



**Statutes Imposing Mandates upon NOAA
With Respect to International Activities**

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Introduction

The National Oceanic and Atmospheric Administration (NOAA) was created by executive Reorganization Plan No. 4 of 1970 which President Nixon transmitted to both houses of Congress in July 1970. 5 U.S.C. app. at 207-09, 84 Stat. 2090-93, *reprinted at*, 35 *Fed. Reg.* 15627-30 (Oct. 6, 1970). Under procedures as they existed at the time, the plan would simply go into effect unless either house voted a resolution rejecting the plan, applying a one-house “legislative veto” – an expedited parliamentary procedure that was declared to be unconstitutional in 1983. That 1970 reorganization plan transferred to NOAA certain functions originally belonging to the Department of the Interior and other federal agencies and gave the new agency responsibility for expanding effective and rational use of ocean resources; for monitoring and predicting conditions in the atmosphere, oceans, and space; and for exploring the feasibility and consequences of environmental modification. While Congress has yet to succeed in passing a comprehensive NOAA organic act to formally establish the agency and chart its purpose and goals, it has, nevertheless, significantly enhanced that purpose and those goals by means of some 200 individual statutes that have been enacted in the years since 1970. Thus, by a natural evolution, the agency’s mission, as described in NOAA’s *Next Generation Strategic Plan*, has become one of Science, Service, and Stewardship: to understand and predict changes in climate, weather, oceans, and coasts; to develop and to share that knowledge with others, both domestically and internationally; and to conserve and manage marine and coastal ecosystems and resources, both in domestic and international contexts. The mission and the responsibilities which Congress has assigned to NOAA clearly involve ongoing coordination, cooperation, and interaction with the international community.

The statutes by which Congress has filled out NOAA’s purpose and charge may vary in the type of direction given to the agency. Some may give NOAA considerable flexibility, not only in the way it achieves a particular goal, but even as to whether it finds a suggested approach to be appropriate at all under the certain circumstances. For example, in pursuing the goal of protecting marine mammals, the Secretary of Commerce “may” enter into bilateral or multilateral agreements and “may” initiate discussions with foreign governments, or the Secretary may be given authority to establish a program, as he or she deems appropriate. These are things Congress instructs the agency to consider, but not necessarily adopt. The Secretary is given an authorization to exercise discretion. On the other hand, some powers given by statute are nondiscretionary. For example, in connection with the congressional goal of implementing the U.N. moratorium on the use of large-scale driftnets, the Secretary is directed to seek to secure international agreements and to include specific types of provisions in those agreements.

The purpose of this digest is to identify and describe statutes that are in the latter category and that involve international engagements – statutes that give nondiscretionary direction to the Secretary or directly to NOAA to undertake specific activities or to pursue a specific strategy in an international context. Of course, many federal statutes include both types of provisions. They may combine an authorization to exercise discretion regarding a particular suggested activity with provisions that offer no flexibility, but that direct a particular undertaking. The goal of this digest is to identify statutes that contain at least one inflexible mandate to NOAA in connection with international goals and policies.

Disclaimer: This digest is not intended to represent or reflect an interpretation by the NOAA Office of General Counsel or the National Oceanic and Atmospheric Administration of any of the legal authorities identified herein. This digest is offered for informational purposes only and is without prejudice to any position the NOAA Office of General Counsel may take regarding any matter or issue.

Fisheries

Anadromous Fish Products Act, 16 U.S.C. § 1822 note, Section 801 of Pub. L. 101-627

The Secretary of Commerce shall promulgate regulations providing for the issuance of certificates of legal origin attesting that the fish or fish product was lawfully harvested and, after consultation with the Secretary of the Treasury, shall submit to the Congress a report making recommendations as to the need for the adoption of United States import and export restrictions on anadromous fish; and identifying, evaluating, and making recommendations regarding any specific statutory or regulatory changes that may be necessary. Section 801(d), (e).

If the Secretary of Commerce finds that any foreign nation is engaged in trade in unlawfully taken anadromous fish or fish products, the Secretary shall certify that fact to the President. That certification enables the President to impose trade sanctions. Section 801(f).

The Secretary of State shall commence negotiations with nations which import or export anadromous fish for the purpose of securing general agreement among such nations to implement effective measures to prohibit international trade in anadromous fish or fish products unless such fish or fish products are accompanied by a valid certificate of legal origin. Section 801(a).

Antarctic Marine Living Resources Convention Act of 1984, 16 U.S.C. §§ 2431-2444

This Act provides the authority necessary to implement the Convention on the Conservation of Antarctic Marine Living Resources (“Convention”), under which a Commission (CCAMLR) was established with responsibility to manage and protect marine living resources south of the Antarctic convergence. 16 U.S.C. § 2431(b). The Act provides authority for NOAA Fisheries to establish the U.S. Antarctic Marine Living Resources (AMLR) Program, and to effect NOAA’s strategic goal of managing the use of Southern Ocean living marine resources through an ecosystem approach.

The Secretary of Commerce, in consultation with the Secretary of State and the Director of the NSF, shall design and conduct a program of directed scientific research, and shall prepare a plan for conducting such research and submit an updated plan to Congress annually. 16 U.S.C. § 2441(a). The Secretary of Commerce shall promulgate such regulations as may be necessary to implement the Act, 16 U.S.C. § 2436, and together with the Secretary of the Department of Homeland Security, shall enforce the Act. 16 U.S.C. § 2439(a). The Secretaries of State and Commerce and the Director of the NSF are required to consult with other federal agencies and the Marine Mammal Commission as appropriate. 16 U.S.C. § 2441(b).

Antigua Convention Implementing Act of 2015, 16 U.S.C. §§ 951–962, amending and strengthening the Tuna Conventions Act of 1950

The Tuna Conventions Act of 1950 implemented the Convention for the Establishment of an Inter-American Tropical Tuna Commission (IATTC), which was signed in 1949 by the United States and Costa Rica, and the Convention for the Establishment of an International Commission for the Scientific Investigation of Tuna, two treaties to which the United States had become a party. The latter of these two Conventions was a bilateral agreement with Mexico which was terminated in 1965 because of the adequacy of an increased reliance on IATTC. The IATTC is a regional fishery management organization that manages and conserves yellowfin, skipjack, and other tuna species taken by fishing vessels in the eastern tropical Pacific Ocean.

The Antigua Convention Implementing Act of 2015 implements the “Convention for the Strengthening of the Inter-American Tropical Tuna Commission Established by the 1949 Convention between the United States of America and the Republic of Costa Rica”, signed at Washington, November 14, 2003. The Antigua Convention has been ratified by, and has entered into force for, thirteen states and the European Union. The U.S. Senate provided its advice and consent in 2005, but U.S. ratification was delayed by the lack of implementing legislation. Upon its entry into force, the Antigua Convention will replace the 1949 Convention.

The United States shall be represented on the Commission by four United States Commissioners. 16 U.S.C. § 952. The Secretary of Commerce, in consultation with the United States Commissioners, shall appoint a General Advisory Committee which shall consist of representatives from various groups concerned with the fisheries covered by the Convention and which shall be given full opportunity to examine and to be heard on all proposed programs of investigations, reports, recommendations, and regulations of the Commission. The Secretary of Commerce, in consultation with the Secretary of State, shall appoint a Scientific Advisory Subcommittee which shall provide advice and scientific assistance and which shall also be given full opportunity to examine and to be heard. 16 U.S.C. § 953(a), (b).

The Secretary of Commerce, in consultation with the Secretary of State and, with respect to enforcement matters, the Secretary of the Department in which the Coast Guard is operating, may promulgate such regulations as may be necessary to carry out the United States international obligations under the Convention and the Act, including recommendations and decisions adopted by the Commission. Where the Secretary has discretion to implement one or more measures adopted by the Commission that would govern fisheries under the authority of a Regional Fishery Management Council, the Secretary may promulgate such regulations as may be necessary to carry out U.S. obligations in accordance with procedures established by the Magnuson-Stevens Fishery Conservation and Management Act. 16 U.S.C. § 955(a).

Note: For additional prohibitions relating to this Act, see Section 606 of the High Seas Driftnet Fishing Moratorium Protection Act, 16 U.S.C. § 1826g.

Arctic Research and Policy Act of 1984, as amended, 15 U.S.C. §§ 4101-4111

The purpose of this Act is to establish national policy, priorities, and goals, as well as to provide a federal program plan, for basic and applied scientific research with respect to the Arctic, and to establish an Arctic Research Commission to promote Arctic research and to recommend Arctic research policy. Each federal agency, including the Department of Commerce, shall cooperate with the Commission and furnish all data, reports, and other information requested by the Commission to the extent permitted by law.

The statute directs the President to establish an Interagency Arctic Research Policy Committee to be composed of representatives from specified federal agencies, including the Department of Commerce. This Interagency Committee shall survey research that has been done, help determine priorities for future Arctic research, work with the Commission to develop an integrated national Arctic research policy that will guide federal agencies, facilitate cooperation among entities in the U.S, and coordinate and promote cooperative Arctic scientific research programs with other nations, subject to the foreign policy guidance of the Secretary of State.

In a memorandum of July 22, 2010, 75 *Fed. Reg.* 44063 (July 22, 2010), the President assigned to the Cabinet-level National Science and Technology Council (NSTC) responsibility to coordinate activities assigned in the Act to the Interagency Arctic Research Policy Committee. The Secretary of Commerce is a member of the NSTC. The NOAA Administrator is a Co-Chair of the NSTC's Committee on Environment and Natural Resources.

Atlantic Salmon Convention Act of 1982, 16 U.S.C. §§ 3601–3608

This statute implements the various responsibilities to which the United States is committed as a signatory to the Convention for the Conservation of Salmon in the North Atlantic Ocean. The Act directs the Secretary of Commerce, with the concurrence of the Secretaries of the Interior and Homeland Security, to promulgate regulations to carry out the Convention and this Act and the Secretary is responsible for implementing measures that are binding on the U.S. under the Convention. 16 U.S.C. § 3604(a). The Secretary of Commerce, in cooperation with the Secretary of the Interior, shall also prepare all statements, reports, and notifications, required by Articles 14 (regarding enforcement actions) and 15 (regarding conservation, restoration, enhancement efforts) of the Convention and submit such documents to the Secretary of State for transmission to the North Atlantic Salmon Conservation Organization. 16 U.S.C. § 3604(b). It is illegal for a person or vessel to fish for salmon in certain Atlantic Ocean waters (seaward of the 12 mile territorial sea and north of 35 degrees north latitude), or to violate the Convention, the Act or any regulations enacted under the Act. Violations may be subject to civil and criminal penalties, and civil forfeiture of the vessel. 16 U.S.C. § 3606(a).

Atlantic Tunas Convention Act of 1975, 16 U.S.C. §§ 971–971k

The Act is the implementing statute for the International Convention for the Conservation of Atlantic Tunas (ICCAT), to which the United States is a party. ICCAT is a regional fishery management organization that manages and conserves bluefin tuna, swordfish, and other tuna and tuna-like species in the Atlantic Ocean. Article III of the Convention establishes the International Commission for the Conservation of Atlantic Tunas (Commission) which is to make recommendations regarding the maintenance of tuna and tuna-like species.

The Secretary of Commerce is authorized and directed to administer and enforce all of the provisions of the Convention, this Act, and regulations issued pursuant thereto, except to the extent otherwise provided. In carrying out such functions the Secretary is authorized and directed to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and, with the concurrence of the Secretary of State, may cooperate with the duly authorized officials of the government of any party to the Convention. 16 U.S.C. § 971d(a).

Upon favorable action by the Secretary of State on any recommendation of the Commission, the Secretary of Commerce shall promulgate such regulations as may be necessary and appropriate to carry out such recommendation. 16 U.S.C. § 971d(c). *See, e.g.,* 50 CFR Part 300, Subpart M. The Secretary of Commerce, in consultation with the Secretary of State, shall also seek support for a recommendation by the Commission to ban large-scale driftnet fishing in the Convention area and, in consultation with the Secretary of State, shall request the Commission to adopt recommendations necessary for the conservation and management of Atlantic swordfish. 16 U.S.C. § 971d(d).

Driftnet Act Amendments of 1990, 16 U.S.C. § 1826

The Secretary of Commerce, through the Secretary of State and the Secretary of Homeland Security, shall seek to secure international agreements to implement an international ban on large-scale driftnet fishing. The Secretary, through the Secretary of State shall include in any agreement which addresses the taking of living marine resources of the United States, provisions (among others) that require foreign driftnet vessels to be equipped with satellite transmitters, that authorize U.S. officials to board and inspect foreign driftnet vessels for violations of the agreement, that require reliable monitoring and documentation of all catches by foreign vessels, that impose time and area restrictions on driftnet use to prevent interception of anadromous species, that require that driftnets be constructed of biodegradable materials, that require driftnets to be clearly marked, that minimize the taking of non-target living resources, and that ensure definitive steps are taken to ensure that parties to the agreement comply with the spirit of other international agreements and resolutions concerning the use of large-scale driftnets beyond the EEZ of any nation.. 16 U.S.C. § 1826(d).

The Secretary of Commerce is directed to report annually to Congress on progress and impacts and, among other things, to list any nations that conduct high seas driftnet fishing in a manner inconsistent with any international agreement. 16 U.S.C. § 1826(e). If the Secretary of Commerce identifies a nation that warrants inclusion on such list, the Secretary shall certify that

fact to the President who will then have discretion to embargo products imported into the United States from such nation, provided such action is consistent with U.S. obligations under the General Agreement on Tariffs and Trade. 16 U.S.C. § 1826(f).

The Driftnet Impact Monitoring, Assessment, and Control Act, Pub. L 100-220, §§ 4001-4009, 16 U.S.C. § 1822 note

The Secretary of Commerce, through the Secretary of State and in consultation with the Secretary of the Interior, shall immediately initiate negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation (*e.g.*, anadromous salmon). The purpose of such negotiations is to enter into agreements for statistically reliable cooperative monitoring and assessment of the numbers of marine resources of the United States killed, retrieved, discarded or lost by the foreign government's driftnet fishing vessels. Pub. L. 100-220, Section 4004(a).

The Secretary of Commerce is also directed to initiate, through the Secretary of State and in consultation with the Secretary of the Department in which the Coast Guard is operating, negotiations with each such foreign government for the purpose of entering into agreements for effective enforcement of laws, regulations, and agreements applicable to the location, season, and other aspects of the operations of the foreign government's driftnet fishing vessels, for the effective monitoring and detection of violations, for the collection of evidence, and for reporting to the U.S. the penalties imposed by such foreign governments. Pub. L. 100-220, Section 4006(a). Agreements have been negotiated pursuant to this authority with the governments of Japan, Korea, and Taiwan.

If the Secretary of Commerce determines that a foreign government has failed to implement such an agreement, the Secretary shall certify that fact to the President who may impose trade sanctions pursuant to 22 U.S.C. § 1978(a) (The Fishermen's Protective Act). Pub. L. 100-220, Section 4006(b).

Eastern Pacific Tuna Licensing Act of 1984, 16 U.S.C. §§ 972-972h

The Secretary of Commerce, in cooperation with the Secretary of State and the Secretary of Homeland Security, shall issue such regulations as may be necessary to carry out the purposes and objectives of the Eastern Pacific Ocean Tuna Fishing Agreement and this Act. Regulations may be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located. Regulations concerning the conservation of a designated species of tuna may be issued only to implement conservation recommendations made by the Council (which consists of representatives from each Contracting Party to the Agreement which is a Coastal State of the eastern Pacific Ocean or a member of the Inter-American Tropical Tuna Commission). 16 U.S.C. § 972e. It is unlawful to engage in fishing for a designated species of

tuna within the Agreement Area without a license or in contravention of regulations promulgated by the Secretary of Commerce. 16 U.S.C. § 972f(a).

Endangered Species Act of 1973, 16 U.S.C. §§ 1531–1543

The Endangered Species Act establishes a comprehensive program to limit harm to and promote the survival and recovery of endangered and threatened species within the United States. Species and their critical habitat are to be protected if, in the case of marine species, the Secretary of Commerce determines, pursuant to regulation, that the species is endangered or threatened because of the present or threatened destruction or modification of its habitat or range; because of overutilization for commercial, recreational, scientific, or educational purposes; because of disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors. 16 U.S.C. § 1533. Federal agencies are also required, through consultation with NOAA Fisheries or the Fish and Wildlife Service, to ensure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat. 16 U.S.C. §§ 1536.

In order to carry further out the provisions of this Act, the Secretary of Commerce, through the Secretary of State, shall encourage (1) foreign countries to provide for the conservation of fish including endangered species and threatened species listed pursuant to section 1533 of the Act; (2) the entering into of bilateral or multilateral agreements with foreign countries to provide for such conservation; and (3) foreign persons who directly or indirectly take fish in foreign countries or on the high seas for importation into the United States for commercial or other purposes to develop and carry out with such assistance as he may provide, conservation practices designed to enhance such fish and their habitat. 16 U.S.C. §§ 1537(b).

Fisherman's Protective Act of 1967, 22 U.S.C. §§ 1971-1980b

When the Secretary of Commerce determines that nationals of a foreign country are, directly or indirectly, conducting fishing operations in a manner or under circumstances which diminish the effectiveness of an international fishery conservation program, the Secretary of Commerce shall certify such fact to the President. 22 U.S.C. §§ 1978(a)(1). When the Secretary of Commerce or the Secretary of the Interior finds that nationals of a foreign country are, directly or indirectly, engaging in trade or a taking which diminishes the effectiveness of any international program for endangered or threatened species, the Secretary making such finding shall certify such fact to the President. 22 U.S.C. §§ 1978(a)(2). Upon receipt of any such certification, the President may direct the Secretary of the Treasury to prohibit the importation into the United States of any products from the offending country for any duration that the President determines appropriate and to the extent that such prohibition is sanctioned by the World Trade Organization or multilateral trade agreements. 22 U.S.C. §§ 1978(a)(4).

High Seas Driftnet Fisheries Enforcement Act, 16 U.S.C. § 1826a-c

If, at any time, the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing or IUU fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall identify that nation and notify the President and that nation of such identification. 16 U.S.C. § 1826a(b)(1). The President must then enter consultations with that identified nation to obtain an agreement that will effect an immediate termination of such activity. 16 U.S.C. § 1826a(b)(2). If such consultations are not satisfactorily concluded within 90 days of identification, the Secretary of the Treasury will be directed to prohibit (within 45 days) the importation of fish, fish products, and sport fishing equipment from such nation. 16 U.S.C. § 1826a(b)(3).

If the Secretary of Commerce determines that such sanction is insufficient to cause termination of large-scale high seas driftnet or IUU fishing, or if such nation retaliates against the U.S, the Secretary will certify this fact to the President who may direct the Secretary of the Treasury to prohibit the importation into the United States of any products from the offending country for any duration as the President determines appropriate and to the extent that such prohibition is sanctioned by the World Trade Organization or multilateral trade agreements. 16 U.S.C. § 1826a(b)(4).

High Seas Driftnet Fishing Moratorium Protection Act, 16 U.S.C. § 1826d-k

The Secretary of Commerce shall prevent any person from violating this Act in the same manner, by the same means and with the same jurisdiction, powers, and duties as though the penalty, forfeiture and enforcement provisions of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. sections 1858 through 1861, were incorporated into this Act. The Secretary may engage in international cooperation to help other nations combat illegal, unreported, or unregulated (IUU) fishing and achieve sustainable fisheries. 16 U.S.C. § 1826g(c). Section 606 (16 U.S.C. § 1826g) of this Act applies also to the following Acts:

- (1) Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 et seq.);
- (2) Dolphin Protection Consumer Information Act (16 U.S.C. 1385);
- (3) Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.);
- (4) North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5001 et seq.)
- (5) Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.);
- (6) Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.);
- (7) Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.); and
- (8) Antigua Convention Implementing Act of 2015.

The Secretary of Commerce, in consultation with the Secretary of State, shall take actions to improve the effectiveness of international fishery management organizations, including urging international fishery management organizations to adopt multilateral market-related measures against governments whose vessels engage in IUU fishing; seeking adoption of IUU lists that can be shared; seeking international adoption of a centralized vessel monitoring system; seeking

the increase in use of observers and technologies needed to monitor; seeking adoption of stronger port state controls in all nations; urging adoption of shark conservation measures, including measures to prohibit the removal of any of the fins of the shark and discarding the carcass at sea, and seeking to enter international agreements that require measures to conserve sharks; urging adoption and expanded use of market-related measures to combat IUU fishing, including import prohibitions, landing restrictions, and catch documentation and certification schemes to improve tracking and identification of the catch of vessels engaged in IUU fishing. The Secretary may develop, maintain and make public a list of vessels and vessel owners engaged in IUU fishing. 16 U.S.C. § 1826i.

The Act further requires the Secretary of Commerce to: (1) identify nations whose vessels have been engaged in IUU fishing or bycatch of protected living marine resources, or whose vessels have engaged in fishing that target or incidentally take sharks and have not adopted a regulatory program for protection of sharks, (2) notify the President and that nation of such identification, (3) initiate consultations with identified nations and encourage them to take appropriate corrective action to address IUU fishing or bycatch and to protect sharks, (4) certify to Congress whether appropriate corrective action is being taken by identified nations, and (5) produce a biennial report describing progress in implementing these international provisions. 16 U.S.C. §§ 1826j(a)-(c), (d)(1), 1826k(a). If an identified nation fails to take appropriate corrective action and receives a negative certification, the fishing vessels of that nation may be denied port privileges in the United States, the importation of certain fish or fish products into the United States may be prohibited, and additional economic sanctions may be imposed. 16 U.S.C. § 1826j(d)(3) (*see* § 1826a(a), (b)(3), (b)(4)).

The Secretary shall also identify any nation that is violating or has violated at any point during the preceding 3 years conservation and management measures required under an international fishery management agreement to which the U.S. is a party. 16 U.S.C. § 1826j(a)(2).

The Secretary of Commerce, acting through the Secretary of State, shall initiate discussions as soon as possible with all foreign governments which have persons engaged in fishing activities that result in bycatch of a protected living marine resource or result in targeted or incidental bycatch of sharks, where the relevant international organization or the foreign government itself has not adopted a regulatory program to end or reduce such bycatch. 16 U.S.C. § 1826k(a), (b). The goal of this effort is to enter into bilateral and multilateral treaties with such countries to protect such species or to initiate the amendment of any existing international treaty. 16 U.S.C. § 1826k(b). The Secretary shall certify to the Congress biennially whether each such nation has provided the documentary evidence of adoption of a regulatory program for conservation of protected living marine resources. 16 U.S.C. § 1826k(c)(1), (3). Any nation that is not so certified or which receives a negative certification shall be denied port privilege in the U.S.; importation of their fish and fish products into the U.S. will be prohibited; and such nation may be subject to other economic sanctions, consistent with international law. 16 U.S.C. § 1826k(c)(5).

To the greatest extent possible, the Secretary of Commerce shall provide appropriate assistance to nations and their international organizations to enable those nations to qualify for certification. The Secretary shall undertake cooperative research activities on species statistics and improved

harvesting techniques, to encourage and facilitate the transfer of appropriate technology to those nations or organizations, and to provide assistance to those nations or organizations in designing and implementing appropriate fish harvesting plans. 16 U.S.C. § 1826k(d).

The Secretary of Commerce shall report to Congress biennially on the state of our knowledge of international living marine resources, providing a list of offending nations, describing efforts taken by those nations to comply, describing efforts to strengthen international fishery management organizations, and describing efforts by the Secretary on the international level to adopt international measures comparable to those of the United States to reduce impacts of fishing on protected living marine resources. 16 U.S.C. § 1826h.

High Seas Fishing Compliance Act of 1995, 16 U.S.C. §§ 5501-5509

This statute implements the 1993 U.N. Food and Agriculture Organization (FAO) Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Agreement) and establishes a system of permitting, reporting, and regulation for vessels of the United States which are engaged in such fishing. 16 U.S.C. § 5501. No U.S. fishing vessel shall engage in harvesting operations on the high seas unless the vessel has on board a valid permit issued under this Act. 16 U.S.C. § 5503. The Secretary of Commerce shall establish such conditions and restrictions on each permit issued under this Act as are necessary and appropriate to carry out the obligations of the United States under the Agreement and, after consultation with the Secretary of State and the Secretary of the Department in which the Coast Guard is operating, may promulgate such regulations as may be necessary to carry out the purposes of the Agreement and this Act. 16 U.S.C. §§ 5503(d), 5504(d). The Secretary of Commerce shall coordinate such regulations with any other entities regulating high seas fishing vessels.

The Secretary of Commerce shall make available to the FAO information contained in the record of permitted fishing vessels which shall be maintained by the Secretary; report promptly to FAO all relevant information regarding any activities of high seas fishing vessels that undermine the effectiveness of international conservation and management measures, including the identity of the vessels and any sanctions imposed; and provide to the FAO a summary of evidence regarding any activities of foreign vessels that undermine the effectiveness of international conservation and management measures. 16 U.S.C. § 5504(b).

If the Secretary of Commerce has reasonable grounds to believe that a foreign vessel has engaged in activities undermining the effectiveness of international conservation and management measures, the Secretary shall provide to the flag nation information, including appropriate evidentiary material, relating to those activities; and when such foreign vessel is voluntarily in a United States port, promptly notify the flag nation and, if requested by the flag nation, make arrangements to undertake such lawful investigatory measures as may be considered necessary to establish whether the vessel has been used contrary to the provisions of the Agreement. 16 U.S.C. § 5504(c).

International Dolphin Conservation Program Act of 1997, 16 U.S.C. §§ 1411-1418

This statute amended the Marine Mammal Protection Act to give domestic effect to the Declaration of Panama, under which 12 signatory nations, including the United States, agreed to require that the total annual dolphin mortality in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean shall not exceed 5,000 animals, with the objective of progressively reducing dolphin mortality to a level approaching zero through the setting of annual limits, and with the goal ultimately of eliminating dolphin mortality. 16 U.S.C. § 1411(a). The Secretary of Commerce is directed to issue regulations which, among other things, establish per vessel maximum annual dolphin mortality limits, total dolphin mortality limits and per-stock per-year mortality limits and which require the use of observers. 16 U.S.C. § 1413(a). The Secretary shall issue permits to U.S. vessels authorizing participation in the International Dolphin Conservation Program (Program). 16 U.S.C. § 1416(a).

In developing any regulation under this section, the Secretary of Commerce shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission (IATTC). 16 U.S.C. § 1413(b). If the Secretary of Commerce determines, on the basis of the best scientific information available, that the incidental mortality and serious injury of marine mammals that is authorized under this subchapter is having, or is likely to have, a significant adverse impact on a marine mammal stock or species, the Secretary shall notify the IATTC and provide the Commission with recommendations to reduce incidental dolphin mortality and serious injury and to mitigate adverse impact, and shall prescribe emergency regulations to that effect. 16 U.S.C. § 1413(c).

Within 120 days after the Secretary of Commerce notifies the United States Commissioners of the Secretary's determination, the United States Commissioners shall call for a special meeting of the Commission to consider the actions necessary to address the Secretary's finding and recommendations. The Commissioners shall report the results of the special meeting in writing to the Secretary of Commerce and to the Secretary of State describing actions taken by harvesting nations or under the Program to reduce mortality and injury and to mitigate adverse impacts, indicating whether those actions are adequate and, if not, recommending additional action. *Id.*

Magnuson-Stevens Fishery Conservation and Management Act, as amended, 16 U.S.C. §§ 1801-1891d

The Magnuson-Stevens Act establishes exclusive Federal management authority over fishery resources in the U.S. Exclusive Economic Zone (EEZ). Magnuson-Stevens requires, among other things, rebuilding of overfished stocks and preventing overfishing while maintaining optimum yield from fisheries. 16 U.S.C. §§ 1811, 1853a. Most fishery management plans are developed by regional fishery management councils and must comply with ten National Standards reflected in the statute, 16 U.S.C. §§ 1851(a), 1852. Upon transmission by a council to the Secretary of Commerce of a fishery management plan or plan amendment, the Secretary shall undertake a review of the plan or amendment, taking into account the views of interested persons, and shall consult with the Secretary of State regarding foreign fishing, and shall

approve, disapprove or partially approve the plan or amendment through regulations. 16 U.S.C. § 1854.

The Secretary of State, in cooperation with the Secretary of Commerce, shall make allocations for the allowable level of foreign fishing based on a number of conditions, such as whether the foreign nation restricts market access, and only if the relevant foreign nations allow reciprocal fishing in its waters. 16 U.S.C. § 1821(e), (f).

The Secretary of State, in cooperation with the Secretary of Commerce (hereafter “the Secretaries”) shall evaluate the effectiveness of international fishery agreements regarding highly migratory species and shall conduct negotiations as necessary to correct inadequacies and to obtain access for vessels of the United States to tuna species within the exclusive economic zones of other nations. The Secretaries shall initiate negotiations in order to obtain such access for vessels of the U.S. 16 U.S.C. § 1822(e)(1), (2), (4). The Secretaries shall seek to secure an international agreement, where necessary and appropriate and subject to approval by Congress, to establish standards and measures for bycatch reduction comparable to those applicable to U.S. fishermen. The Secretary of Commerce shall report annually to Congress describing actions taken under this section. 16 U.S.C. § 1822(h).

No foreign fishing vessel shall engage in fishing within the U.S. EEZ, or for anadromous species or Continental Shelf fishery resources beyond such zone, unless such vessel has on board a valid permit issued under this section 204 of the Act (16 U.S.C. 1824). The Secretary of Commerce shall consult with the Secretary of State and, with respect to enforcement, with the Secretary of the department in which the Coast Guard is operating and, after taking into consideration the views and recommendations of such Secretaries, and any comments submitted by any Council, may approve a permit application if he determines that the fishing described in the application will meet the requirements of the Act, 16 U.S.C. § 1824(a)-(c). The Secretary of State with the concurrence of the Secretary of Commerce, and in consultation with any appropriate council, may negotiate a Pacific Insular Area fishery agreement to authorize foreign fishing within the EEZ adjacent to a U.S. Pacific Insular Area. 16 U.S.C. § 1824(e). If a foreign nation enters into such an agreement with the U.S., its vessels may fish in the EEZ adjacent to the islands covered, pursuant to specified terms and conditions. Permits for foreign fishing authorized under such agreement shall include any conditions and restrictions established by the Secretary of Commerce in consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, the Governor of the applicable Pacific Insular Area, and the appropriate Council. 16 U.S.C. § 1824(e).

The Secretary of Commerce shall establish a program under which a United States observer will be stationed on board each foreign fishing vessel while that vessel is in waters that are within the U.S. EEZ and within the ICCAT Convention area and is taking or attempting to take any species of fish where such taking or attempt to take may result in the incidental taking of billfish. 16 U.S.C. § 1827.

The Secretary of Commerce shall prepare fishery management plans and plan amendments with respect to any highly migratory species that is within the geographical area of more than one of the Regional Fishery Management Councils covering the Atlantic, the Gulf of Mexico and the

Caribbean and shall diligently pursue through international entities, such as ICCAT, comparable international fishery management measures with respect to fishing for highly migratory species. 16 U.S.C. § 1854(g)(1)(F), (G).

When the Secretary of Commerce determines that a fishery is overfished or approaching a condition of being overfished because of excessive international fishing pressure, and that there are no management measures in place to end such overfishing under any international agreement to which the United States is a party, the Secretary of Commerce, in cooperation with the Secretary of State, shall immediately take appropriate action at the international level to end the overfishing; and within 1 year after the Secretary's determination, shall develop and submit recommendations to the Secretary of State, and to the Congress, for international actions that will end overfishing in the fishery and rebuild the affected stocks, taking into account the relative impact of vessels of other nations and vessels of the United States on the relevant stock. 16 U.S.C. § 1854(i). [Please note that, because of a textual error, there are two subsections denoted as "(i)." This is the second of those subsections.]

Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, Miscellaneous Amendments, Pub. L. 109-479, 16 U.S.C. §§ 1891-1891d, and uncodified provisions

In establishing catch allocations under international fisheries agreements, the Secretary of Commerce, in consultation with the Secretary of the Department in which the Coast Guard is operating, and the Secretary of State, shall ensure that all catch history associated with a vessel of the United States remains with the United States and is not transferred or credited to any other nation or vessel of such nation, even when a vessel of the United States is sold or transferred to a citizen of another nation. The catch history, and the catch allocations resulting therefrom, will remain a U.S. asset. 16 U.S.C. § 1891c.

The Secretary of Commerce, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall designate a Senate-confirmed, senior official within NOAA to perform the duties of the Secretary with respect to international agreements involving fisheries and other living marine resources, including policy development and representation as a U.S. Commissioner, under any such international agreements. This official shall advise the Secretary of Commerce, the Undersecretary of Commerce for Oceans and Atmosphere, and other senior officials of the Department of Commerce and NOAA on development of policy on international fisheries conservation and management matters. This designated official shall also consult with the Senate Committee on Commerce, Science, and Transportation and the House Committee on Natural Resources on matters pertaining to any regional or international negotiation concerning living marine resources, including shellfish. This official may delegate and authorize successive re-delegation of such functions, powers, and duties to such officers and employees of NOAA as deemed necessary to discharge the responsibility of the Office. 16 U.S.C. § 1891d.

Marine Mammal Protection Act of 1972, 16 U.S.C. §§ 1361–1423h

The Secretary of Commerce, on the basis of the best scientific evidence available and in consultation with the Marine Mammal Commission, shall prescribe such regulations with respect to the taking and importing of animals from each species of marine mammal (including regulations on the taking and importing of individuals within population stocks) as he deems necessary and appropriate to insure that such taking will not be to the disadvantage of those species and population stocks. In prescribing such regulations, the Secretary shall give full consideration to all factors which may affect the extent to which such animals may be taken or imported, including but not limited to the effect of such regulations on (1) existing and future levels of marine mammal species and population stocks; (2) existing international treaty and agreement obligations of the United States; (3) the marine ecosystem and related environmental considerations; (4) the conservation, development, and utilization of fishery resources; and (5) the economic and technological feasibility of implementation. 16 U.S.C. § 1373(a), (b).

The Secretary of Commerce, through the Secretary of State, shall develop bilateral or multilateral agreements with other nations for the protection and conservation of marine mammals covered by this statute. 16 U.S.C. § 1378(a)(1). The Secretary of Commerce shall initiate negotiations with foreign governments which have persons engaged in commercial fishing operations which are found by the Secretary to be unduly harmful to marine mammals, for the purpose of entering into bilateral and multilateral treaties with such countries to protect marine mammals. 16 U.S.C. § 1378(a)(2)(A).

The Secretary of Commerce shall initiate discussions with foreign governments whose vessels harvest yellowfin tuna with purse seines in the eastern tropical Pacific Ocean for the purpose of concluding, through the Inter-American Tropical Tuna Commission or such other bilateral or multilateral institutions as may be appropriate, international arrangements for the conservation of marine mammals taken incidentally in the course of harvesting such tuna. Such arrangements should include provisions for cooperative research into alternative methods of locating and catching yellowfin tuna that do not involve such incidental take, and for research into the status of marine mammal stocks, as well as limitations on incidental take levels and provisions to promote the use of the best marine mammal safety techniques and equipment to reduce the incidental kill and serious injury of marine mammals. 16 U.S.C. § 1378(a)(2)(B).

The Secretary of Commerce shall initiate discussions with those countries participating in the International Dolphin Conservation Program for the purpose of identifying sources of funds needed for research and other measures promoting effective protection of dolphins. 16 U.S.C. § 1378(a)(2)(D).

The Secretary of Commerce shall encourage such other agreements with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of marine mammals and shall initiate the amendment of any existing international treaty for the protection and conservation of any species of marine mammal to which the United States is a party in order to make such treaty consistent with the purposes and policies of this Act. 16 U.S.C. § 1378(a)(3), (4).

North Pacific Anadromous Stocks Convention Act of 1992, 16 U.S.C. §§ 5001–5012

This Act implements the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean which was signed in Moscow, February 11, 1992. 16 U.S.C. § 5001. The Secretary of Commerce shall be responsible for administering provisions of the Convention, this Act, and regulations issued under this Act and shall be responsible for coordinating the participation of the United States in the Northern Pacific Anadromous Fish Commission which was established by the Convention. 16 U.S.C. § 5006(a). In carrying out such functions, the Secretary of Commerce shall issue such regulations as may be necessary to carry out the purposes and objectives of the Convention and this Act and the Secretary may, with the concurrence of the Secretary of State, cooperate with the authorized officials of the government of any Party. 16 U.S.C. § 5006(b). This Act shall be enforced by the Secretaries of Commerce and Transportation. 16 U.S.C. § 5008. (Note: The reference to enforcement by the Secretary of Transportation may be out of date. If that reference contemplated use of the U.S. Coast Guard, which was once a part of the Department of Transportation, the statute's notes should explain that those functions have been transferred to the Secretary of Homeland Security.)

Northern Pacific Halibut Act of 1982, 16 U.S.C. §§ 773–773k

It is unlawful for any person subject to the jurisdiction of the United States to violate any provision of the Convention between the U. S. and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, or any provision of this Act, or any regulation adopted under this Act. The Secretary of Commerce shall have general responsibility to carry out the Convention and this Act. In fulfilling this responsibility, the Secretary shall, in consultation with the Secretary of the department in which the Coast Guard is operating, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this Act and may, with the concurrence of the Secretary of State, cooperate with the duly authorized officials of the government of Canada. 16 U.S.C. § 773c(a), (b). The Convention, this Act, and any regulation adopted under this Act, shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. 16 U.S.C. § 773i(a).

Northwest Atlantic Fisheries Convention Act of 1995, 16 U.S.C. §§ 5601–5612

It is unlawful for any person or vessel that is subject to the jurisdiction of the United States to violate any measure that is legally binding on the United States under the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, or to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act. 16 U.S.C. § 5606(a).

The Secretary of Commerce shall promulgate regulations as may be necessary to carry out the purposes and objectives of the Convention and this Act. The Secretary of Commerce shall appoint not more than three individuals to serve as United States Commissioners to the Northwest Atlantic Fisheries Organization (NAFO) and not more than three individuals to serve as the representatives of the United States on the Scientific Council provided for in the Convention. 16 U.S.C. § 5601(a), (c). The Secretary of State and the Secretary of Commerce shall jointly establish a consultative committee to advise the Secretaries on issues related to the Convention and to attend meetings of the General Council of the Fisheries Commission. 16 U.S.C. § 5607(a), (c).

The Secretary of Commerce, acting through the Secretary of State, shall promptly seek to establish a new practice for allocating quotas under the Convention that is predictable and transparent; that provides fishing opportunities for all members of NAFO; and is consistent with the Straddling Fish Stocks Agreement. The Secretary of Commerce shall include in annual reports to Congress a description of the results of negotiations relating to quota allocation; an identification of barriers to achieving a new allocation practice; and recommendations for any further legislation that is necessary to achieve such a new practice. 16 U.S.C. § 5612(a), (b).

Pacific Salmon Treaty Act of 1985, 16 U.S.C. §§ 3631–3645

The Secretary of Commerce, in consultation with the Secretary of the Interior, the Secretary of the Department in which the Coast Guard is operating, and the appropriate Regional Fishery Management Council, shall promulgate such regulations as may be necessary to carry out the United States international obligations under the Treaty between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa, January 28, 1985 and this Act. 16 U.S.C. § 3636(a). In cooperation with the appropriate Regional Fishery Management Councils, States and treaty Indian tribes, the Secretary of Commerce shall prepare, as appropriate, all statements, reports, and information required by the Treaty and submit such documents to the Secretary of State, who shall transmit them to the Pacific Salmon Commission which was established by the Treaty. 16 U.S.C. § 3633(c).

Pacific Whiting Act of 2006, 16 U.S.C. §§ 7001-7010

The Secretary of Commerce shall establish the United States catch level for Pacific whiting according to the standards and procedures of the Agreement between the Government of the United States and the Government of Canada on Pacific Hake/Whiting, signed at Seattle, Washington, on November 21, 2003, and according to this Act rather than under the standards and procedures of the Magnuson-Stevens Fishery Conservation and Management Act, except to the extent necessary to address the rebuilding needs of other species. 16 U.S.C. § 7007(a).

The Secretary of Commerce, in consultation with the Secretary of State, shall appoint the following: (a) four individuals to represent the United States as the United States Section on the joint management committee established by the Agreement, along with alternate representatives; (b) no more than two scientific experts to serve on the scientific review group, as well as (jointly

with the Government of Canada) two independent members and two public advisors to that group ; (c) no more than two individuals to serve as scientific experts on the joint technical committee, at least one of whom shall be an official of NOAA, together with one independent member of the joint technical committee, to be appointed jointly with Canada; (d) at least six but not more than twelve individuals to serve as members of the advisory panel on Pacific Hake/Whiting established by the Agreement. 16 U.S.C. § 7002-7005.

The Secretary of Commerce is responsible for carrying out the Agreement and this Act, including the authority, to be exercised in consultation with the Secretary of State, to accept or reject, on behalf of the United States, recommendations made by the joint management committee. 16 U.S.C. § 7006(a).

Port State Measures Agreement Act of 2015, 16 U.S.C. §§ 7401-7409

The purpose of this Act is to implement the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing which was agreed to at the Food and Agriculture Organization of the United Nations at Rome, Italy on November 22, 2009, signed by the United States on that same day, and ratified by the United States in April 2014. The Agreement requires Parties to restrict port entry and port services to foreign vessels known or suspected of having been involved in IUU activities, particularly those on a regional fishery management organization's IUU vessel list, and it establishes standards for dockside inspections to prevent IUU fish from reaching market.

The Secretary of Commerce is required to promulgate such regulations as may be necessary to carry out the purposes of the Act and may, in consultation with the Coast Guard, designate the ports at which foreign vessels may seek entry. 16 U.S.C. § 7403. A vessel seeking entry into a U.S. port must submit to the Coast Guard, in advance of arrival, information required under the Agreement, and that information shall be provided to the Secretary of Commerce who shall then decide, based on the information, whether to authorize or deny port entry, communicating that decision to the Coast Guard for appropriate action. Entry may be denied if the Secretary has reason to believe the vessel has engaged in IUU fishing or fishing-related activities in support of IUU fishing or if it is a listed IUU vessel. If the vessel is in a U.S. port, the Secretary may request that Coast Guard deny the use of the port for landing, transshipment, processing, refueling, resupplying, and maintenance. 16 U.S.C. § 7404.

The Secretary, and the Secretary of the department in which Coast Guard is operating, shall conduct foreign vessel inspections in U.S. ports, as necessary, to achieve the purposes of the Agreement. 16 U.S.C. § 7404. The Secretary of Commerce shall provide notification of denial of port entry or port services, or of any enforcement action, or the results of any inspection to the vessel's flag state and, as appropriate, the nation of the master, to relevant coastal nations, RFMOs, and relevant international organizations. The Secretary may request confirmation from the flag state that the fish on board a foreign vessel were taken in accordance with RFMO conservation and management measures. 16 U.S.C. § 7403(c), (d).

The Secretary of Commerce shall provide appropriate assistance to developing nations and to the international organizations of which those nations are members to assist those nations in meeting their obligations under the Agreement. The Secretary may, on a reimbursable or non-reimbursable basis, utilize the personnel, services, equipment, and facilities of any federal, state, local, or foreign government or any entity of such government. 16 U.S.C. § 7408(a), (b).

Shark Finning Prohibition Act, 16 U.S.C. §§ 1822 note, 1857(1)(P), Pub. L. 106-557, §§ 1-10, as amended

The statute makes it unlawful for any person to remove the fins or tail of a shark at sea; to have custody, control, or possession of unattached fins aboard a vessel at sea; to transfer or receive unattached fins from one vessel to another at sea; or to land unattached fins or any shark carcass that does not have fins attached. 16 U.S.C. § 1857(1)(P), as added by Section 3 of this Act. The Secretary of Commerce shall promulgate regulations implementing that prohibition. Pub. L. 106-557, § 4.

The Secretary of Commerce, acting through the Secretary of State, shall initiate discussions for the purpose of developing bilateral or multilateral agreements with other nations for the prohibition on shark-finning; initiate discussions with all foreign governments which are engaged in shark-finning, for the purposes of collecting information and entering into bilateral and multilateral treaties with such countries; seek agreements calling for an international ban on shark-finning; initiate the amendment of any existing international treaty for the protection and conservation of species of sharks to which the United States is a party; urge other governments involved in fishing for or importation of shark or shark products to fulfill their obligations to collect biological data; and urge other governments to prepare and submit to the FAO their respective National Plan of Action for the Conservation and Management of Sharks. Pub. L. 106-557, § 5.

The Secretary of Commerce shall also establish a research program that, among other things, conducts research on the nature and extent of the harvest of sharks and shark fins by foreign fleets and the international trade in shark fins and other shark products. Pub. L. 106-557, § 7(6).

The Secretary of Commerce, in consultation with the Secretary of State, shall report annually to Congress, identifying nations whose vessels conduct shark-finning and provide details on the extent of the international trade in shark fins; setting forth a plan of action to adopt international measures for the conservation of sharks; and including recommendations for measures to ensure that United States actions are consistent with national, international, and regional obligations relating to shark populations. Pub. L. 106-557, § 6.

South Pacific Tuna Act of 1988, 16 U.S.C. §§ 973–973r

The Secretary of Commerce, with the concurrence of the Secretary of State, and after consultation with the Secretary of the department in which the Coast Guard is operating, is directed to issue regulations as may be necessary to carry out the purposes and objectives of the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed in Port Moresby, Papua New Guinea, April 2, 1987, together with its annexes, schedules, and implementing agreements (the Treaty). 16 U.S.C. § 973b. The Treaty, signed with the governments of 16 Pacific Island countries and 1 territory, provides U.S. purse seine vessels with access to fishing inside the national waters of these Pacific Islands Parties (PIPs). License applications are to be filed with the Secretary of Commerce by operators of vessels and must designate an agent for service of process to be located at Port Moresby, Papua New Guinea. The Secretary will forward applications to the Secretary of State for transmittal to a PIP Administrator. 16 U.S.C. § 973g.

The provisions of this chapter shall be enforced by the Secretary of Commerce in cooperation with the Secretary of State. 16 U.S.C. § 973h(a). The Secretary of Commerce shall, at the request of a PIP made to the Secretary of State, fully investigate any alleged infringement of the Treaty involving a vessel of the United States, and report as soon as practicable through the Secretary of State on any action taken or proposed. 16 U.S.C. § 973h(b). Prior to instituting legal proceedings regarding an alleged infringement of the Treaty, the Secretary of Commerce shall notify the PIP exercising jurisdiction over the waters in which the violation occurred that proceedings will be instituted and shall thereafter promptly notify that PIP of the outcome of those proceedings. 16 U.S.C. § 973h(c).

Tuna Conventions Act of 1950, 16 U.S.C. §§ 951–961

See the Antigua Convention Implementing Act of 2015, 16 U.S.C. §§ 951–962

Western and Central Pacific Fisheries Convention Implementation Act, 16 U.S.C. §§ 6901-6910

The Western and Central Pacific Fisheries Commission (WCPFC Commission or Commission) was established by the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC Convention or Convention) which entered into force on June 19, 2004. The objective of the Convention is to ensure the long-term conservation and sustainable use of tuna and other highly migratory stocks in the Western and Central Pacific Ocean. The Convention is also intended to help to reduce the impact of fishing for such stocks on non-target species.

The U.S. is represented on the Commission by five Commissioners appointed by the President, one of whom shall be an employee of the Department of Commerce. 16 U.S.C. § 6902(a). The

statute also calls for the establishment of an advisory committee which shall determine its own organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson-Stevens Fishery Conservation and Management Act, and the WCPFC Convention. The advisory committee shall be composed of up to 20 individuals appointed by the Secretary of Commerce. The Secretary of Commerce and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements. 16 U.S.C. § 6902(d).

For highly migratory species in the Pacific, the Secretary of Commerce, in coordination with the Secretary of State, shall develop a memorandum of understanding with the Western Pacific, Pacific, and North Pacific Fishery Management Councils, that clarifies the role of the relevant Council or Councils with respect to (1) participation in United States delegations to international fishery organizations in the Pacific Ocean, including government-to-government consultations; (2) providing formal recommendations to the Secretary and the Secretary of State regarding necessary measures for both domestic and foreign vessels fishing for these species; (3) coordinating positions with the United States delegation for presentation to the appropriate international fishery organization; and (4) recommending those domestic fishing regulations that are consistent with the actions of the international fishery organization. 16 U.S.C. § 6902(f).

Whale Conservation and Protection Study Act, 16 U.S.C. §§ 917-917d

The Secretary of Commerce, in consultation with the Marine Mammal Commission and the coastal States, was directed to undertake comprehensive studies of all whales found in waters subject to the jurisdiction of the United States, including in the EEZ. Such studies were to take into consideration all relevant factors regarding (1) the conservation and protection of such whales, (2) their distribution, migration patterns, and population, and (3) the effects on all such whales of habitat destruction, disease, chemicals, disruption of migration patterns, and food shortages for the purpose of developing adequate and effective measures, including appropriate laws and regulations, to conserve and protect such mammals. The Secretary of Commerce was to report on such studies and any appropriate recommendations to Congress no later than January 1, 1980. 16 U.S.C. § 917a. However, as noted below, this statute remains available to be amended to require additional whale studies.

This statute was indeed amended on December 23, 2000 by inclusion of a note directing the Secretary of Commerce to initiate a study of the environmental and biological factors responsible for the significant increase in mortality events of the eastern gray whale population. 16 U.S.C. § 917a note, Pub. L. 106-562, § 401.

The Secretary of Commerce, through the Secretary of State, was directed to initiate negotiations for the purpose of developing appropriate bilateral agreements with Mexico and Canada for the protection and conservation of whales. 16 U.S.C. § 917c.

Whaling Convention Act of 1949, 16 U.S.C. §§ 916–916I

This statute makes it unlawful for any person subject to the jurisdiction of the United States to engage in whaling in violation of the International Convention for the Regulation of Whaling or of any regulation of the International Whaling Commission or of any regulation promulgated by the Secretary of Commerce under this Act. 16 U.S.C. § 916c(a). No person shall engage in whaling without first having obtained from the Secretary of Commerce an appropriate license or scientific permit. 16 U.S.C. § 916d(a). The Secretary of Commerce is authorized and directed to administer and enforce all of the provisions of this Act and regulations issued pursuant thereto and all of the provisions of the Convention and of the regulations of the Commission, except to the extent otherwise specifically provided for in this Act. 16 U.S.C. § 916j(a).

The Secretary of State is authorized, with the concurrence of the Secretary of Commerce, to present or withdraw any objections on behalf of the United States Government to such regulations or amendments of the schedule to the Convention as are adopted by the Commission and submitted to the United States Government in accordance with the Convention. 16 U.S.C. § 916b.

Oceans

Act to Prevent Pollution from Ships, 33 U.S.C. 1901-1915

This statute implements the International Convention for the Prevention of Pollution from Ships (known as MARPOL) and the Protocol on Environmental Protection to the Antarctic Treaty. The Act establishes the Interagency Marine Debris Committee (Committee), which is chaired by NOAA, 33 U.S.C. § 1914, and directs NOAA and EPA, in consultation with the Secretary of Transportation, to conduct a public outreach program on the harmful effects of plastic pollution, 33 U.S.C. § 1915. The Committee, is to coordinate marine debris research and activities among Federal agencies, in cooperation and coordination with non-governmental organizations, industry, universities, and research institutions, States, Indian tribes, and other nations, as appropriate. 33 U.S.C. § 1914(a). This Committee also is to meet at least twice a year to provide a public, interagency forum for the coordination of national and international research, monitoring, education, and regulatory actions addressing the persistent marine debris problem. 33 U.S.C. § 1914(c).

Coastal Zone Management Act (CZMA), 16 U.S.C. §§ 1451-1466

The Coastal Zone Management Act is designed “to preserve, protect, develop, and where possible, to restore or enhance” the resources of the nation’s coastal zone. 16 U.S.C. § 1452. This policy is accomplished through the implementation of state coastal management programs. State participation in coastal zone management planning is voluntary. Congress has declared that it is national policy for the Secretary of Commerce “to encourage coordination and cooperation with and among the appropriate Federal, State, and local agencies, and international organizations where appropriate, in collection, analysis, synthesis, and dissemination of coastal management information, research results, and technical assistance, to support State and Federal regulation of land use practices affecting the coastal and ocean resources of the United States.” 16 U.S.C. § 1452(5).

The Act provides that the Secretary of Commerce shall conduct a program of technical assistance and management-oriented research in order to support both State coastal management program amendments and to further international cooperative efforts and technical assistance in coastal zone management. 16 U.S.C. § 1456c(a).

The Act also provides that the Secretary of Commerce shall provide for the establishment of the National Coastal Resources Research and Development Institute, one of the purposes of which is to research “efficient and responsible development of ocean coastal resources, including arctic resources.” 16 U.S.C. § 1463b(b).

Coral Reef Conservation Act of 2000, 16 U.S.C. §§ 6401-6409

The purposes of the Act are to preserve and restore coral reef ecosystems; to promote wise management and sustainable use of these ecosystems; to develop scientific understanding of these ecosystems; and to assist in the preservation of coral reefs by supporting conservation programs. The NOAA Administrator shall also publish and periodically update a national coral reef action strategy as well as an implementation plan. The Administrator shall periodically review and revise the strategy as necessary. In the development of this national strategy, the Secretary of Commerce may consult with the Coral Reef Task Force established under Executive Order No. 13089 (June 11, 1998). 16 U.S.C. § 6402(a). The Secretary of Commerce, through the NOAA Administrator and subject to the availability of funds, shall provide grants of financial assistance for projects for the conservation of coral reefs. The NOAA Administrator, after ensuring that no less than forty percent of available funds are provided to Pacific Ocean projects and forty percent to projects in Atlantic Ocean, the Gulf of Mexico, and the Caribbean Sea within the maritime areas and zones subject to the jurisdiction and control of the U.S., may award remaining funds to emerging priorities and threats, including international priorities and threats identified by the NOAA Administrator. 16 U.S.C. § 6403(d). The Secretary of Commerce may enter into cooperative conservation and management agreements with local, regional, or international programs or partners. 16 U.S.C. § 6406(b)(4).

Deep Seabed Hard Mineral Resources Act, 30 U.S.C. §§ 1401-1473

The Deep Seabed Hard Mineral Resources Act establishes the United States legal regime for exploration and recovery of hard mineral resources in the deep seabed, pending adoption by the United States of an international regime, such as the United Nations Convention on the Law of the Sea (UNCLOS). The Act establishes a licensing and permitting process for exploration and recovery of hard mineral resources for entities under the jurisdiction of the United States.

Subject to the provisions of the Act, the NOAA Administrator shall issue licenses for exploration and permits for the commercial recovery of hard mineral resources in the deep seabed (including areas in the high seas) to United States citizens and to persons and vessels under the jurisdiction of the United States. 30 U.S.C. § 1412. Before issuing or transferring a license or permit, the NOAA Administrator must find that the exploration or commercial recovery proposed in the application will not unreasonably interfere with the exercise of the freedoms of the high seas by other states, as recognized under general principles of international law; will not conflict with any international obligation of the United States; will not create a situation which may reasonably be expected to lead to a breach of international peace and security; cannot reasonably be expected to result in a significant adverse effect on the quality of the environment; and will not pose an inordinate threat to the safety of life and property at sea. 30 U.S.C. § 1415(a). No license or permit shall be issued under this Act permitting any exploration or commercial recovery which will conflict with any license, permit, or equivalent authorization issued by any foreign nation which is designated by NOAA as a reciprocating state under the Act. 30 U.S.C. § 1428(b).

The NOAA Administrator, in consultation with the Secretary of State, shall consult with foreign nations which enact, or are preparing to enact, domestic legislation establishing an interim legal

framework for exploration and commercial recovery of hard mineral resources with a view to facilitating the designation of such nations as reciprocating states and, as necessary, the negotiation of agreements with such foreign nations. In addition, the NOAA Administrator shall provide such foreign nations with information on environmental impacts of exploration and commercial recovery activities, and shall provide any technical assistance requested in designing regulatory measures to protect the environment. 30 U.S.C. § 1428(f).

Federal Ocean Acidification Research and Monitoring Act of 2009, 33 U.S.C. §§ 3701-3708

This statute calls for creation of a joint Interagency Subcommittee of the National Science and Technology Council (the Joint Subcommittee on Ocean Science and Technology), to be chaired by NOAA, to develop a strategic research and monitoring plan and to oversee assessment of the potential impacts of ocean acidification on marine organisms and marine ecosystems and to oversee the development of adaptation and mitigation strategies. 33 U.S.C. § 3703(d). The Subcommittee shall coordinate the U.S. research and monitoring program with programs and with scientists from other nations. 33 U.S.C. § 3703(b). The Subcommittee's research plan shall describe specific activities, such as participation in international research efforts; and make recommendations for the coordination of the ocean acidification research and monitoring activities of the United States with such activities of other nations and international organizations. 33 U.S.C. § 3704(b).

The Secretary of Commerce shall establish an ocean acidification program within NOAA to conduct research and monitoring activities consistent with the Subcommittee's strategic plan, and to provide educational opportunities that encourage an interdisciplinary and international approach to exploring the impacts of ocean acidification. The program shall also provide for coordination of ocean acidification monitoring and impacts research with other appropriate international ocean science bodies such as the Intergovernmental Oceanographic Commission, the International Council for the Exploration of the Sea, the North Pacific Marine Science Organization, and others. 33 U.S.C. §§ 3705(a). In conducting the Program, the Secretary of Commerce (acting through NOAA) may enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this chapter on such terms as the Secretary considers appropriate. 33 U.S.C. § 3705(b).

Federal Water Pollution Control Act as amended by the Great Lakes Legacy Act of 2002, 33 U.S.C. § 1268, Pub. L. 107-303, §§ 101-106

The purpose of this enactment is to achieve the goals embodied in the Great Lakes Water Quality Agreement which is a bilateral agreement between the United States and Canada, signed in 1978 and amended in 1987 (Agreement). 33 U.S.C. § 1268(a)(2). The statute establishes within NOAA the Great Lakes Research Office which shall identify issues relating to Great Lakes resources on which research is needed, shall inventory environmental research programs relating to the Great Lakes (including those of private organizations in other nations), establish a Great

Lakes research exchange, and conduct research and monitoring activities which address priority issues and current needs relating to the Great Lakes. 33 U.S.C. § 1268(d). By October 1 of each year, the Great Lakes National Program Office and the Research Office shall prepare a research plan for the following year which identifies proposed research dedicated to activities conducted under the Agreement, including an assessment of priorities needed to fulfill the terms of the Agreement, and research that may be used to develop a comprehensive Great Lakes System environmental data base. 33 U.S.C. § 1268(e).

Great Lakes Shoreline Mapping Act of 1987, 33 U.S.C. § 883a note, Pub. L. 100-220, as amended, §§ 3201-3206

This statute directs NOAA's National Ocean Service, in consultation with the U.S. Geological Survey to plan for and prepare maps of the shoreline of the Great Lakes. These maps shall include bathymetry, topography, and geological conditions of the near shore area, to the extent that this area will affect coastal erosion and flooding; information on the recent geological past of the near shore area and shoreline areas; and appropriate information for use in predicting and preventing damage caused by erosion and flooding in the Great Lakes. Section 3203(b). To the maximum extent practicable, these maps shall be consistent with similar shoreline maps prepared by, or for the use of, the Government of Canada. The Director of Charting and Geodetic Services within NOAA's National Ocean Service shall make such maps available to the Government of Canada. Section 3203(c).

Hydrographic Services Improvement Act of 1998, 33 U.S.C. § 892-892d.

This statute directs the NOAA Administrator to acquire and disseminate hydrographic data and provide hydrographic services; promulgate standards for hydrographic data; ensure comprehensive geographic coverage of hydrographic services, in cooperation with other appropriate Federal agencies; maintain a national database of hydrographic data; and participate in the development and implementation of international standards for hydrographic data and hydrographic services. 33 U.S.C. § 892a. The Act provides for a quality assurance program for non-federal navigational products (that is, any publicly or commercially available product produced by a non-Federal entity that includes or displays hydrographic data), 33 U.S.C. § 892b, and for a broad-based Hydrographic Services Review Panel to advise the Administrator on NOAA's duties under the Coast and Geodetic Survey Act and this Act, 33 U.S.C. § 892c.

Marine Debris Research, Prevention, and Reduction Act, 33 U.S.C. §§ 1951-1958

The Act establishes within NOAA a Marine Debris Prevention and Removal Program to reduce and prevent the occurrence and adverse impacts of marine debris on the marine environment and navigation safety. The program's central components include mapping, debris identification, impact assessments, removal and prevention activities, establishing a process for cataloguing and

maintaining an inventory of marine debris and its impacts, research into and development of alternatives to gear that pose threats to the marine environment, outreach activities, and to undertake measures to identify the origin, location, and projected movement of marine debris within the United States exclusive economic zone and on the high seas, including the use of oceanographic, atmospheric, satellite, and remote sensing data. 33 U.S.C. § 1952.

The Act also reactivates the Interagency Marine Debris Coordinating Committee, which is chaired by NOAA. 33 U.S.C. § 1951(2). The composition of the committee is described in the Act to Prevent Pollution from Ships, 33 U.S.C. § 1914. The Committee directed to report to Congress on sources, impacts of marine debris, alternatives for reducing marine debris and their costs, and to make recommendations to reduce marine debris both domestically and internationally. The Committee is further directed to report biennially on the status and implementation of committee recommendations and strategies, on NOAA accomplishments, on its marine debris inventory, and on efforts relating to marine debris removal, as well as Coast Guard programs and accomplishments related to enforcement and compliance with MARPOL requirements. 33 U.S.C. § 1954. Reports are available at <http://marinedebris.noaa.gov/about-our-program/interagency-marine-debris-coordinating-committee>.

National Marine Sanctuaries Act, 16 U.S.C. §§ 1431-1445c-1

This statute provides for the designation, as national marine sanctuaries, of areas of the marine environment which are of special national or ecological significance, and it provides authority for comprehensive and coordinated conservation and management of these marine areas and regulation of activities affecting them; to maintain, protect, restore and enhance natural habitats, populations, and ecological processes; to enhance public awareness, understanding, and appreciation; to support, promote, and coordinate scientific research; to facilitate all public and private uses of the resources; to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes, international organizations, and other interests; and to cooperate with global programs encouraging conservation of marine resources. 16 U.S.C. § 1431(b).

The Secretary of Commerce, in consultation with the Secretary of State and other appropriate Federal agencies, shall cooperate with other governments and international organizations in furtherance of the purposes and policies of this Act and consistent with applicable regional and multilateral arrangements for the protection and management of special marine areas. 16 U.S.C. § 1435(c). The Secretary of Commerce may enter into cooperative agreements, contracts, or other arrangements with, or make grants to, States, local governments, regional agencies, interstate agencies, or other persons (including foreign governments) to carry out the purposes and policies of this chapter. 16 U.S.C. § 1442(a). The Secretary of Commerce shall conduct, support, or coordinate research, monitoring, evaluation, and education programs consistent with the purposes and policies of this Act. 16 U.S.C. § 1440. Regulations issued under this Act shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. 16 U.S.C. § 1435(a).

Ocean Dumping Act, 33 U.S.C. §§ 1401-1445, 16 U.S.C. § 1447-1447f, 33 U.S.C. §§ 2801-2805

The Secretary of Commerce is directed to undertake a comprehensive, long-term research program on the effects of ocean dumping, 33 U.S.C. §§ 1441, as well as a comprehensive, continuing program of research on the possible long-range effects of pollution, overfishing, and man-induced changes in ocean ecosystems (the continuing program), 33 U.S.C. §§ 1442. These responsibilities shall include the scientific assessment of damages to the natural resources from spills of petroleum or petroleum products. In carrying out such research, the Secretary of Commerce shall take into account existing and proposed international policies affecting ocean problems and ways in which the health of the oceans may best be preserved for the benefit of succeeding generations of mankind. 33 U.S.C. § 1442(a)(1).

The Secretary of Commerce shall ensure that the continuing program complements, when appropriate, the activities undertaken by other Federal agencies which are engaged in the permitting of ocean dumping. The program shall include but not be limited to (a) the development and assessment of scientific techniques to define and quantify the degradation of the marine environment; (b) the assessment of the capacity of the marine environment to receive materials without degradation; (c) continuing monitoring programs to assess the health of the marine environment, including but not limited to the monitoring of bottom oxygen concentrations, contaminant levels in biota, sediments, and the water column, diseases in fish and shellfish, and changes in types and abundance of indicator species; and (d) the development of methodologies, techniques, and equipment for disposal of waste materials to minimize degradation of the marine environment. 33 U.S.C. § 1442(a)(2).

In addition, the Secretary of Commerce, under the foreign policy guidance of the President and pursuant to international agreements and treaties, may act in conjunction with any other nation or group of nations, and shall make known the results of his activities by such channels of communication as may appear appropriate. 33 U.S.C. § 1442(b).

The Secretary of Commerce and the NOAA Administrator shall each individually report to Congress annually on activities and programs undertaken during the previous fiscal year. 33 U.S.C. § 1444(a), (c).

Ocean Thermal Energy Conversion Act of 1980, 42 U.S.C. §§ 9101-9168.

The NOAA Administrator shall, upon application and in accordance with the provisions of this Act, issue, transfer, amend, or renew licenses for the ownership, construction, and operation of ocean thermal energy conversion plantships documented under the laws of the United States, and ocean thermal energy conversion facilities documented under the laws of the United States, located in whole or in part between the highwater mark and the seaward boundary of the territorial sea of the United States, or connected to the United States by pipeline or cable. 42 U.S.C. § 9111(b). No citizen of the United States may engage in the ownership, construction or operation of an ocean thermal energy conversion plantship except in accordance with a license issued by NOAA or in accordance with a license issued by a foreign nation whose licenses are found by the NOAA Administrator, after consultation with the Secretary of State, to be

compatible with licenses issued by NOAA. 42 U.S.C. § 9111(a). Each license shall include conditions that ensure that the construction and operation of the facility shall not interfere with the peaceful uses of the high seas by citizens of the U.S. or of other nations. 42 U.S.C. § 9119(a).

The NOAA Administrator shall initiate a program to assess the environmental effects of ocean thermal energy conversion facilities and plantships. 42 U.S.C. § 9117. The Secretary of State, in cooperation with the NOAA Administrator and the Secretary of the department in which the Coast Guard is operating, shall seek effective international action and cooperation in support of the policy and purposes of this chapter and may initiate and conduct negotiations for the purpose of entering into international agreements designed to guarantee noninterference of ocean thermal energy conversion facilities and plantships with the thermal gradients used by other such facilities and plantships, to assure protection of such facilities and plantships and the maintenance of navigational safety in the vicinity of such facilities and plantships, and to resolve such other matters relating to ocean thermal energy conversion facilities and plantships as need to be resolved in international agreements. 42 U.S.C. § 9162.

Oil Pollution Act of 1990, 33 U.S.C. §§ 2701-2762

The Oil Pollution Act (OPA) of 1990 establishes a broad framework for preventing, responding to, and paying for discharges and threatened discharges of oil from ships and facilities. The Administrator of NOAA, in consultation with the heads of other affected agencies, shall promulgate regulations for the assessment of natural resource damages resulting from the discharge of oil. 33 U.S.C. § 2706(e)

The Secretary of Commerce shall provide for the establishment of a Prince William Sound Oil Spill Recovery Institute which is currently located at Cordova, Alaska. The Institute shall conduct research and carry out educational and demonstration projects designed to identify and develop the best available techniques, equipment, and materials for dealing with oil spills in the arctic and subarctic marine environment. This research and these projects shall complement Federal and State damage assessment efforts and determine, document, assess, and understand the long-range effects of Arctic or Subarctic oil spills on the natural resources of Prince William Sound and its adjacent waters. 33 U.S.C. § 2731(a), (b). The policies of the Institute shall be determined by an advisory board chaired by a representative of the Secretary of Commerce. 33 U.S.C. § 2706(c).

The Secretary of Commerce shall establish a North Pacific Marine Research Institute to conduct research and carry out education and demonstration projects relating to the North Pacific marine ecosystem with particular emphasis on marine mammal, sea bird, fish, and shellfish populations in the Bering Sea and Gulf of Alaska. 33 U.S.C. § 2738(a). See <http://www.npmri.org/>

Section 7001 of the OPA establishes an Interagency Coordinating Committee on Oil Pollution Research in order to coordinate a “comprehensive program of oil pollution research, technology development, and demonstration” together with implementation and guidance plans based on the findings of that comprehensive research. The Committee is to include representatives from the Department of Commerce and NOAA. 33 U.S.C. § 2761(a), (b). The Interagency Committee is

directed to coordinate and cooperate with other nations and foreign research entities in conducting oil pollution research, development, and demonstration activities, including controlled field tests of oil discharges. 33 U.S.C. § 2761(d). The statute provides that in carrying out the comprehensive research program, coordination and cooperation with other nations is authorized. 33 U.S.C. § 2761(a)(2).

Section 1006(b) (33 U.S.C. § 2706(b)) provides for the designation of natural resource trustees, and includes “foreign trustees” among those who may claim natural resource damages. As such, there may be circumstances in which NOAA, as a Federal trustee, would be working with co-trustees that could include a foreign country’s representative. In such a case, NOAA may coordinate with and carry out assessment studies and activities with a foreign country.

Climate and Weather

Global Change Research Act of 1990, 15 U.S.C. §§ 2921-2938

The purpose of this Act is to provide for development and coordination of a comprehensive and integrated United States Global Change Research Program which will assist the Nation and the world to understand, assess, predict, and respond to human-induced global change as well as the natural processes of global change. 15 U.S.C. § 2931(b). The President is directed to establish an interagency Committee on Earth and Environmental Sciences of which NOAA is to be a member. 15 U.S.C. § 2932.

The Committee shall cooperate with the Secretary of State in providing representation at international meetings and conferences on global change research in which the United States participates; and in coordinating the Federal activities of the United States with programs of other nations and with international global change research activities such as the International Geosphere-Biosphere Program. The Committee shall also consult with actual and potential users of the results of the Program to ensure that such results are useful in developing national and international policy responses to global change. 15 U.S.C. § 2932(e).

The Committee shall develop a National Global Change Research Plan for implementation of the Program. The Plan shall make recommendations for the coordination of the global change research activities of the United States with such activities of other nations and international organizations, including a description of the extent and nature of necessary international cooperation; bilateral and multilateral proposals for improving worldwide access to scientific data and information; and methods for improving participation in international global change research by developing nations. 15 U.S.C. § 2934(b), (e). The Plan shall also create globally accessible formats for data collected by various international sources. 15 U.S.C. § 2934(b), (e).

The Secretary of Commerce shall ensure that relevant research activities of the National Climate Program are considered in developing national global change research efforts. 15 U.S.C. § 2938(a).

International Cooperation in Global Change Research Act of 1990, 15 U.S.C. §§ 2951-2953

The purposes of this Act are to promote international and intergovernmental cooperation on global change research; to involve scientists and policymakers from developing nations in such cooperative global change research programs; and to promote international efforts to provide technical and other assistance to developing nations which will facilitate improvements in their domestic standard of living while minimizing damage to the global or regional environment. 15 U.S.C. § 2951(b).

The President shall direct the Secretary of State, in cooperation with the Committee on Earth and Environmental Sciences, of which NOAA is a member, to initiate discussions with other nations leading toward international protocols and other agreements to coordinate global change research

activities. Such discussions should include coordination of global change research plans with those developed by international organizations such as the International Council on Scientific Unions, the World Meteorological Organization, and the United Nations Environment Program. It should include the establishment of global change research centers and training programs for scientists, especially those from developing nations; and the development of innovative methods for management of international global change research. 15 U.S.C. § 2952(a)

The President shall direct the Secretary of State (in cooperation with the Secretary of Energy, the Secretary of Commerce, the United States Trade Representative, and other appropriate members of the Committee, which includes NOAA) to initiate discussions with other nations leading toward an international research protocol for cooperation on the development of energy technologies which have minimally adverse effects on the environment. 15 U.S.C. § 2952(b).

Land Remote-Sensing Policy Act of 1992, 51 U.S.C. §§ 60101-60162, as amended December 18, 2010

Under the Act the Secretary of Commerce, in consultation with other appropriate United States Government agencies, is authorized to license private sector parties to operate private remote sensing space systems for such period as the Secretary may specify and in accordance with the provisions of this subchapter. 51 U.S.C. § 60121(a). The term “land remote sensing” means the collection of data which can be processed into imagery of surface features of the Earth from an unclassified satellite or satellites. The Secretary of Commerce shall issue such regulations as may be necessary to carry out these responsibilities. 51 U.S.C. § 60124.

Licenses shall, among other requirements, make available to the government of any country (including the United States) unenhanced data collected by the system concerning the territory under the jurisdiction of such government as soon as such data are available and on reasonable terms and conditions. 51 U.S.C. § 60122(b)(2). The licensee shall also notify the Secretary of Commerce of any significant or substantial agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations or entities. 51 U.S.C. § 60122(b)(6).

The Secretary of Commerce and the Landsat Program Management shall consult with the Secretary of State on all matters under this Act affecting international obligations. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying promptly the Secretary of Commerce and the Landsat Program Management of such conditions. 51 U.S.C. § 60147(b)(1). Appropriate United States Government agencies are authorized and encouraged to provide remote sensing data, technology, and training to developing nations as a component of programs of international aid. 51 U.S.C. § 60147(b)(2).

The statute directs NASA, together with NOAA and other relevant agencies, to provide United States leadership in developing and carrying out a cooperative international Earth observations-based research program. 51 U.S.C. § 60501.

National Climate Program Act, 15 U.S.C. §§ 2901-2908

The purpose of this Act is to establish a comprehensive National Climate Program to assist both the nation and the world to understand and respond to artificial and natural climate processes. 15 U.S.C. § 2902. The Secretary of Commerce shall establish within the Department of Commerce a National Climate Program Office which shall serve as the lead entity responsible for administering the program and be responsible for coordinating interagency participation in international climate-related activities. 15 U.S.C. § 2904(c)(1)-(2). The Program shall include, without limitation, the following elements: assessments of the effect of climate on the natural environment, land and water resources and national security; basic and applied research to improve understanding of climate processes and climate change; methods for improving climate forecasts; global data collection and monitoring and analysis activities; systems for management and dissemination of climatological data; measures for increasing international cooperation in climate research, monitoring, analysis and data dissemination; mechanisms for intergovernmental climate-related studies and services, including participation by universities; and experimental climate forecast centers. 15 U.S.C. § 2904(d).

Each Federal officer, employee, department and agency that has been given a role in the Program by the President shall cooperate with the Secretary of Commerce in carrying out the provisions of this Act with respect to global data collection, monitoring and analysis and measures for increased international cooperation and the dissemination of data. 15 U.S.C § 2904(d)(4)-(d)(6). In addition, the Secretary of Commerce shall cooperate and participate with other Federal agencies, and foreign, international, and domestic organizations and agencies involved in international or domestic climate-related programs; and provide representation at climate-related international meetings and conferences, and coordinate the activities of the Program with the climate programs of other nations and international agencies and organizations. 15 U.S.C. § 2904(f)(1)-(2).

National Sea Grant College Program Act, as amended, 33 U.S.C. §§ 1121-1131

The objective of this Act is to increase the understanding, assessment, development, management, utilization, and conservation of the nation's ocean, coastal, and Great Lakes resources by providing assistance to promote a strong educational base, responsive research and training activities, broad and prompt dissemination of knowledge and techniques, and multidisciplinary approaches to environmental problems. 33 U.S.C. § 1121(b). The Act declares it to be in the national interest to pursue, among other things, a policy that promotes domestic and international cooperative solutions to ocean, coastal, and Great Lakes issues. 33 U.S.C. § 1121(a).

The Secretary of Commerce is directed to maintain within NOAA a National Sea Grant College Program. 33 U.S.C. §§ 1123(a). The Program shall, among other things, provide support for sea grant programs that comprise a national sea grant college program network, including international projects conducted within such programs as well as regional and national projects conducted among such programs. 33 U.S.C. § 1123(b)(1).

The Secretary shall develop, at least every 4 years, a strategic plan that establishes priorities for the national sea grant college program, and shall establish guidelines related to the activities and responsibilities of sea grant colleges and sea grant institutes. The Secretary shall by regulation prescribe the qualifications required for designation of sea grant colleges and sea grant institutes, and may to enter into contracts, accept voluntary services, accept funds from other Federal departments, and promulgate rules and regulations as may be necessary and appropriate. 33 U.S.C. § 1123(c).

National Weather Modification Policy Act of 1976, 15 U.S.C. § 330 note, Pub. L. 94-490, §§ 1-6.

This Act directs the Secretary of Commerce to conduct a comprehensive investigation and study of the state of scientific knowledge concerning weather modification, the state of development of weather modification technology, the problems impeding effective implementation of weather modification technology, and to make recommendations concerning implementation of a national weather modification policy and program. Section 4. The Secretary is further directed to review the international importance and implications of weather modification activities by the United States; to analyze the necessity and feasibility of negotiating an international agreement concerning the peaceful uses of weather modification; and to formulate one or more options for a model international agreement concerning the peaceful uses of weather modification and the regulation of national weather modification activities. Section 4(7), (10), (11).

The statute had been preceded by the signing of an agreement between Canada and the United States (NOAA) relating to the exchange of information on weather modification activities. (March 1975). Agreement located at:

http://api.ning.com/files/kp5q9Lhw2YjzeaCrVeXcl8eB0UaBbYvAu7rmO8yvtiy9cYahEfG8SAAlgYSUx6YLBTaXT2IQsXYgOU**43wy4t6ev0jhVvEz/canusweathmod.pdf

Tsunami Warning and Education Act, 33 U.S.C. §§ 3201-3207

The Act establishes a comprehensive program to operate and maintain a Tsunami Forecasting and Warning Program, tsunami warning centers, Tsunami Research Program, and National Tsunami Hazard Mitigation Program. The NOAA Administrator, through the National Weather Service and in consultation with other relevant Administration offices, shall operate a Tsunami Forecasting and Warning Program which is charged with providing tsunami detection, forecasting and adequate warnings. The Program shall maintain tsunami warning centers; utilize an array of tsunami detection technologies; provide tsunami forecasting capability; maintain data quality and management systems; undertake a cooperative effort among NOAA, the United States Geological Survey, and the National Science Foundation to provide rapid and reliable seismic information from international and domestic seismic networks; provide a capability for the dissemination of warnings to at-risk states; allow for integration of tsunami detection technologies with other environmental observing technologies; and include any technology that NOAA considers appropriate to fulfill the objectives of the program under this section. 33 U.S.C. § 3203.

The NOAA Administrator shall provide technical assistance and training to the Intergovernmental Oceanographic Commission, the World Meteorological Organization, and other international entities, as part of international efforts to develop a fully functional global tsunami forecast and warning system comprising regional tsunami warning networks, modeled on the International Tsunami Warning System of the Pacific. 33 U.S.C. § 3206(a). In addition, the NOAA Administrator shall operate an International Tsunami Information Center (ITIC) to improve tsunami preparedness for all Pacific Ocean nations participating in the International Tsunami Warning System of the Pacific. 33 U.S.C. § 3206(b). The ITIC also monitors international tsunami warning activities around the world; assists member states in establishing national warning systems, and makes information available on current technologies for tsunamis warning systems; maintains a library of materials to promulgate knowledge about tsunamis in general and for use by the scientific community; and disseminates information, including educational materials and research reports. 33 U.S.C. § 3206(b)(1)-(4). One of the purposes of the Act is to direct NOAA to improve international coordination for detection and response to tsunamis. 33 U.S.C. § 3202(6).

Weather Service Organic Act, 15 U.S.C. § 313-313d, 325

NOAA shall forecast, record, report, and monitor the weather, and distribute meteorological, hydrologic and climate data. 15 U.S.C. § 313. The Secretary of Commerce has responsibility for these and other essential weather-related duties for the protection of life and property and the enhancement of the Nation's economy. NOAA's National Weather Service (NWS) provides these services for the United States, its territories, adjacent waters and ocean areas. NWS data and products form a national information database and infrastructure which can be used by other governmental agencies, the private sector, the public and the global community.

The Secretary of Commerce shall take such action as may be necessary in the development of an international basic meteorological reporting network in the Arctic region of the Western Hemisphere, including the establishment, operation, and maintenance of such reporting stations in cooperation with the State Department and other United States governmental departments and agencies, with the meteorological services of foreign countries and with persons engaged in air commerce. 15 U.S.C. § 313a. Additionally, appropriations now or hereafter provided for the National Weather Service shall be available for equipment and maintenance of meteorological offices and stations, and maintenance and operation of meteorological facilities outside the United States by contract or otherwise. 15 U.S.C. § 325.

General

National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4370h

The National Environmental Policy Act (NEPA) requires the federal government to undertake an environmental review of “any major federal agency actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(C). NEPA applies only to governmental actions. Whether and to what degree NEPA will apply to a particular effort will depend on the nature of the project and its factual situation; and it will depend on the nature of the government’s involvement with the project.

The statute directs that, to the fullest extent possible, all Federal agencies shall recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment. 42 U.S.C. § 4332(2)(F).

In addition, Executive Order No. 12114 (January 4, 1979) (“Environmental Effects Abroad of Major Federal Actions”) directs federal agencies, including NOAA, to establish environmental impact review procedures in the following categories of actions: (a) major Federal actions significantly affecting the environment of the global commons outside the exclusive jurisdiction of any nation (e.g., the oceans, the atmosphere, the deep seabed, or Antarctica); (b) major Federal actions significantly affecting the environment of a foreign nation not participating with the United States and not otherwise involved in the action; and (c) all other major Federal actions significantly affecting the environment of a foreign nation.

National Historic Preservation Act, 16 U.S.C. §§ 470-470x-6

Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects. 16 U.S.C § 470a-2. The World Heritage List identifies places or sites that have been listed by the U.N. Educational, Scientific and Cultural Organization (UNESCO) as being of special cultural, natural or physical significance. The World Heritage List is located at <http://whc.unesco.org/en/list/>.