

## Union Calendar No. 557

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4576

**[Report No. 114-718]**

To implement the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean, to implement the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2016

Mrs. RADEWAGEN (for herself and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Natural Resources

SEPTEMBER 6, 2016

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on February 12, 2016]

# **A BILL**

To implement the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean, to implement the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Ensuring Access to Pa-*  
5 *cific Fisheries Act”.*

6 **TITLE I—NORTH PACIFIC FISH-**  
7 **ERIES CONVENTION IMPLE-**  
8 **MENTATION**

9 **SEC. 101. DEFINITIONS.**

10 *In this title:*

11 (1) **COMMISSION.**—*The term “Commission”*  
12 *means the North Pacific Fisheries Commission estab-*  
13 *lished in accordance with the North Pacific Fisheries*  
14 *Convention.*

15 (2) **COMMISSIONER.**—*The term “Commissioner”*  
16 *means a United States Commissioner appointed*  
17 *under section 102(a).*

18 (3) **CONVENTION AREA.**—*The term “Convention*  
19 *Area” means the area to which the Convention on the*  
20 *Conservation and Management of High Seas Fisheries*  
21 *Resources in the North Pacific Ocean applies under*  
22 *Article 4 of such Convention.*

23 (4) **COUNCIL.**—*The term “Council” means the*  
24 *North Pacific Fishery Management Council, the Pa-*  
25 *cific Fishery Management Council, or the Western*

1 *Pacific Fishery Management Council established*  
2 *under section 302 of the Magnuson-Stevens Fishery*  
3 *Conservation and Management Act (16 U.S.C. 1852),*  
4 *as the context requires.*

5 (5) *EXCLUSIVE ECONOMIC ZONE.*—*The term “ex-*  
6 *clusive economic zone” means—*

7 (A) *with respect to the United States, the*  
8 *zone established by Presidential Proclamation*  
9 *Numbered 5030 of March 10, 1983 (16 U.S.C.*  
10 *1453 note); and*

11 (B) *with respect to a foreign country, a des-*  
12 *ignated zone similar to the zone referred to in*  
13 *subparagraph (A) for that country, consistent*  
14 *with international law.*

15 (6) *FISHERIES RESOURCES.*—

16 (A) *IN GENERAL.*—*Except as provided in*  
17 *subparagraph (B), the term “fisheries resources”*  
18 *means all fish, mollusks, crustaceans, and other*  
19 *marine species caught by a fishing vessel within*  
20 *the Convention Area, as well as any products*  
21 *thereof.*

22 (B) *EXCLUSIONS.*—*The term “fisheries re-*  
23 *sources” does not include—*

24 (i) *sedentary species insofar as they*  
25 *are subject to the sovereign rights of coastal*

1            *nations consistent with Article 77, para-*  
2            *graph 4 of the 1982 Convention and indi-*  
3            *cator species of vulnerable marine eco-*  
4            *systems as listed in, or adopted pursuant to,*  
5            *Article 13, paragraph 5 of the North Pacific*  
6            *Fisheries Convention;*

7                    *(ii) catadromous species;*

8                    *(iii) marine mammals, marine rep-*  
9                    *tiles, or seabirds; or*

10                   *(iv) other marine species already cov-*  
11                   *ered by preexisting international fisheries*  
12                   *management instruments within the area of*  
13                   *competence of such instruments.*

14            *(7) FISHING ACTIVITIES.—*

15                    *(A) IN GENERAL.—The term “fishing activi-*  
16                    *ties” means—*

17                    *(i) the actual or attempted searching*  
18                    *for, catching, taking, or harvesting of fish-*  
19                    *eries resources;*

20                    *(ii) engaging in any activity that can*  
21                    *reasonably be expected to result in the locat-*  
22                    *ing, catching, taking, or harvesting of fish-*  
23                    *eries resources for any purpose;*

24                    *(iii) the processing of fisheries re-*  
25                    *sources at sea;*

1                   (iv) the transshipment of fisheries re-  
2                   sources at sea or in port; or

3                   (v) any operation at sea in direct sup-  
4                   port of, or in preparation for, any activity  
5                   described in clauses (i) through (iv), includ-  
6                   ing transshipment.

7                   (B) *EXCLUSIONS.*—The term “fishing ac-  
8                   tivities” does not include any operation related  
9                   to an emergency involving the health or safety of  
10                  a crew member or the safety of a fishing vessel.

11                  (8) *FISHING VESSEL.*—The term “fishing vessel”  
12                  means any vessel used or intended for use for the pur-  
13                  pose of engaging in fishing activities, including a  
14                  processing vessel, a support ship, a carrier vessel, or  
15                  any other vessel directly engaged in such fishing ac-  
16                  tivities.

17                  (9) *HIGH SEAS.*—The term “high seas” does not  
18                  include an area that is within the exclusive economic  
19                  zone of the United States or of any other country.

20                  (10) *NORTH PACIFIC FISHERIES CONVENTION.*—  
21                  The term “North Pacific Fisheries Convention” means  
22                  the Convention on the Conservation and Management  
23                  of the High Seas Fisheries Resources in the North Pa-  
24                  cific Ocean (including any annexes, amendments, or  
25                  protocols that are in force, or have come into force)

1       *for the United States, which was adopted at Tokyo on*  
2       *February 24, 2012.*

3             (11) *PERSON.*—*The term “person” means—*

4                     (A) *any individual, whether or not a citizen*  
5                     *or national of the United States;*

6                     (B) *any corporation, partnership, associa-*  
7                     *tion, or other entity, whether or not organized or*  
8                     *existing under the laws of any State; or*

9                     (C) *any Federal, State, local, tribal, or for-*  
10                    *ign government or any entity of such govern-*  
11                    *ment.*

12            (12) *SECRETARY.*—*Except as otherwise specifi-*  
13            *cally provided, the term “Secretary” means the Sec-*  
14            *retary of Commerce.*

15            (13) *STATE.*—*The term “State” means each of*  
16            *the several States of the United States, the District of*  
17            *Columbia, the Commonwealth of the Northern Mar-*  
18            *iana Islands, American Samoa, Guam, and any other*  
19            *commonwealth, territory, or possession of the United*  
20            *States.*

21            (14) *STRADDLING STOCK.*—*The term “straddling*  
22            *stock” means a stock of fisheries resources that mi-*  
23            *grates between, or occurs in, the economic exclusion*  
24            *zone of one or more parties to the Convention and the*  
25            *Convention Area.*

1           (15) *TRANSSHIPMENT.*—*The term “trans-*  
2 *shipment” means the unloading of any fisheries re-*  
3 *sources taken in the Convention Area from one fishing*  
4 *vessel to another fishing vessel either at sea or in port.*

5           (16) *1982 CONVENTION.*—*The term “1982 Con-*  
6 *vention” means the United Nations Convention on the*  
7 *Law of the Sea of 10 December 1982.*

8 **SEC. 102. UNITED STATES PARTICIPATION IN THE NORTH**  
9 **PACIFIC FISHERIES CONVENTION.**

10 *(a) UNITED STATES COMMISSIONERS.—*

11           (1) *NUMBER OF COMMISSIONERS.*—*The United*  
12 *States shall be represented on the Commission by 5*  
13 *United States Commissioners.*

14           (2) *SELECTION OF COMMISSIONERS.*—*The Com-*  
15 *missioners shall be as follows:*

16           (A) *APPOINTMENT BY THE PRESIDENT.—*

17           (i) *IN GENERAL.*—*Two of the Commis-*  
18 *sioners shall be appointed by the President*  
19 *and shall be an officer or employee of—*

20                   (I) *the Department of Commerce;*

21                   (II) *the Department of State; or*

22                   (III) *the Coast Guard.*

23           (ii) *SELECTION CRITERIA.*—*In making*  
24 *each appointment under clause (i), the*  
25 *President shall select a Commissioner from*

1           *among individuals who are knowledgeable*  
2           *or experienced concerning fisheries resources*  
3           *in the North Pacific Ocean.*

4           *(B) NORTH PACIFIC FISHERY MANAGEMENT*  
5           *COUNCIL.—One Commissioner shall be the chair-*  
6           *man of the North Pacific Fishery Management*  
7           *Council or a designee of such chairman.*

8           *(C) PACIFIC FISHERY MANAGEMENT COUN-*  
9           *CIL.—One Commissioner shall be the chairman*  
10          *of the Pacific Fishery Management Council or a*  
11          *designee of such chairperson.*

12          *(D) WESTERN PACIFIC FISHERY MANAGE-*  
13          *MENT COUNCIL.—One Commissioner shall be the*  
14          *chairman of the Western Pacific Fishery Man-*  
15          *agement Council or a designee of such chair-*  
16          *person.*

17          *(b) ALTERNATE COMMISSIONERS.—In the event of a*  
18          *vacancy in a position as a Commissioner appointed under*  
19          *subsection (a), the Secretary of State, in consultation with*  
20          *the Secretary, may designate from time to time and for pe-*  
21          *riods of time considered appropriate an alternate Commis-*  
22          *sioner to the Commission. An alternate Commissioner may*  
23          *exercise all powers and duties of a Commissioner in the ab-*  
24          *sence of a Commissioner appointed under subsection (a),*

1 *and shall serve the remainder of the term of the absent Com-*  
2 *missioner for which designated.*

3 (c) *ADMINISTRATIVE MATTERS.*—

4 (1) *EMPLOYMENT STATUS.*—*An individual serv-*  
5 *ing as a Commissioner, or an alternative Commis-*  
6 *sioner, other than an officer or employee of the United*  
7 *States Government, shall not be considered a Federal*  
8 *employee, except for the purposes of injury compensa-*  
9 *tion or tort claims liability as provided in chapter 81*  
10 *of title 5, United States Code, and chapter 171 of title*  
11 *28, United States Code.*

12 (2) *COMPENSATION.*—*An individual serving as a*  
13 *Commissioner or an alternate Commissioner, al-*  
14 *though an officer of the United States while so serv-*  
15 *ing, shall receive no compensation for the individual's*  
16 *services as such Commissioner or alternate Commis-*  
17 *sioner.*

18 (3) *TRAVEL EXPENSES.*—

19 (A) *IN GENERAL.*—*The Secretary of State*  
20 *shall pay the necessary travel expenses of a Com-*  
21 *missioner or an alternate Commissioner in ac-*  
22 *cordance with the Federal Travel Regulations*  
23 *and sections 5701, 5702, 5704 through 5708, and*  
24 *5731 of title 5, United States Code.*

1                   (B) *REIMBURSEMENT.*—*The Secretary may*  
2                   *reimburse the Secretary of State for amounts ex-*  
3                   *pended by the Secretary of State under this*  
4                   *paragraph.*

5 **SEC. 103. AUTHORITY AND RESPONSIBILITY OF THE SEC-**  
6                   **RETARY OF STATE.**

7                   *The Secretary of State may—*

8                   (1) *receive and transmit, on behalf of the United*  
9                   *States, reports, requests, recommendations, proposals,*  
10                  *decisions, and other communications of and to the*  
11                  *Commission;*

12                  (2) *in consultation with the Secretary, act upon,*  
13                  *or refer to another appropriate authority, any com-*  
14                  *munication received pursuant to paragraph (1);*

15                  (3) *with the concurrence of the Secretary, and in*  
16                  *accordance with the Convention, object to the deci-*  
17                  *sions of the Commission; and*

18                  (4) *request and utilize on a reimbursed or non-*  
19                  *reimbursed basis the assistance, services, personnel,*  
20                  *equipment, and facilities of other Federal depart-*  
21                  *ments and agencies, foreign governments or agencies,*  
22                  *or international intergovernmental organizations, in*  
23                  *the conduct of scientific research and other programs*  
24                  *under this title.*

1 **SEC. 104. AUTHORITY OF THE SECRETARY OF COMMERCE.**

2 (a) *PROMULGATION OF REGULATIONS.*—

3 (1) *AUTHORITY.*—*The Secretary, in consultation*  
4 *with the Secretary of State and, with respect to en-*  
5 *forcement measures, the Secretary of the department*  
6 *in which the Coast Guard is operating, may promul-*  
7 *gate such regulations as may be necessary to carry*  
8 *out the United States international obligations under*  
9 *the North Pacific Fisheries Convention and this title,*  
10 *including recommendations and decisions adopted by*  
11 *the Commission.*

12 (2) *REGULATIONS OF STRADDLING STOCKS.*—*In*  
13 *the implementation of a measure adopted by the Com-*  
14 *mission that would govern a straddling stock under*  
15 *the authority of a Council, any regulation promul-*  
16 *gated by the Secretary to implement such measure*  
17 *within the exclusive economic zone shall be approved*  
18 *by such Council.*

19 (b) *RULE OF CONSTRUCTION.*—*Regulations promul-*  
20 *gated under subsection (a) shall be applicable only to a per-*  
21 *son or a fishing vessel that is or has engaged in fishing*  
22 *activities, or fisheries resources covered by the North Pacific*  
23 *Fisheries Convention under this title.*

24 (c) *ADDITIONAL AUTHORITY.*—*The Secretary may*  
25 *conduct, and may request and utilize on a reimbursed or*  
26 *nonreimbursed basis the assistance, services, personnel,*

1 *equipment, and facilities of other Federal departments and*  
2 *agencies in—*

3           (1) *scientific, research, and other programs*  
4 *under this title;*

5           (2) *fishing operations and biological experiments*  
6 *for purposes of scientific investigation or other pur-*  
7 *poses necessary to implement the North Pacific Fish-*  
8 *eries Convention;*

9           (3) *the collection, utilization, and disclosure of*  
10 *such information as may be necessary to implement*  
11 *the North Pacific Fisheries Convention, subject to sec-*  
12 *tions 552 and 552a of title 5, United States Code,*  
13 *and section 402(b) of the Magnuson-Stevens Fishery*  
14 *Conservation and Management Act (16 U.S.C.*  
15 *1881a(b));*

16           (4) *the issuance of permits to owners and opera-*  
17 *tors of United States vessels to engage in fishing ac-*  
18 *tivities in the Convention Area seaward of the exclu-*  
19 *sive economic zone of the United States, under such*  
20 *terms and conditions as the Secretary may prescribe,*  
21 *including the period of time that a permit is valid;*  
22 *and*

23           (5) *if recommended by the United States Com-*  
24 *missioners, the assessment and collection of fees, not*  
25 *to exceed 3 percent of the ex-vessel value of fisheries*

1        *resources harvested by vessels of the United States in*  
2        *fisheries conducted in the Convention Area, to recover*  
3        *the actual costs to the United States to carry out the*  
4        *functions of the Secretary under this title.*

5        *(d) CONSISTENCY WITH OTHER LAWS.—The Secretary*  
6        *shall ensure the consistency, to the extent practicable, of*  
7        *fishery management programs administered under this*  
8        *title, the Magnuson-Stevens Fishery Conservation and Man-*  
9        *agement Act (16 U.S.C. 1801 et seq.), the Tuna Conventions*  
10       *Act of 1950 (16 U.S.C. 951 et seq.), the South Pacific Tuna*  
11       *Act of 1988 (16 U.S.C. 973 et seq.), section 401 of Public*  
12       *Law 108–219 (16 U.S.C. 1821 note) (relating to Pacific*  
13       *albacore tuna), the Western and Central Pacific Fisheries*  
14       *Convention Implementation Act (16 U.S.C. 6901 et seq.),*  
15       *the National Oceanic and Atmospheric Administration Au-*  
16       *thorization Act of 1992 (Public Law 102–567) and the*  
17       *amendments made by that Act, and Public Law 100–629*  
18       *(102 Stat. 3286).*

19       *(e) JUDICIAL REVIEW OF REGULATIONS.—*

20                *(1) IN GENERAL.—Regulations promulgated by*  
21        *the Secretary under this title shall be subject to judi-*  
22        *cial review to the extent authorized by, and in accord-*  
23        *ance with, chapter 7 of title 5, United States Code,*  
24        *if a petition for such review is filed not later than 30*

1        *days after the date on which the regulations are pro-*  
2        *mulgated.*

3            (2) *RESPONSES.*—*Notwithstanding any other*  
4        *provision of law, the Secretary shall file a response to*  
5        *any petition filed in accordance with paragraph (1),*  
6        *not later than 30 days after the date the Secretary is*  
7        *served with that petition, except that the appropriate*  
8        *court may extend the period for filing such a response*  
9        *upon a showing by the Secretary of good cause for*  
10       *that extension.*

11           (3) *COPIES OF ADMINISTRATIVE RECORD.*—*A re-*  
12       *sponse of the Secretary under paragraph (2) shall in-*  
13       *clude a copy of the administrative record for the regu-*  
14       *lations that are the subject of the petition.*

15           (4) *EXPEDITED HEARINGS.*—*Upon a motion by*  
16       *the person who files a petition under this subsection,*  
17       *the appropriate court shall assign the matter for hear-*  
18       *ing at the earliest possible date.*

19       **SEC. 105. ENFORCEMENT.**

20           (a) *IN GENERAL.*—*The Secretary and the Secretary of*  
21       *the department in which the Coast Guard is operating—*

22           (1) *shall administer and enforce this title and*  
23       *any regulations issued under this title; and*

24           (2) *may request and utilize on a reimbursed or*  
25       *nonreimbursed basis the assistance, services, per-*

1        *sonnel, equipment, and facilities of other Federal de-*  
2        *partments and agencies in the administration and*  
3        *enforcement of this title.*

4        *(b) SECRETARIAL ACTIONS.—The Secretary and the*  
5        *Secretary of the department in which the Coast Guard is*  
6        *operating shall prevent any person from violating this title*  
7        *with respect to fishing activities or the conservation of fish-*  
8        *eries resources in the Convention Area in the same manner,*  
9        *by the same means, and with the same jurisdiction, powers,*  
10       *and duties as though sections 308 through 311 of the Mag-*  
11       *nuson-Stevens Fishery Conservation and Management Act*  
12       *(16 U.S.C. 1858, 1859, 1860, and 1861) were incorporated*  
13       *into and made a part of this title. Any person that violates*  
14       *this title is subject to the penalties and entitled to the privi-*  
15       *leges and immunities provided in the Magnuson-Stevens*  
16       *Fishery Conservation and Management Act (16 U.S.C.*  
17       *1801 et seq.) in the same manner, by the same means, and*  
18       *with the same jurisdiction, power, and duties as though sec-*  
19       *tions 308 through 311 of that Act (16 U.S.C. 1858, 1859,*  
20       *1860, and 1861) were incorporated into and made a part*  
21       *of this title.*

22       *(c) JURISDICTION OF THE COURTS.—*

23                *(1) IN GENERAL.—Subject to paragraphs (2) and*  
24                *(3), the district courts of the United States shall have*  
25                *jurisdiction over any case or controversy arising*

1        *under this title, and any such court may at any*  
2        *time—*

3                *(A) enter restraining orders or prohibitions;*

4                *(B) issue warrants, process in rem, or other*  
5        *process;*

6                *(C) prescribe and accept satisfactory bonds*  
7        *or other security; and*

8                *(D) take such other actions as are in the in-*  
9        *terest of justice.*

10                *(2) HAWAII AND PACIFIC INSULAR AREAS.—In*  
11        *the case of Hawaii or any possession of the United*  
12        *States in the Pacific Ocean, the appropriate court is*  
13        *the United States District Court for the District of*  
14        *Hawaii, except that—*

15                *(A) in the case of Guam and Wake Island,*  
16        *the appropriate court is the United States Dis-*  
17        *trict Court for the District of Guam; and*

18                *(B) in the case of the Northern Mariana Is-*  
19        *lands, the appropriate court is the United States*  
20        *District Court for the District of the Northern*  
21        *Mariana Islands.*

22                *(3) CONSTRUCTION.—Each violation shall be a*  
23        *separate offense and the offense is deemed to have been*  
24        *committed not only in the district where the violation*  
25        *first occurred, but also in any other district author-*

1        *ized by law. Any offense not committed in any dis-*  
2        *trict is subject to the venue provisions of section 3238*  
3        *of title 18, United States Code.*

4        *(d) CONFIDENTIALITY.—*

5            *(1) IN GENERAL.—Any information submitted to*  
6        *the Secretary in compliance with any requirement*  
7        *under this title, and information submitted under*  
8        *any requirement of this title that may be necessary*  
9        *to implement the Convention, including information*  
10       *submitted before the date of the enactment of this Act,*  
11       *shall be confidential and may not be disclosed, ex-*  
12       *cept—*

13            *(A) to a Federal employee who is respon-*  
14        *sible for administering, implementing, or enforce-*  
15        *ing this title;*

16            *(B) to the Commission, in accordance with*  
17        *requirements in the North Pacific Fisheries Con-*  
18        *vention and decisions of the Commission, and,*  
19        *insofar as possible, in accordance with an agree-*  
20        *ment with the Commission that prevents public*  
21        *disclosure of the identity or business of any per-*  
22        *son;*

23            *(C) to State, Council, or marine fisheries*  
24        *commission employees pursuant to an agreement*

1           *with the Secretary that prevents public disclo-*  
2           *sure of the identity or business of any person;*

3                     *(D) when required by court order; or*

4                     *(E) when the Secretary has obtained writ-*  
5           *ten authorization from the person submitting*  
6           *such information to release such information to*  
7           *another person for a reason not otherwise pro-*  
8           *vided for in this paragraph, and such release*  
9           *does not violate other requirements of this title.*

10           *(2) USE OF INFORMATION.—*

11                     *(A) IN GENERAL.—Except as provided in*  
12           *subparagraph (B), the Secretary shall promul-*  
13           *gate regulations regarding the procedures the*  
14           *Secretary considers necessary to preserve the con-*  
15           *fidentiality of information submitted under this*  
16           *title.*

17                     *(B) EXCEPTION.—The Secretary may re-*  
18           *lease or make public information submitted*  
19           *under this title if the information is in any ag-*  
20           *gregate or summary form that does not directly*  
21           *or indirectly disclose the identity or business of*  
22           *any person.*

23                     *(3) RULE OF CONSTRUCTION.—Nothing in this*  
24           *subsection shall be interpreted or construed to prevent*  
25           *the use for conservation and management purposes by*

1        *the Secretary of any information submitted under*  
2        *this title.*

3        **SEC. 106. PROHIBITED ACTS.**

4        *It is unlawful for any person—*

5                *(1) to violate this title or any regulation or per-*  
6                *mit issued under this title;*

7                *(2) to use any fishing vessel to engage in fishing*  
8                *activities without, or after the revocation or during*  
9                *the period of suspension of, an applicable permit*  
10               *issued pursuant to this title;*

11               *(3) to refuse to permit any officer authorized to*  
12               *enforce this title to board a fishing vessel subject to*  
13               *such person's control for the purposes of conducting*  
14               *any search, investigation, or inspection in connection*  
15               *with the enforcement of this title or any regulation,*  
16               *permit, or the North Pacific Fisheries Convention;*

17               *(4) to assault, resist, oppose, impede, intimidate,*  
18               *or interfere with any such authorized officer in the*  
19               *conduct of any search, investigation, or inspection in*  
20               *connection with the enforcement of this title or any*  
21               *regulation, permit, or the North Pacific Fisheries*  
22               *Convention;*

23               *(5) to resist a lawful arrest for any act prohib-*  
24               *ited by this title or any regulation promulgated or*  
25               *permit issued under this title;*

1           (6) to ship, transport, offer for sale, sell, pur-  
2           chase, import, export, or have custody, control, or pos-  
3           session of, any fisheries resources taken or retained in  
4           violation of this title or any regulation or permit re-  
5           ferred to in paragraph (1) or (2);

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

10          (8) to submit to the Secretary false information  
11          (including false information regarding the capacity  
12          and extent to which a United States fish processor, on  
13          an annual basis, will process a portion of the opti-  
14          mum yield of a fishery that will be harvested by fish-  
15          ing vessels of the United States), regarding any mat-  
16          ter that the Secretary is considering in the course of  
17          carrying out this title;

18          (9) to assault, resist, oppose, impede, intimidate,  
19          sexually harass, bribe, or interfere with any observer  
20          on a vessel under this title, or any data collector em-  
21          ployed by or under contract to any person to carry  
22          out responsibilities under this title;

23          (10) to engage in fishing activities in violation  
24          of any regulation adopted pursuant to this title;

1           (11) to fail to make, keep, or furnish any catch  
2 returns, statistical records, or other reports required  
3 by regulations adopted pursuant to this title to be  
4 made, kept, or furnished;

5           (12) to fail to stop a vessel upon being hailed  
6 and instructed to stop by a duly authorized official  
7 of the United States;

8           (13) to import, in violation of any regulation  
9 adopted pursuant to this title, any fisheries resources  
10 in any form of those species subject to regulation pur-  
11 suant to a recommendation, resolution, or decision of  
12 the Commission, or any fisheries resources in any  
13 form not under regulation but under investigation by  
14 the Commission, during the period such fisheries re-  
15 sources have been denied entry in accordance with  
16 this title;

17           (14) to make or submit any false record, account,  
18 or label for, or any false identification of, any fish-  
19 eries resources that have been, or are intended to be  
20 imported, exported, transported, sold, offered for sale,  
21 purchased, or received in interstate or foreign com-  
22 merce; or

23           (15) to refuse to authorize and accept boarding  
24 by a duly authorized inspector pursuant to proce-  
25 dures adopted by the Commission for the boarding

1        *and inspection of fishing vessels in the Convention*  
2        *Area.*

3        **SEC. 107. COOPERATION IN CARRYING OUT CONVENTION.**

4        (a) *FEDERAL AND STATE AGENCIES; PRIVATE INSTI-*  
5        *TUTIONS AND ORGANIZATIONS.*—*The Secretary may co-*  
6        *operate with any Federal agency, any public or private in-*  
7        *stitution or organization within the United States or*  
8        *abroad, and, through the Secretary of State, a duly author-*  
9        *ized official of the government of any party to the North*  
10       *Pacific Fisheries Convention, in carrying out responsibil-*  
11       *ities under this title.*

12       (b) *SCIENTIFIC AND OTHER PROGRAMS; FACILITIES*  
13       *AND PERSONNEL.*—*Each Federal agency may, upon the re-*  
14       *quest of the Secretary, cooperate in the conduct of scientific*  
15       *and other programs and furnish facilities and personnel for*  
16       *the purpose of assisting the Commission in carrying out*  
17       *its duties under the North Pacific Fisheries Convention.*

18       (c) *SANCTIONED FISHING OPERATIONS AND BIOLOGI-*  
19       *CAL EXPERIMENTS.*—*Nothing in this title, or in the laws*  
20       *of any State, prevents the Secretary or the Commission*  
21       *from—*

22                (1) *conducting or authorizing the conduct of fish-*  
23                *ing operations and biological experiments at any time*  
24                *for purposes of scientific investigation; or*

1           (2) *discharging any other duties prescribed by*  
2           *the North Pacific Fisheries Convention.*

3           (d) *STATE JURISDICTION NOT AFFECTED.—Nothing*  
4           *in this title shall be construed to diminish or to increase*  
5           *the jurisdiction of any State in the territorial sea of the*  
6           *United States.*

7           **SEC. 108. TERRITORIAL PARTICIPATION.**

8           *The Secretary of State shall ensure participation in*  
9           *the Commission and its subsidiary bodies by the Common-*  
10          *wealth of the Northern Mariana Islands, American Samoa,*  
11          *and Guam to the extent allowed under United States law.*

12          **SEC. 109. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.**

13          *Masters of commercial fishing vessels of countries fish-*  
14          *ing under the management authority of the North Pacific*  
15          *Fisheries Convention that do not carry vessel monitoring*  
16          *systems capable of communicating with United States en-*  
17          *forcement authorities shall, prior to or as soon as reason-*  
18          *ably possible after, entering and transiting the exclusive*  
19          *economic zone bounded by the Convention Area, ensure that*  
20          *all fishing gear on board the vessel is stowed below deck*  
21          *or otherwise removed from the place it is normally used*  
22          *for fishing activities and placed where it is not readily*  
23          *available for fishing activities.*

1 **TITLE II—IMPLEMENTATION OF**  
2 **THE CONVENTION ON THE**  
3 **CONSERVATION AND MAN-**  
4 **AGEMENT OF HIGH SEAS**  
5 **FISHERY RESOURCES IN THE**  
6 **SOUTH PACIFIC OCEAN**

7 **SEC. 201. DEFINITIONS.**

8 *In this title:*

9 (1) *1982 CONVENTION.*—*The term “1982 Conven-*  
10 *tion” means the United Nations Convention on the*  
11 *Law of the Sea of 10 December 1982.*

12 (2) *COMMISSION.*—*The term “Commission”*  
13 *means the Commission of the South Pacific Regional*  
14 *Fisheries Management Organization established in ac-*  
15 *cordance with the South Pacific Fishery Resources*  
16 *Convention.*

17 (3) *CONVENTION AREA.*—*The term “Convention*  
18 *Area” means the area to which the Convention on the*  
19 *Conservation and Management of High Seas Fishery*  
20 *Resources in the South Pacific Ocean applies under*  
21 *Article 5 of such Convention.*

22 (4) *COUNCIL.*—*The term “Council” means the*  
23 *Western Pacific Regional Fishery Management Coun-*  
24 *cil.*

1           (5) *EXCLUSIVE ECONOMIC ZONE*.—The term “*ex-*  
2           *clusive economic zone*” means—

3                   (A) *with respect to the United States, the*  
4                   *zone established by Presidential Proclamation*  
5                   *Numbered 5030 of March 10, 1983 (16 U.S.C.*  
6                   *1453 note); and*

7                   (B) *with respect to a foreign country, a des-*  
8                   *ignated zone similar to the zone referred to in*  
9                   *subparagraph (A) for that country, consistent*  
10                  *with international law.*

11           (6) *FISHERY RESOURCES*.—The term “*fishery re-*  
12           *sources*” means *all fish, mollusks, crustaceans, and*  
13           *other marine species, and any products thereof,*  
14           *caught by a fishing vessel within the Convention*  
15           *Area, but excluding—*

16                   (A) *sedentary species insofar as they are*  
17                   *subject to the national jurisdiction of coastal*  
18                   *States pursuant to Article 77 paragraph 4 of the*  
19                   *1982 Convention;*

20                   (B) *highly migratory species listed in*  
21                   *Annex I of the 1982 Convention;*

22                   (C) *anadromous and catadromous species;*  
23                   *and*

24                   (D) *marine mammals, marine reptiles and*  
25                   *sea birds.*

1           (7) *FISHING.*—*The term “fishing”*—

2                   (A) *except as provided in subparagraph*

3           (B), *means*—

4                   (i) *the actual or attempted searching*  
5                   *for, catching, taking, or harvesting of fish-*  
6                   *ery resources;*

7                   (ii) *engaging in any activity that can*  
8                   *reasonably be expected to result in the locat-*  
9                   *ing, catching, taking or harvesting of fish-*  
10                  *ery resources for any purpose;*

11                  (iii) *transshipment and any operation*  
12                  *at sea, in support of, or in preparation for,*  
13                  *any activity described in this subpara-*  
14                  *graph; and*

15                  (iv) *the use of any vessel, vehicle, air-*  
16                  *craft, or hovercraft in relation to any activ-*  
17                  *ity described in this subparagraph; and*

18                  (B) *does not include any operation related*  
19                  *to emergencies involving the health and safety of*  
20                  *crew members or the safety of a fishing vessel.*

21           (8) *FISHING VESSEL.*—*The term “fishing vessel”*  
22           *means any vessel used or intended to be used for fish-*  
23           *ing, including any fish processing vessel support ship,*  
24           *carrier vessel, or any other vessel directly engaged in*  
25           *fishing operations.*

1           (9) *PERSON*.—The term “person” means any in-  
2           dividual (whether or not a citizen or national of the  
3           United States); any corporation, partnership, associa-  
4           tion, or other entity (whether or not organized or ex-  
5           isting under the laws of any State); and any Federal,  
6           State, local, or foreign government or any entity of  
7           any such government.

8           (10) *SECRETARY*.—The term “Secretary” means  
9           the Secretary of Commerce.

10          (11) *SOUTH PACIFIC FISHERY RESOURCES CON-*  
11          *VENTION*.—The term “South Pacific Fishery Re-  
12          sources Convention” means the Convention on the  
13          Conservation and Management of the High Seas Fish-  
14          ery Resources in the South Pacific Ocean (including  
15          any annexes, amendments, or protocols that are in  
16          force, or have come into force, for the United States),  
17          which was adopted at Auckland, New Zealand, on  
18          November 14, 2009, by the International Consulta-  
19          tions on the Proposed South Pacific Regional Fish-  
20          eries Management Organization.

21          (12) *STATE*.—The term “State” means each of  
22          the several States of the United States, the District of  
23          Columbia, the Commonwealth of the Northern Mar-  
24          iana Islands, American Samoa, Guam, and any other

1       *commonwealth, territory, or possession of the United*  
2       *States.*

3   **SEC. 202. APPOINTMENT OR DESIGNATION OF UNITED**  
4       **STATES COMMISSIONERS.**

5       *(a) APPOINTMENT.—*

6           *(1) IN GENERAL.—The United States shall be*  
7       *represented on the Commission by not more than 3*  
8       *Commissioners. In making each appointment, the*  
9       *President shall select a Commissioner from among in-*  
10       *dividuals who are knowledgeable or experienced con-*  
11       *cerning fishery resources in the South Pacific Ocean.*

12           *(2) REPRESENTATION.—At least one of the Com-*  
13       *missioners shall be—*

14           *(A) serving at the pleasure of the President,*  
15       *an officer or employee of—*

16                   *(i) the Department of Commerce;*

17                   *(ii) the Department of State; or*

18                   *(iii) the Coast Guard; and*

19           *(B) the chairperson or designee of the Coun-*  
20       *cil.*

21       *(b) ALTERNATE COMMISSIONERS.—The Secretary of*  
22       *State, in consultation with the Secretary, may designate*  
23       *from time to time and for periods of time considered appro-*  
24       *priate an alternate Commissioner to the Commission. An*  
25       *alternate Commissioner may exercise all powers and duties*

1 of a Commissioner in the absence of a Commissioner ap-  
2 pointed under subsection (a).

3 (c) *ADMINISTRATIVE MATTERS.*—

4 (1) *EMPLOYMENT STATUS.*—An individual serv-  
5 ing as a Commissioner, or as an alternate Commis-  
6 sioner, other than an officer or employee of the United  
7 States Government, shall not be considered a Federal  
8 employee, except for the purposes of injury compensa-  
9 tion or tort claims liability as provided in chapter 81  
10 of title 5, United States Code, and chapter 171 of title  
11 28, United States Code.

12 (2) *COMPENSATION.*—An individual serving as a  
13 Commissioner or an alternate Commissioner, al-  
14 though an officer of the United States while so serv-  
15 ing, shall receive no compensation for the individual's  
16 services as such Commissioner or alternate Commis-  
17 sioner.

18 (3) *TRAVEL EXPENSES.*—

19 (A) *IN GENERAL.*—The Secretary of State  
20 shall pay the necessary travel expenses of a Com-  
21 missioner or an alternate Commissioner in ac-  
22 cordance with the Federal Travel Regulations  
23 and sections 5701, 5702, 5704 through 5708, and  
24 5731 of title 5, United States Code.

1                   (B) *REIMBURSEMENT.*—*The Secretary may*  
2                   *reimburse the Secretary of State for amounts ex-*  
3                   *pended by the Secretary of State under this*  
4                   *paragraph.*

5 **SEC. 203. AUTHORITY AND RESPONSIBILITY OF THE SEC-**  
6                   **RETARY OF STATE.**

7                   *The Secretary of State may—*

8                   (1) *receive and transmit, on behalf of the United*  
9                   *States, reports, requests, recommendations, proposals,*  
10                  *decisions, and other communications of and to the*  
11                  *Commission;*

12                  (2) *in consultation with the Secretary, act upon,*  
13                  *or refer to other appropriate authority, any commu-*  
14                  *nication pursuant to paragraph (1); and*

15                  (3) *with the concurrence of the Secretary, and in*  
16                  *accordance with the South Pacific Fishery Resources*  
17                  *Convention, object to decisions of the Commission.*

18 **SEC. 204. RESPONSIBILITY OF THE SECRETARY AND RULE-**  
19                   **MAKING AUTHORITY.**

20                  (a) *RESPONSIBILITIES.*—*The Secretary may—*

21                  (1) *administer this title and any regulations*  
22                  *issued under this title, except to the extent otherwise*  
23                  *provided for in this title;*

24                  (2) *issue permits to vessels subject to the jurisdic-*  
25                  *tion of the United States, and to owners and opera-*

1        *tors of such vessels, to fish in the Convention Area,*  
2        *under such terms and conditions as the Secretary*  
3        *may prescribe; and*

4            *(3) if recommended by the United States Com-*  
5        *missioners, assess and collect fees, not to exceed 3 per-*  
6        *cent of the ex-vessel value of fisheries resources har-*  
7        *vested by vessels of the United States in fisheries con-*  
8        *ducted in the Convention Area, to recover the actual*  
9        *costs to the United States to carry out the functions*  
10       *of the Secretary under this title.*

11       *(b) PROMULGATION OF REGULATIONS.—*

12            *(1) IN GENERAL.—The Secretary, in consultation*  
13        *with the Secretary of State and the Secretary of the*  
14        *department in which the Coast Guard is operating,*  
15        *may promulgate such regulations as may be necessary*  
16        *and appropriate to carry out the international obli-*  
17        *gations of the United States under the South Pacific*  
18        *Fishery Resources Convention and this title, includ-*  
19        *ing decisions adopted by the Commission.*

20            *(2) APPLICABILITY.—Regulations promulgated*  
21        *under this subsection shall be applicable only to a*  
22        *person or fishing vessel that is or has engaged in fish-*  
23        *ing, and fishery resources covered by the Convention*  
24        *on the Conservation and Management of High Seas*

1       *Fishery Resources in the South Pacific Ocean under*  
2       *this title.*

3       (c) *CONSISTENCY WITH OTHER LAWS.*—*The Secretary*  
4       *shall ensure the consistency, to the extent practicable, of*  
5       *fishery management programs administered under this*  
6       *title, the Magnuson-Stevens Fishery Conservation and Man-*  
7       *agement Act (16 U.S.C. 1801 et seq.), the Tuna Conventions*  
8       *Act of 1950 (16 U.S.C. 951 et seq.), the South Pacific Tuna*  
9       *Act of 1988 (16 U.S.C. 973 et seq.), section 401 of Public*  
10       *Law 108–219 (16 U.S.C. 1821 note) (relating to Pacific*  
11       *albacore tuna), the Western and Central Pacific Fisheries*  
12       *Convention Implementation Act (16 U.S.C. 6901 et seq.),*  
13       *the National Oceanic and Atmospheric Administration Au-*  
14       *thorization Act of 1992 (Public Law 102–567) and the*  
15       *amendments made by that Act, and Public Law 100–629*  
16       *(102 Stat. 3286).*

17       (d) *JUDICIAL REVIEW OF REGULATIONS.*—

18               (1) *IN GENERAL.*—*Regulations promulgated by*  
19       *the Secretary under this title shall be subject to judi-*  
20       *cial review to the extent authorized by, and in accord-*  
21       *ance with, chapter 7 of title 5, United States Code,*  
22       *if a petition for such review is filed not later than 30*  
23       *days after the date on which the regulations are pro-*  
24       *mulgated or the action is published in the Federal*  
25       *Register, as applicable.*

1           (2) *RESPONSES.*—Notwithstanding any other  
2           provision of law, the Secretary shall file a response to  
3           any petition filed in accordance with paragraph (1)  
4           not later than 30 days after the date the Secretary is  
5           served with that petition, except that the appropriate  
6           court may extend the period for filing such a response  
7           upon a showing by the Secretary of good cause for  
8           that extension.

9           (3) *COPIES OF ADMINISTRATIVE RECORD.*—A re-  
10          sponse of the Secretary under paragraph (2) shall in-  
11          clude a copy of the administrative record for the regu-  
12          lations that are the subject of the petition.

13          (4) *EXPEDITED HEARINGS.*—Upon a motion by  
14          the person who files a petition under this subsection,  
15          the appropriate court shall assign the matter for hear-  
16          ing at the earliest possible date.

17 **SEC. 205. ENFORCEMENT.**

18          (a) *RESPONSIBILITY.*—This title, and any regulations  
19          or permits issued under this title, shall be enforced by the  
20          Secretary and the Secretary of the department in which the  
21          Coast Guard is operating. Such Secretaries shall, and the  
22          head of any Federal or State agency that has entered into  
23          an agreement with either such Secretary under this section  
24          may (if the agreement so provides), authorize officers to en-  
25          force this title or any regulation promulgated under this

1 *title. Any officer so authorized may enforce this title in the*  
2 *same manner, by the same means, and with the same juris-*  
3 *isdiction, powers, and duties as though section 311 of the*  
4 *Magnuson-Stevens Fishery Conservation and Management*  
5 *Act (16 U.S.C. 1861) were incorporated into and made a*  
6 *part of this title.*

7       (b) *ADMINISTRATION AND ENFORCEMENT.—The Sec-*  
8 *retary shall prevent any person from violating this title in*  
9 *the same manner, by the same means, and with the same*  
10 *jurisdiction, powers, and duties as though sections 308*  
11 *through 311 of the Magnuson-Stevens Fishery Conservation*  
12 *and Management Act (16 U.S.C. 1858 through 1861) were*  
13 *incorporated into and made a part of this title. Any person*  
14 *that violates this title shall be subject to the penalties, and*  
15 *entitled to the privileges and immunities, provided in the*  
16 *Magnuson-Stevens Fishery Conservation and Management*  
17 *Act (16 U.S.C. 1801 et seq.) in the same manner and by*  
18 *the same means as though sections 308 through 311 of that*  
19 *Act (16 U.S.C. 1858 through 1861) were incorporated into*  
20 *and made a part of this title.*

21       (c) *DISTRICT COURT JURISDICTION.—The district*  
22 *courts of the United States shall have jurisdiction over any*  
23 *actions arising under this section. Notwithstanding sub-*  
24 *section (b), for the purpose of this section, for Hawaii or*  
25 *any possession of the United States in the Pacific Ocean,*

1 *the appropriate court is the United States District Court*  
2 *for the District of Hawaii, except that in the case of Guam*  
3 *and Wake Island, the appropriate court is the United States*  
4 *District Court for the District of Guam, and except that*  
5 *in the case of the Northern Mariana Islands, the appro-*  
6 *priate court is the United States District Court for the Dis-*  
7 *trict of the Northern Mariana Islands. Each violation shall*  
8 *be a separate offense and the offense is deemed to have been*  
9 *committed not only in the district where the violation first*  
10 *occurred, but also in any other district as authorized by*  
11 *law. Any offenses not committed in any district are subject*  
12 *to the venue provisions of section 3238 of title 18, United*  
13 *States Code.*

14 **SEC. 206. PROHIBITED ACTS.**

15 *It is unlawful for any person—*

16 *(1) to violate any provision of this title or of any*  
17 *regulation promulgated or permit issued under this*  
18 *title;*

19 *(2) to use any fishing vessel to engage in fishing*  
20 *without a valid permit or after the revocation, or dur-*  
21 *ing the period of suspension, of an applicable permit*  
22 *pursuant to this title;*

23 *(3) to refuse to permit any officer authorized to*  
24 *enforce this title to board a fishing vessel subject to*  
25 *such person's control for the purposes of conducting*

1     *any investigation or inspection in connection with*  
2     *the enforcement of this title;*

3             *(4) to assault, resist, oppose, impede, intimidate,*  
4     *or interfere with any such authorized officer in the*  
5     *conduct of any search, investigation, or inspection in*  
6     *connection with the enforcement of this title or any*  
7     *regulation promulgated or permit issued under this*  
8     *title;*

9             *(5) to resist a lawful arrest for any act prohib-*  
10    *ited by this title or any regulation promulgated or*  
11    *permit issued under this title;*

12            *(6) to ship, transport, offer for sale, sell, pur-*  
13    *chase, import, export, or have custody, control, or pos-*  
14    *session of, any fishery resources taken or retained in*  
15    *violation of this title or any regulation or permit re-*  
16    *ferred to in paragraph (1) or (2);*

17            *(7) to interfere with, delay, or prevent, by any*  
18    *means, the apprehension or arrest of another person,*  
19    *knowing that such other person has committed any*  
20    *act prohibited by this title;*

21            *(8) to submit to the Secretary false information,*  
22    *regarding any matter that the Secretary is consid-*  
23    *ering in the course of carrying out this title;*

24            *(9) to assault, resist, oppose, impede, intimidate,*  
25    *sexually harass, bribe, or interfere with any observer*

1        *on a vessel pursuant to the requirements of this title,*  
2        *or any data collector employed by the National Oce-*  
3        *anic and Atmospheric Administration or under con-*  
4        *tract to any person to carry out responsibilities under*  
5        *this title;*

6            *(10) to fail to make, keep, or furnish any catch*  
7        *returns, statistical records, or other reports as are re-*  
8        *quired by regulations adopted pursuant to this title*  
9        *to be made, kept, or furnished;*

10           *(11) to fail to stop a vessel upon being hailed*  
11        *and instructed to stop by a duly authorized official*  
12        *of the United States;*

13           *(12) to import, in violation of any regulation*  
14        *promulgated under this title, any fishery resources in*  
15        *any form of those species subject to regulation pursu-*  
16        *ant to a decision of the Commission;*

17           *(13) to make or submit any false record, account,*  
18        *or label for, or any false identification of, any fishery*  
19        *resources that have been or are intended to be im-*  
20        *ported, exported, transported, sold, offered for sale,*  
21        *purchased, or received in interstate or foreign com-*  
22        *merce; or*

23           *(14) to refuse to authorize and accept boarding*  
24        *by a duly authorized inspector pursuant to proce-*  
25        *dures adopted by the Commission for the boarding*



1           (1) *conducting or authorizing the conduct of fish-*  
2           *ing operations and biological experiments at any time*  
3           *for purposes of scientific investigation; or*

4           (2) *discharging any other duties prescribed by*  
5           *the South Pacific Fishery Resources Convention.*

6           (d) *STATE JURISDICTION NOT AFFECTED.—Nothing*  
7           *in this title shall be construed to diminish or to increase*  
8           *the jurisdiction of any State in the territorial sea of the*  
9           *United States.*

10 **SEC. 208. TERRITORIAL PARTICIPATION.**

11           *The Secretary of State shall ensure participation in*  
12           *the Commission and its subsidiary bodies by American*  
13           *Samoa, Guam, and the Commonwealth of the Northern*  
14           *Mariana Islands to the extent allowed under United States*  
15           *law.*

16 **SEC. 209. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.**

17           *Masters of commercial fishing vessels of countries fish-*  
18           *ing under the management authority of the South Pacific*  
19           *Fisheries Convention that do not carry vessel monitoring*  
20           *systems capable of communicating with United States en-*  
21           *forcement authorities shall, before or as soon as reasonably*  
22           *possible after, entering and transiting the exclusive eco-*  
23           *nomie zone bounded by the Convention Area, ensure that*  
24           *all fishing gear on board the vessel is stowed below deck*  
25           *or otherwise removed from the place it is normally used*

1 *for fishing activities and placed where it is not readily*  
2 *available for fishing activities.*

3 **TITLE III—WESTERN AND CEN-**  
4 **TRAL PACIFIC FISHERIES**  
5 **COMMISSION**

6 **SEC. 301. RECOMMENDATIONS FOR AGENDA OF ANNUAL**  
7 **MEETINGS OF WESTERN AND CENTRAL PA-**  
8 **CIFIC FISHERIES COMMISSION.**

9 *(a) IN GENERAL.—The Western and Central Pacific*  
10 *Fisheries Convention Implementation Act is amended—*

11 *(1) in section 503 (16 U.S.C. 6902)—*

12 *(A) in subsection (a), by inserting “and*  
13 *commercial fishing” after “fish stocks”; and*

14 *(B) in subsection (d)(1), by adding at the*  
15 *end the following:*

16 *“(E) AGENDA RECOMMENDATIONS.—No*  
17 *later than 30 days before each annual meeting of*  
18 *the Commission, the Advisory Committee shall*  
19 *transmit to the United States Commissioners*  
20 *recommendations relating to the agenda of the*  
21 *annual meeting. The recommendations must be*  
22 *agreed to by a majority of the Advisory Com-*  
23 *mittee members. The United States Commis-*  
24 *sioners shall consider such recommendations,*  
25 *along with additional views transmitted by Ad-*

1           visory Committee members, in the formulation of  
2           the United States position for the Commission  
3           meeting and during the negotiations at that  
4           meeting.”; and

5           (2) by redesignating section 511 (16 U.S.C.  
6           6910) as section 512, and inserting after section 510  
7           the following:

8           **“SEC. 511. UNITED STATES CONSERVATION, MANAGEMENT,**  
9                                   **AND ENFORCEMENT OBJECTIVES.**

10           *“The Secretary, in consultation with the Secretary of*  
11           *State, in the course of negotiations, shall seek to—*

12                           *“(1) minimize any disadvantage to United*  
13                           *States fishermen in relation to other members of the*  
14                           *Commission;*

15                           *“(2) maximize the opportunities for fishing ves-*  
16                           *sels of the United States to harvest fish stocks on the*  
17                           *high seas in the Convention area, recognizing that*  
18                           *such harvests may be restricted if the Commission,*  
19                           *based on the best available scientific information pro-*  
20                           *vided by the Scientific Committee, determines it is*  
21                           *necessary to achieve the conservation objective set*  
22                           *forth in Article 2 of the Convention;*

23                           *“(3) prevent any requirement for the transfer to*  
24                           *other nations or foreign entities of the fishing capac-*  
25                           *ity, fishing capacity rights, or fishing vessels of the*

1 *United States or its territories, unless any such re-*  
 2 *quirement is voluntary and market-based; and*

3 *“(4) ensure that conservation and management*  
 4 *measures take into consideration traditional fishing*  
 5 *patterns of fishing vessels of the United States and the*  
 6 *operating requirements of the fisheries covered by the*  
 7 *Western and Central Pacific Convention.”.*

8 *(b) CONFORMING AMENDMENT.—Section 1(b) of the*  
 9 *Magnuson-Stevens Fishery Conservation and Management*  
 10 *Reauthorization Act of 2006 is amended in the table of con-*  
 11 *tents by striking the item relating to section 511 (121 Stat.*  
 12 *3576) and inserting the following:*

*“Sec. 511. United States conservation, management, and enforcement objectives.*  
*“Sec. 512. Authorization of appropriations.”.*

13 **TITLE IV—ILLEGAL, UNREGU-**  
 14 **LATED, AND UNREPORTED**  
 15 **FISHING**

16 **SEC. 401. AMENDMENTS TO THE HIGH SEAS DRIFTNET**  
 17 **FISHING MORATORIUM PROTECTION ACT.**

18 *(a) APPLICATION OF ACT.—Section 606(b) of the High*  
 19 *Seas Driftnet Fishing Moratorium Protection Act (16*  
 20 *U.S.C. 1826g(b)) is amended by striking “and” at the end*  
 21 *of paragraph (7), striking the period at the end of para-*  
 22 *graph (8) and inserting “; and” , and by adding at the*  
 23 *end the following:*

1           “(9) *the Ensuring Access to Pacific Fisheries*  
2     *Act.*”.

3           (b) *BIENNIAL REPORTS.*—Section 607 of the *High*  
4 *Seas Driftnet Fishing Moratorium Protection Act* (16  
5 *U.S.C. 1826h*) is amended by inserting “on June 1 of that  
6 *year*” after “every 2 years thereafter,”.

7           (c) *IDENTIFICATION OF VESSELS.*—Section 609(a) of  
8 *the High Seas Driftnet Fishing Moratorium Protection Act*  
9 (16 *U.S.C. 1826j(a)*) is amended by striking “fishing vessels  
10 of that nation are engaged, or have” and inserting “any  
11 *fishing vessel of that nation is engaged, or has*”.

12          (d) *IDENTIFICATION OF NATIONS.*—Section  
13 *610(a)(2)(A) of the High Seas Driftnet Fishing Moratorium*  
14 *Protection Act* (16 *U.S.C. 1826k*) is amended by striking  
15 “calendar year” and inserting “3 years”.

16 **TITLE V—NORTHWEST ATLANTIC**  
17 **FISHERIES CONVENTION**  
18 **AMENDMENTS ACT**

19 **SEC. 501. SHORT TITLE; REFERENCES TO THE NORTHWEST**  
20 **ATLANTIC FISHERIES CONVENTION ACT OF**  
21 **1995.**

22          (a) *SHORT TITLE.*—This title may be cited as the  
23 “*Northwest Atlantic Fisheries Convention Amendments*  
24 *Act*”.

1       (b) *REFERENCES TO THE NORTHWEST ATLANTIC*  
2 *FISHERIES CONVENTION ACT OF 1995.*—*Except as other-*  
3 *wise expressly provided, whenever in this title an amend-*  
4 *ment or repeal is expressed in terms of an amendment to,*  
5 *or repeal of, a section or other provision, the reference shall*  
6 *be considered to be made to a section or other provision*  
7 *of the Northwest Atlantic Fisheries Convention Act of 1995*  
8 *(16 U.S.C. 5601 et seq.).*

9 **SEC. 502. REPRESENTATION OF THE UNITED STATES**  
10 **UNDER CONVENTION.**

11 *Section 202 (16 U.S.C. 5601) is amended—*

12           (1) *in subsection (a)(1), by striking “General*  
13 *Council and the Fisheries”;*

14           (2) *in subsection (b)(1), by striking “at a meet-*  
15 *ing of the General Council or the Fisheries Commis-*  
16 *sion”;*

17           (3) *in subsection (b)(2), by striking “, at any*  
18 *meeting of the General Council or the Fisheries Com-*  
19 *mission for which the Alternate Commissioner is des-*  
20 *ignated”;*

21           (4) *in subsection (d)(1), by striking “at a meet-*  
22 *ing of the Scientific Council”;*

23           (5) *in subsection (d)(2), by striking “, at any*  
24 *meeting of the Scientific Council for which the Alter-*  
25 *nate Representative is designated”;* and

1           (6) in subsection (f)(1)(A), by striking “Magnu-  
2           son Act” and inserting “Magnuson-Stevens Fishery  
3           Conservation and Management Act”.

4 **SEC. 503. REQUESTS FOR SCIENTIFIC ADVICE.**

5           Section 203 (16 U.S.C. 5602) is amended—

6           (1) in subsection (a)—

7                   (A) by striking “The Representatives may”  
8                   and inserting “A Representative may”;

9                   (B) by striking “described in subsection  
10                   (b)(1) or (2)” and inserting “described in para-  
11                   graph (1) or (2) of subsection (b)”; and

12                   (C) by striking “the Representatives have”  
13                   and inserting “the Representative has”;

14           (2) by striking “VII(1)” each place it appears  
15           and inserting “VII(10)(b)”; and

16           (3) in subsection (b)(2), by striking “VIII(2)”  
17           and inserting “VII(11)”.

18 **SEC. 504. AUTHORITIES OF SECRETARY OF STATE WITH RE-**

19                   **SPECT TO CONVENTION.**

20           Section 204 (16 U.S.C. 5603) is amended by striking  
21           “Fisheries Commission” each place it appears and insert-  
22           ing “Commission consistent with the procedures detailed in  
23           Articles XIV and XV of the Convention”.

1 **SEC. 505. INTERAGENCY COOPERATION.**

2 *Section 205(a) (16 U.S.C. 5604(a)) is amended to read*  
3 *as follows:*

4 *“(a) AUTHORITIES OF THE SECRETARY.—In carrying*  
5 *out the provisions of the Convention and this title, the Sec-*  
6 *retary may arrange for cooperation with—*

7 *“(1) any department, agency, or instrumentality*  
8 *of the United States;*

9 *“(2) a State;*

10 *“(3) a Council; or*

11 *“(4) a private institution or an organization.”.*

12 **SEC. 506. PROHIBITED ACTS AND PENALTIES.**

13 *Section 207(a)(5) (16 U.S.C. 5606(a)(5)) is amended*  
14 *by striking “fish” and inserting “fishery resources”.*

15 **SEC. 507. CONSULTATIVE COMMITTEE.**

16 *Section 208 (16 U.S.C. 5607) is amended—*

17 *(1) in subsection (b)(2), by striking “two” and*  
18 *inserting “2”; and*

19 *(2) in subsection (c), by striking “General Coun-*  
20 *cil or the Fisheries” each place it appears.*

21 **SEC. 508. DEFINITIONS.**

22 *Section 210 (16 U.S.C. 5609) is amended to read as*  
23 *follows:*

24 **“SEC. 210. DEFINITIONS.**

25 *“In this title:*

1           “(1) 1982 CONVENTION.—The term ‘1982 Con-  
2           vention’ means the United Nations Convention on the  
3           Law of the Sea of 10 December 1982.

4           “(2) AUTHORIZED ENFORCEMENT OFFICER.—  
5           The term ‘authorized enforcement officer’ means a  
6           person authorized to enforce this title, any regulation  
7           issued under this title, or any measure that is legally  
8           binding on the United States under the Convention.

9           “(3) COMMISSION.—The term ‘Commission’  
10          means the body provided for by Articles V, VI, XIII,  
11          XIV, and XV of the Convention.

12          “(4) COMMISSIONER.—The term ‘Commissioner’  
13          means a United States Commissioner to the North-  
14          west Atlantic Fisheries Organization appointed under  
15          section 202.

16          “(5) CONVENTION.—The term ‘Convention’  
17          means the Convention on Future Multilateral Co-  
18          operation in the Northwest Atlantic Fisheries, done at  
19          Ottawa on October 24, 1978, and as amended on Sep-  
20          tember 28, 2007.

21          “(6) CONVENTION AREA.—The term ‘Convention  
22          Area’ means the waters of the Northwest Atlantic  
23          Ocean north of 35°00′ N and west of a line extending  
24          due north from 35°00′ N and 42°00′ W to 59°00′ N,  
25          thence due west to 44°00′ W, and thence due north to

1 *the coast of Greenland, and the waters of the Gulf of*  
2 *St. Lawrence, Davis Strait and Baffin Bay south of*  
3 *78°10' N.*

4 “(7) COUNCIL.—*The term ‘Council’ means the*  
5 *New England Fishery Management Council or the*  
6 *Mid-Atlantic Fishery Management Council.*

7 “(8) FISHERY RESOURCES.—

8 “(A) IN GENERAL.—*The term ‘fishery re-*  
9 *sources’ means all fish, mollusks, and crusta-*  
10 *ceans, including any products thereof, within the*  
11 *Convention Area.*

12 “(B) EXCLUSIONS.—*The term ‘fishery re-*  
13 *sources’ does not include—*

14 “(i) *sedentary species over which coast-*  
15 *al States may exercise sovereign rights con-*  
16 *sistent with Article 77 of the 1982 Conven-*  
17 *tion; or*

18 “(ii) *in so far as they are managed*  
19 *under other international treaties, anad-*  
20 *romous and catadromous stocks and highly*  
21 *migratory species listed in Annex I of the*  
22 *1982 Convention.*

23 “(9) FISHING ACTIVITIES.—

24 “(A) IN GENERAL.—*The term ‘fishing ac-*  
25 *tivities’ means harvesting or processing fishery*

1        *resources, or transshipping of fishery resources or*  
2        *products derived from fishery resources, or any*  
3        *other activity in preparation for, in support of,*  
4        *or related to the harvesting of fishery resources.*

5                *“(B) INCLUSIONS.—The term ‘fishing ac-*  
6        *tivities’ includes—*

7                        *“(i) the actual or attempted searching*  
8                        *for or catching or taking of fishery re-*  
9                        *sources;*

10                      *“(ii) any activity that can reasonably*  
11                      *be expected to result in locating, catching,*  
12                      *taking, or harvesting of fishery resources for*  
13                      *any purpose; and*

14                      *“(iii) any operation at sea in support*  
15                      *of, or in preparation for, any activity de-*  
16                      *scribed in this paragraph.*

17                *“(C) EXCLUSIONS.—The term ‘fishing ac-*  
18        *tivities’ does not include any operation related to*  
19        *emergencies involving the health and safety of*  
20        *crew members or the safety of a vessel.*

21                *“(10) FISHING VESSEL.—*

22                      *“(A) IN GENERAL.—The term ‘fishing ves-*  
23        *sel’ means a vessel that is or has been engaged*  
24        *in fishing activities.*

1           “(B) *INCLUSIONS.*—*The term ‘fishing vessel’*  
2           *includes a fish processing vessel or a vessel en-*  
3           *gaged in transshipment or any other activity in*  
4           *preparation for or related to fishing activities, or*  
5           *in experimental or exploratory fishing activities.*

6           “(11) *ORGANIZATION.*—*The term ‘Organization’*  
7           *means the Northwest Atlantic Fisheries Organization*  
8           *provided for by Article V of the Convention.*

9           “(12) *PERSON.*—*The term ‘person’ means any*  
10          *individual (whether or not a citizen or national of the*  
11          *United States), and any corporation, partnership, as-*  
12          *sociation, or other entity (whether or not organized or*  
13          *existing under the laws of any State).*

14          “(13) *REPRESENTATIVE.*—*The term ‘Representa-*  
15          *tive’ means a United States Representative to the*  
16          *Northwest Atlantic Fisheries Scientific Council ap-*  
17          *pointed under section 202.*

18          “(14) *SCIENTIFIC COUNCIL.*—*The term ‘Sci-*  
19          *entific Council’ means the Scientific Council provided*  
20          *for by Articles V, VI, and VII of the Convention.*

21          “(15) *SECRETARY.*—*The term ‘Secretary’ means*  
22          *the Secretary of Commerce.*

23          “(16) *STATE.*—*The term ‘State’ means each of*  
24          *the several States of the United States, the District of*

1        *Columbia, and any other commonwealth, territory, or*  
2        *possession of the United States.*

3            “(17) *TRANSSHIPMENT.*—*The term ‘trans-*  
4        *shipment’ means the unloading of all or any of the*  
5        *fishery resources on board a fishing vessel to another*  
6        *fishing vessel either at sea or in port.”.*

7        **SEC. 509. QUOTA ALLOCATION PRACTICE.**

8        *Section 213 (16 U.S.C. 5612) is repealed.*



Union Calendar No. 557

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 4576**

[Report No. 114-718]

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## **A BILL**

To implement the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean, to implement the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean, and for other purposes.

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SEPTEMBER 6, 2016

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed