(3) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(e)(3)) is amended—

(1) by striking the “and” before “bycatch reduction requirements”; and

(2) by striking the semicolon at the end and inserting “, and shark conservation measures;”.

(c) **EQUIVALENT CONSERVATION MEASURES.**—

(1) **IDENTIFICATION.**—Subsection (a) of section 610 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k) is amended—

(A) in the matter preceding paragraph (1), by striking “607, a nation if—” and inserting “607—”;

(B) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(ii) by moving clauses (i) and (ii) (as so redesignated) 2 ems to the right;

(C) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(D) by moving subparagraphs (A) through (C) (as so redesignated) 2 ems to the right;

(E) by inserting before subparagraph (A) (as so redesignated) the following:

“(1) a nation if—”;

(F) in subparagraph (C) (as so redesignated) by striking the period at the end and inserting “; and”; and

(G) by adding at the end the following:

“(2) a nation if—

“(A) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and

“(B) the nation has not adopted a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions.”

(2) **INITIAL IDENTIFICATIONS.**—The Secretary of Commerce shall begin making identifications under paragraph (2) of section 610(a) of the High Seas Driftnet Fishing Moratorium

Deadline.
16 USC 1826k
note.

Protection Act (16 U.S.C. 1826k(a)), as added by paragraph (1)(G), not later than 1 year after the date of the enactment of this Act.

SEC. 103. AMENDMENT OF MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

(a) IN GENERAL.—Paragraph (1) of section 307 of Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) by amending subparagraph (P) to read as follows:

“(P)(i) to remove any of the fins of a shark (including the tail) at sea;

“(ii) to have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass;

“(iii) to transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or

“(iv) to land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached;”;

(2) by striking the matter following subparagraph (R) and inserting the following:

“For purposes of subparagraph (P), there shall be a rebuttable presumption that if any shark fin (including the tail) is found aboard a vessel, other than a fishing vessel, without being naturally attached to the corresponding carcass, such fin was transferred in violation of subparagraph (P)(iii) or that if, after landing, the total weight of shark fins (including the tail) landed from any vessel exceeds five percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of subparagraph (P). In such subparagraph, the term ‘naturally attached’, with respect to a shark fin, means attached to the corresponding shark carcass through some portion of uncut skin.”

Definition.

16 USC 1857
note.

(b) SAVINGS CLAUSE.—

“(1) IN GENERAL.—The amendments made by subsection (a) do not apply to an individual engaged in commercial fishing for smooth dogfish (*Mustelus canis*) in that area of the waters of the United States located shoreward of a line drawn in such a manner that each point on it is 50 nautical miles from the baseline of a State from which the territorial sea is measured, if the individual holds a valid State commercial fishing license, unless the total weight of smooth dogfish fins landed or found on board a vessel to which this subsection applies exceeds 12 percent of the total weight of smooth dogfish carcasses landed or found on board.

(2) DEFINITIONS.—In this subsection:

(A) COMMERCIAL FISHING.—The term “commercial fishing” has the meaning given that term in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

(B) STATE.—The term “State” has the meaning given that term in section 803 of Public Law 103-206 (16 U.S.C. 5102).

SEC. 104. OFFSET OF IMPLEMENTATION COST.

Section 308(a) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(a)) is amended by striking “2012.” and inserting “2010, and \$2,500,000 for each of fiscal years 2011 and 2012.”.

TITLE II—INTERNATIONAL FISHERIES AGREEMENT

International
Fisheries
Agreement
Clarification Act.

SEC. 201. SHORT TITLE.

This title may be cited as the “International Fisheries Agreement Clarification Act”.

16 USC 1854
note.

SEC. 202. INTERNATIONAL FISHERY AGREEMENT.

Consistent with the intent of provisions of the Magnuson-Stevens Fishery and Conservation and Management Act relating to international agreements, the Secretary of Commerce and the New England Fishery Management Council may, for the purpose of rebuilding those portions of fish stocks covered by the United States-Canada Transboundary Resource Sharing Understanding on the date of enactment of this Act—

16 USC 1854
note.

(1) take into account the Understanding and decisions made under that Understanding in the application of section 304(e)(4)(A)(i) of the Act (16 U.S.C. 1854(e)(4)(A)(i));

(2) consider decisions made under that Understanding as “management measures under an international agreement” that “dictate otherwise” for purposes of section 304(e)(4)(A)(ii) of the Act (16 U.S.C. 1854(e)(4)(A)(ii)); and

(3) establish catch levels for those portions of fish stocks within their respective geographic areas covered by the Understanding on the date of enactment of this Act that exceed the catch levels otherwise required under the Northeast Multi-species Fishery Management Plan if—

(A) overfishing is ended immediately;

(B) the fishing mortality level ensures rebuilding within a time period for rebuilding specified taking into account the Understanding pursuant to paragraphs (1) and (2) of this subsection; and

(C) such catch levels are consistent with that Understanding.

SEC. 203. APPLICATION WITH OTHER LAWS.

Nothing in this title shall be construed to amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) or to limit or otherwise alter the authority of the Secretary of Commerce under that Act concerning other species.

16 USC 1854
note.

SEC. 204. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), section 202 shall apply with respect to fishing years beginning after April 30, 2010.

16 USC 1854
note.

(b) SPECIAL RULE.—Section 202(3)(B) shall only apply with respect to fishing years beginning after April 30, 2012.

Applicability.

TITLE III—MISCELLANEOUS**SEC. 301. TECHNICAL CORRECTIONS TO THE WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION IMPLEMENTATION ACT.**

Section 503 of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6902) is amended—

(1) by striking “Management Council and” in subsection (a) and inserting “Management Council, and one of whom shall be the chairman or a member of”;

(2) by striking subsection (c)(1) and inserting the following:

“(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”; and

(3) by striking subsection (d)(2)(B)(ii) and inserting the following:

“(ii) shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”.

SEC. 302. PACIFIC WHITING ACT OF 2006.

(a) SCIENTIFIC EXPERTS.—Section 605(a)(1) of the Pacific Whiting Act of 2006 (16 U.S.C. 7004(a)(1)) is amended by striking “at least 6 but not more than 12” inserting “no more than 2”.

(b) EMPLOYMENT STATUS.—Section 609(a) of the Pacific Whiting Act of 2006 (16 U.S.C. 7008(a)) is amended to read as follows:

“(a) EMPLOYMENT STATUS.—Individuals appointed under section 603, 604, 605, or 606 of this title, other than officers or employees of the United States Government, 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, United States Code, and chapter 171 of title 28, United States Code.”.

SEC. 303. REPLACEMENT VESSEL.

Notwithstanding any other provision of law, the Secretary of Commerce may promulgate regulations that allow for the replacement or rebuilding of a vessel qualified under subsections (a)(7) and (g)(1)(A) of section 219 of the Department of Commerce and

Related Agencies Appropriations Act, 2005 (Public Law 108-447; 188 Stat. 886-891).

Approved January 4, 2011.

LEGISLATIVE HISTORY—H.R. 81 (S. 850):

SENATE REPORTS: No. 111-124 (Commerce, Science and Transportation) accompanying S. 850.

CONGRESSIONAL RECORD:

Vol. 155 (2009): Mar. 2, considered and passed House.

Vol. 156 (2010): Dec. 20, considered and passed Senate, amended.
Dec. 21, House concurred in Senate amendment.

