

## ALBATROSS AND PETREL CONSERVATION ACT

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OCTOBER 22, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. GRIJALVA, from the Committee on Natural Resources,  
submitted the following

### R E P O R T

together with

### DISSENTING VIEWS

[To accompany H.R. 1305]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1305) to implement the Agreement on the Conservation of Albatrosses and Petrels, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of H.R. 1305 is to implement the Agreement on the Conservation of Albatrosses and Petrels.

#### BACKGROUND AND NEED FOR LEGISLATION

Albatrosses and petrels are among the most endangered species of migratory seabirds in the world. Their long migratory ranges, spanning most of the globe, and their dependence on coastal and marine habitat, have resulted in numerous threats to their populations from interactions with fishing gear, introduced predators and invasive species, disease, land use changes, and disturbance of nesting sites.

Longline and trawl fishing pose grave threats to many species of albatrosses and petrels. According to a 2011 literature review, potentially more than 320,000 seabirds per year are caught as by-

catch by commercial longline-fishing.<sup>1</sup> Foreign longline fleets such as the Japanese tuna fleet (20,000 birds per year, mostly albatross) and Spanish longline fishing fleets (56,000 birds per year, mostly shearwaters) are some of the worst offenders, although Japan has improved its bycatch avoidance measures in recent years.<sup>2</sup>

Countries throughout the migratory range of albatrosses and petrels have taken steps to protect these species,<sup>3</sup> but given the broad migratory ranges and patchwork of protective measures, there is a need for international cooperation in the conservation of these migratory birds.

The Agreement on the Conservation of Albatrosses and Petrels<sup>4</sup> (ACAP) is a multilateral treaty that coordinates conservation efforts for threatened and endangered albatross and petrel species. The treaty applies to 31 species of seabirds: 22 species of albatrosses, seven petrel species, and two species of shearwaters:<sup>5</sup> three of these species are Critically Endangered, eight are Endangered, ten are Vulnerable, seven are Near Threatened, and only three are Least Concern according to the IUCN Red List.<sup>6</sup> ACAP was opened for signature in 2001 and entered into force in 2004. Thirteen countries are parties to the agreement.

The United States has not ratified ACAP; therefore, the United States sends an observer to ACAP meetings who cannot vote on amendments to the agreement. Ratification of ACAP has enjoyed support from both Republican and Democratic administrations: the State Department under George W. Bush transmitted ACAP to the U.S. Senate on September 26, 2008,<sup>7</sup> and the treaty remained a priority of the Obama administration. However, the Senate has yet to vote to ratify the agreement.

Although most species of albatrosses and petrels do not appear in U.S. waters, the Endangered Species Act listed short-tailed albatross (*Phoebastria albatrus*) is found in the North Pacific. U.S. fisheries have made great progress in implementing seabird bycatch avoidance measures and reducing the number of albatrosses caught in longline fishing operations.<sup>8</sup> In 2013, the Pacific Fisheries Management Council adopted seabird bycatch mitigation recommendations that have resulted in those fishing operations rarely catching short-tailed albatross.<sup>9</sup>

The Albatross and Petrel Conservation Act would serve as the implementing legislation for ACAP by authorizing the Secretary of

<sup>1</sup>Orea R.J. Anderson et al., *Global Seabird Bycatch in Longline Fisheries*, 14 ENDANGERED SPECIES RES. 91, 91 (2011), [https://www.int-res.com/articles/esr\\_oa/n014p091.pdf](https://www.int-res.com/articles/esr_oa/n014p091.pdf).

<sup>2</sup>*Id.* at 99, 100, 102.

<sup>3</sup>See, e.g., Danielle Hall, *Saving Albatross Lives with Bird Scaring Lines*, SMITHSONIAN OCEAN (Aug. 2017), <https://ocean.si.edu/ocean-life/seabirds/saving-albatross-lives-bird-scaring-lines>.

<sup>4</sup>Agreement on the Conservation of Albatrosses and Petrels, *opened for signature* June 19, 2001, [2004] A.T.S. 5, <https://www.acap.aq/en/acap-agreement/206-agreement-on-the-conservation-of-albatrosses-and-petrels/file>.

<sup>5</sup>*Id.* annex I. (The treaty categorizes the two shearwaters (*Ardenna creatopus* and *Puffinus mauretanicus*) as petrels.)

<sup>6</sup>See INT'L UNION FOR CONSERVATION OF NATURE & NAT. RES., THE IUCN RED LIST OF THREATENED SPECIES, <https://www.iucn.org/resources/conservation-tools/iucn-red-list-threatened-species> (last visited Oct. 4, 2019).

<sup>7</sup>S. TREATY DOC. NO. 110-22 (2008), <https://www.congress.gov/110/cdoc/tdoc22/CDOC-110tdoc22.pdf>.

<sup>8</sup>See, e.g., Edward F. Melvin et al., *Lessons from Seabird Conservation in Alaskan Longline Fisheries*, 33 CONSERVATION BIOLOGY 842 (2019).

<sup>9</sup>THOMAS P. GOOD ET AL., NAT'L MARINE FISHERIES SERV., OBSERVED AND ESTIMATED BYCATCH OF SHORT-TAILED ALBATROSS IN U.S. WEST COAST GROUND FISH FISHERIES 2014-2015 (2017), [https://www.pcouncil.org/wp-content/uploads/2017/03/F5a\\_NMFS\\_Rpt6\\_ElectricOnly\\_STAL\\_bycatch\\_report\\_2017\\_Apr2017BB.pdf](https://www.pcouncil.org/wp-content/uploads/2017/03/F5a_NMFS_Rpt6_ElectricOnly_STAL_bycatch_report_2017_Apr2017BB.pdf).

the Interior and the Secretary of Commerce to promulgate regulations that would promote the reestablishment of albatross and petrel populations, control the threats to the birds and their breeding sites, promote scientific research, develop and promote bycatch avoidance measures, and encourage data sharing and cooperation with other countries for the conservation of the protected birds. It would also protect the listed bird species from fishing on the high seas.

#### COMMITTEE ACTION

H.R. 1305 was introduced on February 15, 2019, by Representative Alan S. Lowenthal (D-CA). The bill was referred to the Committee on Natural Resources and, in addition, to the Committee on Foreign Affairs. The former Committee referred the bill to the Subcommittee on Water, Oceans, and Wildlife. On March 26, 2019, the Subcommittee met to consider the bill. On June 19, 2019, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered. The bill was ordered favorably reported to the House of Representatives by a roll call vote of 21 yeas and 12 nays, as follows:

Date: June 19, 2019

**COMMITTEE ON NATURAL RESOURCES**  
116<sup>th</sup> Congress - Roll Call

**Bill / Motion:** H.R. 1305**Amendment:** Final Passage**Disposition:** H.R. 1305 was adopted and ordered favorably reported to the House of Representatives by a roll call vote of 21 yeas and 12 nays.

	DEM. MEMBERS (25)	YEAS	NAYS	PRESENT
1	Mr. Brown, MD	X		
2	Mr. Cartwright, PA	X		
3	Mr. Case, HI	X		
4	Mr. Clay, MO	X		
5	Mr. Costa, CA	X		
6	Mr. Cox, CA	X		
7	Mr. Cunningham, SC	X		
8	Ms. DeGette, CO			
9	Mrs. Dingell, MI	X		
10	Mr. Gallego, AZ	X		
11	Mr. Grijalva, AZ ( <i>Chair</i> )	X		
12	Ms. Haaland, NM	X		
13	Mr. Horsford, NV	X		
14	Mr. Huffman, CA	X		
15	Mr. Levin, CA	X		
16	Mr. Lowenthal, CA	X		
17	Mr. McEachin, VA			
18	Ms. Napolitano, CA	X		
19	Mr. Neguse, CO	X		
20	Mr. Sablan, CNMI			
21	Mr. San Nicolas, GU			
22	Mr. Soto, FL	X		
23	Mr. Van Drew, NJ	X		
24	Mr. Tonko, NY	X		
25	Ms. Velázquez, NY	X		
	<b>REP. MEMBERS (19)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bishop, UT ( <i>Ranking</i> )		X	
2	Ms. Cheney, WY		X	
3	Mr. Cook, CA		X	
4	Mr. Curtis, UT			
5	Mr. Fulcher, ID		X	
6	Mr. Gohmert, TX		X	
7	Ms. González-Colón, PR		X	
8	Mr. Gosar, AZ		X	
9	Mr. Graves, LA			
10	Mr. Hern, OK			
11	Mr. Hice, GA			
12	Mr. Johnson, LA			
13	Mr. Lamborn, CO		X	
14	Mr. McClintock, CA		X	
15	Mrs. Radewagen, AS			
16	Mr. Webster, FL		X	
17	Mr. Westerman, AR		X	
18	Mr. Wittman, VA		X	
19	Mr. Young, AK			
	<b>TOTALS</b>	21	12	
	Total: 44 / Quorum: 15 / Report: 23	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

## HEARINGS

For the purposes of section 103(i) of H.Res. 6 of the 116th Congress—the following hearing was used to develop or consider H.R. 1305: legislative hearing by the Subcommittee on Water, Oceans, and Wildlife held on March 26, 2019.

## SECTION-BY-SECTION ANALYSIS

## Title I—Conservation Measures

*Section 101: Reestablishment of species.* This section authorizes the Department of the Interior (DOI), including the U.S. Fish and Wildlife Service (FWS), in consultation with the Secretary of Commerce, to carry out activities that reestablish albatrosses and petrels within their range.

*Section 102: Management of nonnative species.* This section authorizes DOI and the Department of Commerce (Commerce), including the National Marine Fisheries Service (NMFS), to prevent, eradicate, and control invasive and nonnative species that have a detrimental effect on albatrosses and petrels. These activities may include efforts regarding management plans, research and development of management techniques, regional assessments, decision-support tools, rapid response, mapping, and education.

*Section 103: Habitat conservation and restoration.* This section utilizes authorities under other laws such as the Migratory Bird Conservation Act to authorize DOI to conserve, protect, and restore breeding sites. Similarly, Commerce would be authorized to conserve and protect marine habitat important to albatrosses and petrels under the National Marine Sanctuaries Act and the Magnuson-Stevens Act.

*Section 104: Management of human activities.* This section authorizes research on the impacts of marine debris and pollutants on albatrosses and petrels. It also authorizes DOI and Commerce to develop methods and regulations in coordination with the U.S. Coast Guard to prevent, minimize, or mitigate the taking and disturbance of albatrosses and petrels by fishing operations both in U.S. waters and on the high seas. Commerce would be authorized to develop and undertake measures to minimize bycatch of albatrosses and petrels.

*Section 105: Education and public awareness.* This section authorizes transparent data sharing of the status of and threats to albatrosses and petrels and any actions taken under ACAP, working with other countries to develop training programs and materials, and training personnel tasked with implementing this Act.

## Title II—Prohibited Acts, Permits, and Exemptions

*Section 201: Prohibited Acts.* This section prohibits the take or attempted take of albatrosses and petrels, as defined under the Migratory Bird Treaty Act.

*Section 202: Authorization of take.* This section allows DOI to authorize the direct or incidental take of albatrosses and petrels through a permit or regulation. These authorizations would be limited in area and duration, may not negatively impact the conservation status of the birds, and may not authorize activities otherwise prohibited by other statutes or regulations. Access to breeding sites

permitted under the bill must minimize disturbance to the albatrosses and petrels and their habitats.

*Section 203: Exemption.* This section exempts military activities from the take provisions of the bill. DOI, in consultation with Commerce and the Department of Defense, may issue guidance for minimizing take incidental to military activities. If bycatch avoidance measures developed under Section 104 are carried out, any bycatch of albatrosses and petrels incidental to otherwise lawful fishing activities would be exempt from penalties.

### Title III—Penalties and Enforcement

*Section 301: Enforcement.* This section authorizes the enforcement of the bill subject to the same enforcement and penalties provisions of the Magnuson-Stevens Act and the Migratory Bird Treaty Act.

### Title IV—Agreement Authority

*Section 401: Agreement Authority.* This section designates FWS and NMFS as the authority to undertake, monitor, and control activities carried out under the bill and ACAP, and to designate a representative to ACAP.

*Section 402: Reporting.* This section requires a report to Congress every four years from DOI on the status of the covered albatross and petrel species and any actions and measures taken to conserve them.

*Section 403: General Coordination.* This section directs DOI and Commerce to work together and with other agencies, as appropriate, to carry out this Act.

### Title V—International Cooperation and Assistance

*Section 501: Cooperation among nations.* This section authorizes DOI, Commerce, and the State Department to cooperate with other countries for the conservation of albatrosses and petrels, including by developing data sharing systems, exchanging strategies for enforcement and management practices, implementing educational programs, developing public information programs, developing conservation techniques, exchanging best practices, and entering into cooperative agreements. DOI and Commerce may also provide training, technical, and financial support to assist in implementing ACAP.

### Title VI—Bycatch and Equivalent Conservation

*Section 601: Protected living marine resources.* This section amends the High Seas Driftnet Fishing Moratorium Protection Act to include the species protected by the bill.

### Title VII—Miscellaneous Provisions

*Section 701: Regulatory authority.* This section gives authority to the Secretary of the Interior and the Secretary of Commerce to issue regulations to carry out the bill.

*Section 702: Administration.* This section clarifies that nothing in the bill repeals, supersedes, overrides, or modifies any other federal law. It also clarifies that the Secretary of Commerce and the Sec-

retary of Interior cannot carry out activities in the land or waters subject to the jurisdiction of the other unless the one with jurisdiction agrees. In areas without a clear jurisdiction, the two departments shall carry out the Act in consultation with one another.

*Section 703: Effective date.* The bill would take effect 180 days after it is enacted into law.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources oversight findings and recommendations are reflected in the body of this report.

#### COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 20, 2019.*

Hon. RAÚL M. GRIJALVA,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1305, the Albatross and Petrel Conservation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Janani Shankaran.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

<b>H.R. 1305, Albatross and Petrel Conservation Act</b>			
As ordered reported by the House Committee on Natural Resources on June 19, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
<b>Direct Spending (Outlays)</b>	0	*	*
<b>Revenues</b>	0	*	*
<b>Deficit Effect</b>	0	*	*
<b>Spending Subject to Appropriation (Outlays)</b>	0	*	not estimated
Statutory pay-as-you-go procedures apply?	Yes	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.			

H.R. 1305 would authorize the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) to carry out activities—like controlling invasive species and researching pollutants—intended to conserve and protect albatrosses and petrels. The bill also would direct USFWS and NOAA to designate officials to attend meetings of the international Agreement on the Conservation of Albatrosses and Petrels.

Using existing authority, USFWS and NOAA are already carrying out several activities authorized and required under H.R. 1305. However, CBO expects that implementing the bill could increase the number of albatross and petrel species under federal protection. On that basis, CBO estimates that any costs to implement H.R. 1305 would be insignificant over the 2019–2024 period; any spending would be subject to the availability of appropriated funds.

Enacting H.R. 1305 could increase revenues and associated direct spending from civil and criminal penalties collected under the Migratory Bird Treaty Act and the Magnuson-Stevens Fishery Conservation and Management Act. CBO expects that additional violations of those acts would occur infrequently and we estimate that the net effect on the deficit would be negligible over the 2019–2029 period.

The CBO staff contact for this estimate is Janani Shankaran. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill is to implement the Agreement on the Conservation of Albatrosses and Petrels.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

## UNFUNDED MANDATES REFORM ACT STATEMENT

This bill contains no unfunded mandates.

## EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**HIGH SEAS DRIFTNET FISHING MORATORIUM  
PROTECTION ACT**

\* \* \* \* \*

**TITLE VI—DRIFTNET MORATORIUM**

\* \* \* \* \*

**SEC. 610. EQUIVALENT CONSERVATION MEASURES.**

(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607—

(1) a nation if—

(A) fishing vessels of that nation are engaged, or have been engaged during the preceding 3 years in fishing activities or practices—

(i) in waters beyond any national jurisdiction that result in bycatch of a protected living marine resource; or

(ii) beyond the exclusive economic zone of the United States that result in by catch of a protected living marine resource shared by the United States;

(B) the relevant international organization for the conservation and protection of such resources or the relevant international or regional fishery organization has failed to implement effective measures to end or reduce such bycatch, or the nation is not a party to, or does not maintain cooperating status with, such organization; and

- (C) the nation has not adopted a regulatory program governing such fishing practices designed to end or reduce such bycatch that is comparable to that of the United States, taking into account different conditions.
- (2) a nation if—
- (A) fishing vessels of that nation are engaged, or have been engaged during the preceding 3 years, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and
- (B) the nation has not adopted a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions.
- (b) CONSULTATION AND NEGOTIATION.—The Secretary, acting through the Secretary of State, shall—
- (1) notify, as soon as possible, the President and nations that have been identified under subsection (a), and also notify other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this section and this Act;
- (2) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, fishing activities or practices described in subsection (a), for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species;
- (3) seek agreements calling for international restrictions on fishing activities or practices described in subsection (a) through the United Nations, the Food and Agriculture Organization's Committee on Fisheries, and appropriate international fishery management bodies; and
- (4) initiate the amendment of any existing international treaty for the protection and conservation of such species to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section.
- (c) CONSERVATION CERTIFICATION PROCEDURE.—
- (1) DETERMINATION.—The Secretary shall establish a procedure consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, for determining whether the government of a harvesting nation identified under subsection (a) and listed in the report under section 607—
- (A) has provided documentary evidence of the adoption of a regulatory program governing the conservation of the protected living marine resource that is comparable to that of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and
- (B) has established a management plan containing requirements that will assist in gathering species-specific data to support international stock assessments and con-

servation enforcement efforts for protected living marine resources.

(2) PROCEDURAL REQUIREMENT.—The procedure established by the Secretary under paragraph (1) shall include notice and opportunity for comment by any such nation.

(3) CERTIFICATION.—The Secretary shall certify to the Congress by January 31, 2007, and biennially thereafter whether each such nation has provided the documentary evidence described in paragraph (1)(A) and established a management plan described in paragraph (1)(B).

(4) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure to authorize, on a shipment-by-shipment, shipper-by-shipper, or other basis the importation of fish or fish products from a vessel of a nation issued a negative certification under paragraph (1) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

(A) are comparable to those of the United States, taking into account different conditions; and

(B) include the gathering of species specific data that can be used to support international and regional stock assessments and conservation efforts for protected living marine resources.

(5) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) (except to the extent that such provisions apply to sport fishing equipment or fish or fish products not caught by the vessels engaged in illegal, unreported, or unregulated fishing) shall apply to any nation identified under subsection (a) for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

(d) INTERNATIONAL COOPERATION AND ASSISTANCE.—To the greatest extent possible consistent with existing authority and the availability of funds, the Secretary shall—

(1) provide appropriate assistance to nations identified by the Secretary under subsection (a) and international organizations of which those nations are members to assist those nations in qualifying for certification under subsection (c);

(2) undertake, where appropriate, cooperative research activities on species statistics and improved harvesting techniques, with those nations or organizations;

(3) encourage and facilitate the transfer of appropriate technology to those nations or organizations to assist those nations in qualifying for certification under subsection (c); and

(4) provide assistance to those nations or organizations in designing and implementing appropriate fish harvesting plans.

(e) PROTECTED LIVING MARINE RESOURCE DEFINED.—In this section the term “protected living marine resource”—

[(1) means non-target fish, sea turtles, or marine mammals that are protected under United States law or international agreement, including the Marine Mammal Protection Act, the Endangered Species Act, the Shark Finning Prohibition Act,

and the Convention on International Trade in Endangered Species of Wild Flora and Fauna; but】

(1) *except as provided in paragraph (2), means nontarget fish, sea turtles, seabirds, or marine mammals that are protected under United States law or international agreement, including—*

(A) *the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.);*

(B) *the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);*

(C) *the Shark Finning Prohibition Act (16 U.S.C. 1822 note; Public Law 106-557), including amendments made by that Act;*

(D) *the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington March 3, 1973 (27 UST 1087, TIAS 8249); and*

(E) *the Albatross and Petrel Conservation Act; but*

(2) *does not include species, except sharks, managed under the Magnuson-Stevens Fishery Conservation and Management Act, the Atlantic Tunas Convention Act, or any international fishery management agreement.*

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2007 through 2013 such sums as are necessary to carry out this section.

\* \* \* \* \*

ELIOT L. ENGEL, NEW YORK  
CHAIRMAN

JASON STEINBAUM  
STAFF DIRECTOR

COMMITTEE CORRESPONDENCE



One Hundred Sixteenth Congress  
U.S. House of Representatives  
Committee on Foreign Affairs  
2170 Rayburn House Office Building  
Washington, DC 20515  
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MICHAEL T. McCAUL, TEXAS  
RANKING REPUBLICAN MEMBER

BRENDAN P. SHIELDS  
REPUBLICAN STAFF DIRECTOR

July 15, 2019

The Honorable Raúl Grijalva  
Chairman, Committee on Natural Resources  
U.S. House of Representatives  
1324 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Grijalva:

I am writing to you concerning H.R. 1305, the Albatross and Petrel Conservation Act. I recognize that the bill contains provisions that fall within the jurisdiction of the Committee on Foreign Affairs.

In an effort work cooperatively and to expedite the consideration of the bill, the Committee on Foreign Affairs will waive referral of H.R. 1305. This, however, is not a waiver of future jurisdictional claims by the Committee on Foreign Affairs over this legislation or its subject matter.

Thank you for agreeing to include our exchange of letters in the *Congressional Record*. Additionally, I ask that you support the appointment of Committee on Foreign Affairs conferees during any House-Senate conference convened on this legislation.

Sincerely,

A handwritten signature in black ink that reads "Eliot L. Engel".

ELIOT L. ENGEL  
Chairman

Cc: Ranking Member Michael McCaul, Committee on Foreign Affairs  
Ranking Member Rob Bishop, Committee on Natural Resources  
Tom J. Wickham Jr., Parliamentarian

RAUL M. GRIJALVA OF ARIZONA  
CHAIRMAN

DAVID WAINWIS  
STAFF DIRECTOR

**U.S. House of Representatives**  
Committee on Natural Resources  
Washington, DC 20515

ROB BISHOP OF UTAH  
RANKING REPUBLICAN

FARISH BRADEN  
REPUBLICAN STAFF DIRECTOR

July 18, 2019

The Honorable Eliot L. Engel  
Chairman  
Committee on Foreign Affairs  
U.S. House of Representatives  
2170 Rayburn House Office Building  
Washington, D.C. 20515

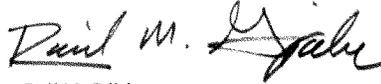
Dear Chairman Engel,

I am writing to you concerning H.R. 1305, the "Albatross and Petrel Conservation Act."

I appreciate your willingness to work cooperatively on this legislation. I recognize that the bill contains provisions that fall within the jurisdiction of the Committee on Foreign Affairs. I acknowledge that your Committee will not formally consider H.R. 1305 and agree that the inaction of your Committee with respect to the bill does not waive any future jurisdictional claim over the matters contained in the bill that fall within your Committee's Rule X jurisdiction.

I will ensure that our exchange of letters is included in the *Congressional Record* during floor consideration of the bill. I appreciate your cooperation regarding this legislation and look forward to continuing to work with you as this measure moves through the legislative process.

Sincerely,



Raúl M. Grijalva  
Chair  
House Natural Resources Committee

Cc: The Honorable Rob Bishop, Ranking Member  
The Honorable Thomas J. Wickham Jr., Parliamentarian

## DISSENTING VIEWS

H.R. 1305 aims to implement an international agreement on the conservation of albatross and petrels which entered into force in 2004.<sup>1</sup> Therein lies the issue and irony of this legislation: it grants federal agencies the authority to implement an international agreement to which the United States is not a signatory.<sup>2</sup>

As this is a multilateral agreement, U.S. participation can be granted by the Senate accession to the agreement demonstrated by passing enabling legislation. On September 26, 2008, the Bush Administration transmitted the agreement to the Senate for consideration.<sup>3</sup> The Senate has not passed an enabling law to date, although bills have been introduced in the House the last three Congresses.<sup>4</sup>

Proponents of this legislation have stated that joining the international agreement would require “no expenditure and no new regulations”.<sup>5</sup> However the legislation clearly lays out a path to additional regulation under section 701 of the bill, titled “regulatory authority.” In addition, section 501 of this legislation authorizes the Secretary to “provide training, technical, and financial support to the Secretariat, other international and intergovernmental organizations, and other countries . . .”<sup>6</sup>

Most concerning is that the Democrat Majority failed to solicit testimony from the departments of State, Commerce, or Interior on this legislation—even though they would be charged with carrying out any international obligations that would accompany the United States being a formal party to this agreement.

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<sup>1</sup> <https://www.acap.ag/index.php/resources/education/1078-about-acap?lang=en>.

<sup>2</sup> Argentina, Australia, Brazil, Chile, Ecuador, France, New Zealand, Norway, Peru, South Africa, Spain, United Kingdom, Uruguay: <https://www.acap.ag/en/resources/parties-to-acap>.

<sup>3</sup> <https://www.state.gov/e/oes/ocns/opal biodiversity/seabirds/>.

<sup>4</sup> H.R. 1305 (116th Cong.), H.R. 5763 (115th Cong.), and H.R. 4480 (114th Cong.).

<sup>5</sup> <https://www.audubon.org/magazine/may-june-2016/how-congress-can-protect-seabirds-one-simple>.

<sup>6</sup> H.R. 1305, Title V—International Cooperation and Assistance, Sec. 501 (b). 116th Congress.

Ultimately, this legislation is putting the cart before the horse by implementing an agreement to which this Nation has not yet agreed. Even if we were to agree, this legislation would be unnecessary. Should the Senate choose to make the United States a signatory to this agreement, the federal agencies that tasked with implementing this agreement have existing authority under the Migratory Bird Treaty Act and the Magnuson-Stevens Fishery Conservation and Management Act.

TOM McCLINTOCK.

