

Calendar No. 621

113TH CONGRESS
2^D SESSION

S. 2482

To implement the Convention on the Conservation and Management of the High Seas Fisheries Resources in the North Pacific Ocean, as adopted at Tokyo on February 24, 2012, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2014

Mr. BEGICH (for himself and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 8, 2014

Reported by Mr. ROCKEFELLER, with an amendment

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

A BILL

To implement the Convention on the Conservation and Management of the High Seas Fisheries Resources in the North Pacific Ocean, as adopted at Tokyo on February 24, 2012, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “North Pacific Fisheries
3 Convention Implementation Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **ADVISORY COMMITTEE.**—The term “Advi-
7 sory Committee” means the advisory committee es-
8 tablished under section 3.

9 (2) **COMMISSION.**—The term “Commission”
10 means the North Pacific Fisheries Commission es-
11 tablished pursuant to the North Pacific Fisheries
12 Convention.

13 (3) **COMMISSIONER.**—The term “Commis-
14 sioner” means a U.S. Commissioner appointed under
15 section 3.

16 (4) **CONVENTION AREA.**—The term “Conven-
17 tion Area” means the waters of the high seas areas
18 of the North Pacific Ocean, excluding the high seas
19 areas of the Bering Sea and other high seas areas
20 that are surrounded by the exclusive economic zone
21 of a single nation, which are bounded to the south
22 by a continuous line beginning at the seaward limit
23 of waters under the jurisdiction of the United States
24 around the Commonwealth of the Northern Mariana
25 Islands at 20 degrees North latitude, then pro-
26 ceeding East and connecting the coordinates:

1 20°00'00", 180°00'00"E/W, 10°00'00"N
 2 180°00'00"E/W, 10°00'00"N, 140°00'00"W,
 3 20°00'00"N, 140°00'00"W; and thence East to the
 4 seaward limit of waters under the fisheries jurisdic-
 5 tion of Mexico.

6 (5) COUNCIL.—The term “Council” means the
 7 Western Pacific Fishery Management Council, the
 8 Pacific Fishery Management Council, or the North
 9 Pacific Fishery Management Council.

10 (6) EXCLUSIVE ECONOMIC ZONE.—The term
 11 “exclusive economic zone” means the zone estab-
 12 lished by Presidential Proclamation Numbered 5030
 13 of March 10, 1983.

14 (7) FISHERIES RESOURCES.—

15 (A) IN GENERAL.—The term “fisheries re-
 16 sources” means all fish, mollusks, crustaceans,
 17 and other marine species caught by a fishing
 18 vessel within the Convention Area.

19 (B) EXCLUSIONS.—The term “fisheries re-
 20 sources” does not include—

21 (i) sedentary species insofar as they
 22 are subject to the sovereign rights of coast-
 23 al nations consistent with Article 77, para-
 24 graph 4 of the 1982 Convention and indi-
 25 cator species of vulnerable marine eco-

1 systems as listed in, or adopted pursuant
 2 to, Article 13, paragraph 5 of the North
 3 Pacific Fisheries Convention;

4 (ii) catadromous species;

5 (iii) marine mammals, marine reptiles,
 6 or seabirds; or

7 (iv) other marine species already cov-
 8 ered by pre-existing international fisheries
 9 management instruments within the area
 10 of competence of such instruments.

11 (8) FISHING ACTIVITIES.—

12 (A) IN GENERAL.—The term “fishing ac-
 13 tivities” means—

14 (i) the actual or attempted searching
 15 for, catching, taking, or harvesting of fish-
 16 eries resources;

17 (ii) engaging in any activity that can
 18 reasonably be expected to result in the lo-
 19 cating, catching, taking, or harvesting of
 20 fisheries resources for any purpose;

21 (iii) the processing of fisheries re-
 22 sources at sea;

23 (iv) the transshipment of fisheries re-
 24 sources at sea or in port; and

1 (v) any operation at sea in direct sup-
 2 port of, or in preparation for, any activity
 3 described in clauses (i) through (iv), in-
 4 cluding transshipment.

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

10 (9) FISHING VESSEL.—The term “fishing ves-
 11 sel” means any vessel used or intended for use for
 12 the purpose of engaging in fishing activities, includ-
 13 ing a processing vessel, a support ship, a carrier ves-
 14 sel, or any other vessel directly engaged in such fish-
 15 ing activities.

16 (10) NORTH PACIFIC FISHERIES CONVEN-
 17 TION.—The term “North Pacific Fisheries Conven-
 18 tion” means the Convention on the Conservation and
 19 Management of the High Seas Fisheries Resources
 20 in the North Pacific Ocean (including any annexes,
 21 amendments, or protocols that are in force, or have
 22 come into force) for the United States, which was
 23 adopted at Tokyo on February 24, 2012.

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

1 (A) any individual, whether or not a citizen
2 or national of the United States;

3 (B) any corporation, partnership, associa-
4 tion, or other entity, whether or not organized
5 or existing under the laws of any State; and

6 (C) any Federal, State, local, tribal, or for-
7 eign government or any entity of such govern-
8 ment.

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

11 (13) STATE.—The term “State” means each of
12 the several States of the United States, the District
13 of Columbia, the Commonwealth of the Northern
14 Mariana Islands, and any other commonwealth, ter-
15 ritory, or possession of the United States.

16 (14) TRANSSHIPMENT.—The term “trans-
17 shipment” means the unloading of any fisheries re-
18 sources taken in the Convention Area from 1 fishing
19 vessel to another fishing vessel either at sea or in
20 port.

21 (15) 1982 CONVENTION.—The term “1982
22 Convention” means the United Nations Convention
23 on the Law of the Sea of 10 December 1982.

1 **SEC. 3. APPOINTMENT OF UNITED STATES COMMISSIONER.**

2 (a) **APPOINTMENT.**—The United States shall be rep-
 3 resented on the Commission by 1 U.S. Commissioner. The
 4 President shall appoint an individual to serve on the Com-
 5 mission at the pleasure of the President. In making an
 6 appointment, the President shall select an individual who
 7 is knowledgeable or experienced concerning fisheries re-
 8 sources in the North Pacific Ocean.

9 (b) **ALTERNATE COMMISSIONERS.**—The Secretary of
 10 State, in consultation with the Secretary, may designate
 11 from time to time and for periods of time considered ap-
 12 propriate an alternate Commissioner to the Commission.
 13 An alternate Commissioner may exercise all powers and
 14 duties of a Commissioner in the absence of a Commis-
 15 sioner appointed under subsection (a) for whatever reason.

16 (c) **ADMINISTRATIVE MATTERS.**—

17 (1) **EMPLOYMENT STATUS.**—An individual serv-
 18 ing as a Commissioner, or an alternative Commis-
 19 sioner, other than an officer or employee of the
 20 United States Government, shall not be considered
 21 a Federal employee, except for the purposes of in-
 22 jury compensation or tort claims liability as provided
 23 in chapter 81 of title 5, United States Code, and
 24 chapter 171 of title 28, United States Code.

25 (2) **COMPENSATION.**—An individual serving as
 26 a Commissioner or an alternate Commissioner, al-

though an officer of the United States while so serving, shall receive no compensation for the individual's services as such Commissioner or alternate Commissioner.

(3) TRAVEL EXPENSES.—

(A) IN GENERAL.—The Secretary of State shall pay the necessary travel expenses of a Commissioner or an alternate Commissioner in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(B) REIMBURSEMENT.—The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this paragraph.

(d) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT OF PERMANENT ADVISORY COMMITTEE.—

(A) MEMBERSHIP.—There is established an advisory committee which shall be composed of—

(i) an individual that is a resident of Alaska appointed by the North Pacific Fishery Management Council;

(ii) an individual appointed by the Pacific Fishery Management Council;

(iii) an individual appointed by the Western Pacific Fishery Management Council; and

(iv) 2 individuals appointed by the Secretary, including—

(I) an Alaska Native, a Native Hawaiian, a native-born inhabitant of any possession of the United States in the Pacific Ocean, or a member of a Pacific Northwest tribe; and

(II) a marine fisheries scientist that is a resident of a State the adjacent exclusive economic zone for which is bounded by the Convention Area.

(B) TERMS AND PRIVILEGES.—Each member of the Advisory Committee shall serve for a term of 2 years and shall be eligible for reappointment. The Commissioner shall notify in advance the Advisory Committee of each meeting of the Commission. The Advisory Committee may attend each meeting and may examine and be heard on all proposed programs of

1 investigation, reports, recommendations, and
2 regulations of the Commission.

3 (C) PROCEDURES.—The Advisory Com-
4 mittee shall determine its organization and pre-
5 scribe its practices and procedures for carrying
6 out its functions under this Act, the North Pa-
7 cific Fisheries Convention, and the Magnuson-
8 Stevens Fishery Conservation and Management
9 Act (16 U.S.C. 1801 et seq.). The Advisory
10 Committee shall publish and make available to
11 the public a statement of its organization, prac-
12 tices, and procedures. A majority of the mem-
13 bers of the Advisory Committee shall constitute
14 a quorum to conduct business. Meetings of the
15 Advisory Committee, except when in executive
16 session, shall be open to the public. Prior notice
17 of each non-executive meeting shall be made
18 public in a timely fashion. The Advisory Com-
19 mittee shall not be subject to the Federal Advi-
20 sory Committee Act (5 U.S.C. App.).

21 (D) PROVISION OF INFORMATION.—The
22 Secretary and the Secretary of State shall fur-
23 nish the Advisory Committee with relevant in-
24 formation concerning fisheries resources and
25 international fishery agreements.

1 (2) ADMINISTRATIVE MATTERS.—

2 (A) SUPPORT SERVICES.—The Secretary
3 shall provide to the Advisory Committee in a
4 timely manner such administrative and tech-
5 nical support services as are necessary to func-
6 tion effectively.

7 (B) COMPENSATION; STATUS; EX-
8 PENSES.—An individual appointed to serve as a
9 member of the Advisory Committee—

10 (i) shall serve without pay, but while
11 away from the individual's home or regular
12 place of business in the performance of
13 services for the Advisory Committee shall
14 be allowed travel expenses, including per
15 diem in lieu of subsistence, in the same
16 manner as a person employed intermit-
17 tently in the Government service is allowed
18 expenses under section 5703 of title 5,
19 United States Code; and

20 (ii) shall not be considered a Federal
21 employee, except for the purposes of injury
22 compensation or tort claims liability as
23 provided in chapter 81 of title 5, United
24 States Code, and chapter 171 of title 28,
25 United States Code.

1 (e) MEMORANDUM OF UNDERSTANDING.—For fish-
2 eries resources in the Convention Area, the Secretary, in
3 coordination with the Secretary of State, shall develop a
4 memorandum of understanding with the Western Pacific,
5 Pacific, and North Pacific Fishery Management Councils,
6 that clarifies the role of each relevant Council with respect
7 to—

8 (1) participation in U.S. delegations to inter-
9 national fishery organizations in the Pacific Ocean,
10 including government-to-government consultations;

11 (2) providing formal recommendations to the
12 Secretary and the Secretary of State regarding nec-
13 essary measures for both domestic and foreign ves-
14 sels fishing for fisheries resources;

15 (3) coordinating positions with the U.S. delega-
16 tion for presentation to the appropriate international
17 fishery organization; and

18 (4) recommending those domestic fishing regu-
19 lations that are consistent with the actions of the
20 international fishery organization, for approval and
21 implementation under the Magnuson-Stevens Fish-
22 ery Conservation and Management Act (16 U.S.C.
23 1801 et seq.).

1 **SEC. 4. AUTHORITY AND RESPONSIBILITY OF THE SEC-**
 2 **RETARY OF STATE.**

3 The Secretary of State may—

4 (1) receive and transmit, on behalf of the
 5 United States, reports, requests, recommendations,
 6 proposals, decisions, and other communications of
 7 and to the Commission;

8 (2) in consultation with the Secretary, approve,
 9 disapprove, object to, or withdraw objections to by-
 10 laws and rules, or amendments thereof, adopted by
 11 the Commission;

12 (3) with the concurrence of the Secretary, ap-
 13 prove or disapprove the general annual program of
 14 the Commission with respect to conservation and
 15 management measures and other measures proposed
 16 or adopted in accordance with the North Pacific
 17 Fisheries Convention; and

18 (4) act upon, or refer to other appropriate au-
 19 thority, any communication under paragraph (1).

20 **SEC. 5. RULEMAKING AUTHORITY OF THE SECRETARY OF**
 21 **COMMERCE.**

22 (a) **PROMULGATION OF REGULATIONS.**—The Sec-
 23 retary, in consultation with the Secretary of State and,
 24 with respect to enforcement measures, the Secretary of the
 25 department in which the Coast Guard is operating, is au-
 26 thorized to promulgate such regulations as may be nec-

1 essary to carry out the U.S. international obligations
 2 under the North Pacific Fisheries Convention and this
 3 Act, including recommendations and decisions adopted by
 4 the Commission. If the Secretary has discretion in the im-
 5 plementation of 1 or more measures adopted by the Com-
 6 mission that would govern fisheries resources under the
 7 authority of a Regional Fishery Management Council, the
 8 Secretary may promulgate, to the extent practicable with-
 9 in the implementation schedule of the North Pacific Fish-
 10 eries Convention and any recommendations and decisions
 11 adopted by the Commission, such regulations in accord-
 12 ance with the procedures established by the Magnuson-
 13 Stevens Fishery Conservation and Management Act (16
 14 U.S.C. 1801 et seq.).

15 (b) RULE OF CONSTRUCTION.—Regulations promul-
 16 gated under subsection (a) shall be applicable only to a
 17 person, a fishing vessel, or fisheries resources covered by
 18 the North Pacific Fisheries Convention or this Act.

19 (c) JUDICIAL REVIEW OF REGULATIONS.—

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

1 are promulgated or the action is published in the
2 Federal Register, as applicable.

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

11 ~~(3) COPIES OF ADMINISTRATIVE RECORD.~~—A
12 response of the Secretary under paragraph ~~(2)~~ shall
13 include a copy of the administrative record for the
14 regulations 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
18 hearing at the earliest possible date.

19 **SEC. 6. ENFORCEMENT.**

20 ~~(a) IN GENERAL.~~—The Secretary and the Secretary
21 of the department in which the Coast Guard is oper-
22 ating—

23 ~~(1)~~ shall administer and enforce this Act and
24 any regulations issued under this Act, except to the
25 extent otherwise provided for in the Magnuson-Ste-

1 vens Fishery Conservation and Management Act (16
2 U.S.C. 1801 et seq.); and

3 ~~(2) may request and utilize on a reimbursed or~~
4 ~~non-reimbursed basis the assistance, services, per-~~
5 ~~sonnel, equipment, and facilities of other Federal de-~~
6 ~~partments and agencies in the administration and~~
7 ~~enforcement of this Act.~~

8 (b) ~~ADDITIONAL AUTHORITY.~~—The Secretary may
9 ~~conduct, and may request and utilize on a reimbursed or~~
10 ~~non-reimbursed basis the assistance, services, personnel,~~
11 ~~equipment, and facilities of other Federal departments~~
12 ~~and agencies in—~~

13 ~~(1) scientific, research, and other programs~~
14 ~~under this Act;~~

15 ~~(2) fishing operations and biological experi-~~
16 ~~ments for purposes of scientific investigation or~~
17 ~~other purposes necessary to implement the North~~
18 ~~Pacific Fisheries Convention;~~

19 ~~(3) the collection, utilization, and disclosure of~~
20 ~~such information as may be necessary to implement~~
21 ~~the North Pacific Fisheries Convention, subject to~~
22 ~~sections 552 and 552a of title 5, United States~~
23 ~~Code, and section 402(b) of the Magnuson-Stevens~~
24 ~~Fishery Conservation and Management Act (16~~
25 ~~U.S.C. 1881a(b));~~

1 (4) if recommended by the Commissioners or
 2 proposed by a Council with authority over the rel-
 3 evant fisheries; the assessment and collection of fees;
 4 not to exceed 3 percent of the ex-vessel value of fish
 5 harvested by vessels of the United States in fisheries
 6 managed pursuant to this Act; to recover the actual
 7 costs to the United States of management and en-
 8 forcement under this Act, which shall be deposited
 9 as an offsetting collection in, and credited to, the ac-
 10 count providing appropriations to carry out the func-
 11 tions of the Secretary under this Act; and

12 (5) the issuance of permits to owners and oper-
 13 ators of U.S. vessels to fish in the Convention Area
 14 seaward of the U.S. exclusive economic zone, under
 15 such terms and conditions as the Secretary may pre-
 16 scribe, including the period of time that a permit is
 17 valid.

18 (c) ~~CONSISTENCY WITH OTHER LAWS.~~—The Sec-
 19 retary shall ensure the consistency, to the extent prac-
 20 ticable, of fishery management programs administered
 21 under this Act, the Magnuson-Stevens Fishery Conserva-
 22 tion and Management Act (16 U.S.C. 1801 et seq.), the
 23 Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.),
 24 the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et
 25 seq.), section 401 of Public Law 108–219 (16 U.S.C. 1821

1 note) (relating to Pacific albacore tuna), the Atlantic
 2 Tunas Convention Act (16 U.S.C. 971 et seq.), and the
 3 Western and Central Pacific Fisheries Convention Imple-
 4 mentation Act (16 U.S.C. 6901 et seq.).

5 (d) SECRETARIAL ACTIONS.—Except as provided
 6 under subsection (c), the Secretary and the Secretary of
 7 the department in which the Coast Guard is operating
 8 shall prevent any person from violating this Act in the
 9 same manner, by the same means, and with the same ju-
 10 risdiction, powers, and duties as though sections 308
 11 through 311 of the Magnuson-Stevens Fishery Conserva-
 12 tion and Management Act (16 U.S.C. 1858, 1859, 1860,
 13 1861) were incorporated into and made a part of this Act.
 14 Any person that violates any provision of this Act is sub-
 15 ject to the penalties and entitled to the privileges and im-
 16 munities provided in the Magnuson-Stevens Fishery Con-
 17 servation and Management Act (16 U.S.C. 1801 et seq.)
 18 in the same manner, by the same means, and with the
 19 same jurisdiction, power, and duties as though sections
 20 308 through 311 of that Act (16 U.S.C. 1858, 1859,
 21 1860, 1861) were incorporated into and made a part of
 22 this Act.

23 (e) JURISDICTION OF THE COURTS.—

24 (1) IN GENERAL.—Subject to paragraphs (2)
 25 and (3), the district courts of the United States

1 shall have exclusive jurisdiction over any case or
 2 controversy arising under the provisions of this Act,
 3 and any such court may at any time—

4 (A) enter restraining orders or prohibi-
 5 tions;

6 (B) issue warrants, process in rem, or
 7 other process;

8 (C) prescribe and accept satisfactory bonds
 9 or other security; and

10 (D) take such other actions as are in the
 11 interest of justice.

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

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

20 (B) in the case of the Northern Mariana
 21 Islands, the appropriate court is the United
 22 States District Court for the District of the
 23 Northern Mariana Islands.

24 ~~(3) CONSTRUCTION.—Each violation shall be a~~
 25 separate offense and the offense shall be deemed to

1 have been committed not only in the district where
 2 the violation first occurred, but also in any other
 3 district authorized by law. Any offense not com-
 4 mitted in any district is subject to the venue provi-
 5 sions of section 3238 of title 18, United States
 6 Code.

7 ~~(f) CONFIDENTIALITY.—~~

8 ~~(1) IN GENERAL.—~~Any information submitted
 9 to the Secretary in compliance with any requirement
 10 under this Act shall be confidential and may not be
 11 disclosed, except—

12 ~~(A)~~ to a Federal employee who is respon-
 13 sible for administering, implementing, and en-
 14 forcing this Act;

15 ~~(B)~~ to the Commission, in accordance with
 16 requirements in the North Pacific Fisheries
 17 Convention and decisions of the Commission,
 18 and, insofar as possible, in accordance with an
 19 agreement with the Commission that prevents
 20 public disclosure of the identity or business of
 21 any person;

22 ~~(C)~~ to State or Marine Fisheries Commis-
 23 sion employees pursuant to an agreement with
 24 the Secretary that prevents public disclosure of
 25 the identity or business or person;

~~(D)~~ when required by court order; or

~~(E)~~ when the Secretary has obtained written authorization from the person submitting such information to release such information to another person for a reason not otherwise provided for in this paragraph; and such release does not violate other requirements of this Act.

~~(2)~~ USE OF INFORMATION.—

~~(A)~~ IN GENERAL.—Except as provided under subparagraph ~~(B)~~, the Secretary shall promulgate regulations regarding the procedures the Secretary considers necessary to preserve the confidentiality of information submitted under this Act.

~~(B)~~ EXCEPTION.—The Secretary may release or make public information submitted under this Act if the information is in any aggregate or summary form that does not directly or indirectly disclose the identity or business of any person.

~~(3)~~ RULE OF CONSTRUCTION.—Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary of any information submitted under this Act.

1 **SEC. 7. PROHIBITED ACTS.**

2 (a) ~~IN GENERAL.~~—It is unlawful for any person—

3 (1) to violate any provision of this Act or any
4 regulation or permit issued pursuant to this Act;

5 (2) to use any fishing vessel to engage in fish-
6 ing activities after the revocation, or during the pe-
7 riod of suspension, on an applicable permit issued
8 pursuant to this Act;

9 (3) to refuse to permit any officer authorized to
10 enforce the provisions of this Act to board a fishing
11 vessel subject to such person's control for the pur-
12 poses of conducting any search, investigation, or in-
13 spection in connection with the enforcement of this
14 Act or any regulation, permit, or the North Pacific
15 Fisheries Convention;

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

22 (5) to resist a lawful arrest for any act prohib-
23 ited by this Act;

24 (6) to knowingly and willfully ship, transport,
25 offer for sale, sell, purchase, import, export, or have
26 custody, control, or possession of, any fisheries re-

1 sources taken or retained in violation of this Act or
2 any regulation, permit, or agreement referred to in
3 paragraph (1) or (2);

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

8 (8) to knowingly and willfully submit to the
9 Secretary false information (including false informa-
10 tion regarding the capacity and extent to which a
11 United States fish processor, on an annual basis,
12 will process a portion of the optimum yield of a fish-
13 ery that will be harvested by fishing vessels of the
14 United States), regarding any matter that the Sec-
15 retary is considering in the course of carrying out
16 this Act;

17 (9) to forcibly assault, resist, oppose, impede,
18 intimidate, sexually harass, bribe, or interfere with
19 any observer on a vessel under this Act, or any data
20 collector employed by or under contract to any per-
21 son to carry out responsibilities under this Act;

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

24 (11) to knowingly and willfully ship, transport,
25 purchase, sell, offer for sale, import, export, or have

1 in custody, possession, or control any fisheries re-
2 sources taken or retained in violation of such regula-
3 tions;

4 (12) to fail to make, keep, or furnish any catch
5 returns, statistical records, or other reports required
6 by regulations adopted pursuant to this Act to be
7 made, kept, or furnished;

8 (13) to fail to stop a vessel upon being hailed
9 and instructed to stop by a duly authorized official
10 of the United States; or

11 (14) to import, in violation of any regulation
12 adopted pursuant to this Act, any fisheries resources
13 in any form of those species subject to regulation
14 pursuant to a recommendation, resolution, or deci-
15 sion of the Commission; or any fisheries resources in
16 any form not under regulation but under investiga-
17 tion by the Commission, during the period such fish-
18 eries resources have been denied entry in accordance
19 with the provisions of this Act.

20 (b) ENTRY CERTIFICATION.—In the case of any fish-
21 eries resources described in subsection (a) offered for
22 entry into the United States, the Secretary shall require
23 proof satisfactory to the Secretary that such fisheries re-
24 sources are not ineligible for such entry under the terms
25 of this Act.

1 **SEC. 8. COOPERATION IN CARRYING OUT CONVENTION.**

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

10 (b) **SCIENTIFIC AND OTHER PROGRAMS; FACILITIES**
11 **AND PERSONNEL.**—Each Federal agency is authorized,
12 upon the request of the Secretary, to cooperate in the con-
13 duct of scientific and other programs and to furnish facili-
14 ties and personnel for the purpose of assisting the Com-
15 mission in carrying out its duties under the North Pacific
16 Fisheries Convention.

17 (c) **SANCTIONED FISHING OPERATIONS AND BIO-**
18 **LOGICAL EXPERIMENTS.**—Nothing in this Act, or in the
19 laws of any State, prevents the Secretary or the Commis-
20 sion from—

21 (1) conducting or authorizing the conduct of
22 fishing operations and biological experiments at any
23 time for purposes of scientific investigation; or

24 (2) discharging any other duties prescribed by
25 the North Pacific Fisheries Convention.

1 (d) STATE JURISDICTION NOT AFFECTED.—Except
 2 as provided in subsection (e), nothing in this Act shall be
 3 construed to diminish or to increase the jurisdiction of any
 4 State in the territorial sea of the United States.

5 (e) APPLICATION OF REGULATIONS.—

6 (1) IN GENERAL.—Regulations promulgated
 7 under this Act shall apply within the boundaries of
 8 any State bordering on the Convention Area if—

9 (A) the Secretary has provided notice to
 10 the State;

11 (B) the State does not request a formal
 12 agency hearing; and

13 (C) the Secretary determines that the
 14 State—

15 (i) has not, within a reasonable period
 16 of time after the promulgation of regula-
 17 tions under this Act, enacted laws that im-
 18 plement the recommendations of the Com-
 19 mission within the boundaries of the State;
 20 or

21 (ii) has enacted laws that implement
 22 the recommendations of the Commission
 23 within the boundaries of the State that—

1 (H) are less restrictive than the
2 regulations promulgated under this
3 Act; or

4 (H) are not effectively enforced.

5 (2) DETERMINATION BY SECRETARY.—The reg-
6 ulations promulgated under this Act shall apply until
7 the Secretary determines that the State is effectively
8 enforcing within that State's boundaries measures
9 that are as restrictive or more restrictive than the
10 regulations promulgated under this Act.

11 (3) FORMAL AGENCY HEARING.—If a State re-
12 quests a formal agency hearing, the Secretary shall
13 not apply the regulations promulgated under this
14 Act within that State's boundaries unless the hear-
15 ing record supports a determination under clause (i)
16 or (ii) of paragraph (1)(C).

17 (f) REVIEW OF STATE LAWS AND REGULATIONS.—
18 To ensure that the purposes of subsection (e) are carried
19 out, the Secretary shall undertake a continuing review of
20 the laws of each State to which subsection (e) applies or
21 may apply and the extent to which such laws and regula-
22 tions are enforced.

23 **SEC. 9. TERRITORIAL PARTICIPATION.**

24 The Secretary of State shall ensure participation in
25 the Commission and its subsidiary bodies by the Common-

1 wealth of the Northern Mariana Islands to the same ex-
 2 tent provided to the territories of other nations.

3 **SEC. 10. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.**

4 Masters of commercial fishing vessels of nations fish-
 5 ing under the management authority of the North Pacific
 6 Fisheries Convention that do not carry vessel monitoring
 7 systems capable of communicating with U.S. enforcement
 8 authorities shall, prior to or as soon as reasonably possible
 9 after, entering and transiting the exclusive economic zone
 10 bounded by the Convention Area—

11 (1) notify the U.S. Coast Guard of the name,
 12 flag state, location, route, and destination of the ves-
 13 sel and of the circumstances under which it will
 14 enter U.S. waters;

15 (2) ensure that all fishing gear on board the
 16 vessel is stowed below deck or otherwise removed
 17 from the place it is normally used for fishing activi-
 18 ties and placed where it is not readily available for
 19 fishing activities; and

20 (3) if requested by an enforcement officer, pro-
 21 ceed to a specified location so that a vessel inspec-
 22 tion can be conducted.

23 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated to the Sec-
 25 retary of Commerce such sums as may be necessary to

1 carry out this Act and to pay the United States contribu-
 2 tion to the Commission under Article 12 of the North Pa-
 3 cific Fisheries Convention.

4 **SECTION 1. SHORT TITLE.**

5 *This Act may be cited as the “North Pacific Fisheries*
 6 *Convention Implementation Act”.*

7 **SEC. 2. DEFINITIONS.**

8 *In this Act:*

9 (1) **ADVISORY COMMITTEE.**—*The term “Advisory*
 10 *Committee” means the advisory committee established*
 11 *under section 3.*

12 (2) **COMMISSION.**—*The term “Commission”*
 13 *means the North Pacific Fisheries Commission estab-*
 14 *lished pursuant to the North Pacific Fisheries Con-*
 15 *vention.*

16 (3) **COMMISSIONER.**—*The term “Commissioner”*
 17 *means a U.S. Commissioner appointed under section*
 18 *3.*

19 (4) **CONVENTION AREA.**—*The term “Convention*
 20 *Area” means the waters of the high seas areas of the*
 21 *North Pacific Ocean, excluding the high seas areas of*
 22 *the Bering Sea and other high seas areas that are*
 23 *surrounded by the exclusive economic zone of a single*
 24 *nation, which are bounded to the south by a contin-*
 25 *uous line beginning at the seaward limit of waters*

1 *under the jurisdiction of the United States around the*
 2 *Commonwealth of the Northern Mariana Islands at*
 3 *20 degrees North latitude, then proceeding East and*
 4 *connecting the coordinates: 20°00'00", 180°00'00"E/*
 5 *W; 10°00'00"N 180°00'00"E/W; 10°00'00"N,*
 6 *140°00'00"W; 20°00'00"N, 140°00'00"W; and thence*
 7 *East to the seaward limit of waters under the fish-*
 8 *eries jurisdiction of Mexico.*

9 (5) COUNCIL.—*The term "Council" means the*
 10 *Western Pacific Regional Fishery Management Coun-*
 11 *cil, the Pacific Fishery Management Council, or the*
 12 *North Pacific Fishery Management Council.*

13 (6) EXCLUSIVE ECONOMIC ZONE.—*The term "ex-*
 14 *clusive economic zone" means the zone established by*
 15 *Presidential Proclamation Numbered 5030 of March*
 16 *10, 1983.*

17 (7) FISHERIES RESOURCES.—

18 (A) IN GENERAL.—*The term "fisheries re-*
 19 *sources" means all fish, mollusks, crustaceans,*
 20 *and other marine species caught by a fishing ves-*
 21 *sel within the Convention Area.*

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*

nations consistent with Article 77, paragraph 4 of the 1982 Convention and indicator species of vulnerable marine ecosystems as listed in, or adopted pursuant to, Article 13, paragraph 5 of the North Pacific Fisheries Convention;

(ii) catadromous species;

(iii) marine mammals, marine reptiles, or seabirds; or

(iv) other marine species already covered by pre-existing international fisheries management instruments within the area of competence of such instruments.

(8) *FISHING ACTIVITIES.*—

(A) *IN GENERAL.*—The term “fishing activities” means—

(i) the actual or attempted searching for, catching, taking, or harvesting of fisheries resources;

(ii) engaging in any activity that can reasonably be expected to result in the locating, catching, taking, or harvesting of fisheries resources for any purpose;

(iii) the processing of fisheries resources 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 (9) *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 (10) *NORTH PACIFIC FISHERIES CONVENTION.*—
18 The term “North Pacific Fisheries Convention” means
19 the Convention on the Conservation and Management
20 of the High Seas Fisheries Resources in the North Pa-
21 cific Ocean (including any annexes, amendments, or
22 protocols that are in force, or have come into force)
23 for the United States, which was adopted at Tokyo on
24 February 24, 2012.

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

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

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

6 (C) *any Federal, State, local, tribal, or for-*
 7 *ign government or any entity of such govern-*
 8 *ment.*

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

11 (13) *STATE.*—*The term “State” means each of*
 12 *the several States of the United States, the District of*
 13 *Columbia, the Commonwealth of the Northern Mar-*
 14 *iana Islands, and any other commonwealth, territory,*
 15 *or possession of the United States.*

16 (14) *STRADDLING STOCK.*—*The term “straddling*
 17 *stock” means a stock of fisheries resources which mi-*
 18 *grates between, or occurs in, the economic exclusion*
 19 *zone of 1 or more parties to the Convention and the*
 20 *Convention Area.*

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

1 (16) 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 **SEC. 3. APPOINTMENT OF U.S. COMMISSIONERS.**

5 (a) APPOINTMENT.—

6 (1) IN GENERAL.—*The United States shall be*
 7 *represented on the Commission by not more than 5*
 8 *U.S. Commissioners. In making each appointment,*
 9 *the President shall select a Commissioner from among*
 10 *individuals who are knowledgeable or experienced*
 11 *concerning fisheries resources in the North Pacific*
 12 *Ocean.*

13 (2) REPRESENTATION.—*At least 1 of the Com-*
 14 *missioners shall be—*

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

17 (i) *the Department of Commerce;*

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

19 (iii) *the United States Coast Guard;*

20 *and*

21 (B) *the chairperson or designee of the North*
 22 *Pacific Fishery Management Council;*

23 (C) *the chairperson or designee of the Pa-*
 24 *cific Fishery Management Council; and*

1 (D) the chairperson or designee of the West-
 2 ern Pacific Regional Fishery Management Coun-
 3 cil.

4 (b) *ALTERNATE COMMISSIONERS.*—*The Secretary of*
 5 *State, in consultation with the Secretary, may designate*
 6 *from time to time and for periods of time considered appro-*
 7 *priate an alternate Commissioner to the Commission. An*
 8 *alternate Commissioner may exercise all powers and duties*
 9 *of a Commissioner in the absence of a Commissioner ap-*
 10 *pointed under subsection (a).*

11 (c) *ADMINISTRATIVE MATTERS.*—

12 (1) *EMPLOYMENT STATUS.*—*An individual serv-*
 13 *ing as a Commissioner, or an alternative Commis-*
 14 *sioner, other than an officer or employee of the United*
 15 *States Government, shall not be considered a Federal*
 16 *employee, except for the purposes of injury compensa-*
 17 *tion or tort claims liability as provided in chapter 81*
 18 *of title 5, United States Code, and chapter 171 of title*
 19 *28, United States Code.*

20 (2) *COMPENSATION.*—*An individual serving as a*
 21 *Commissioner or an alternate Commissioner, al-*
 22 *though an officer of the United States while so serv-*
 23 *ing, shall receive no compensation for the individual's*
 24 *services as such Commissioner or alternate Commis-*
 25 *sioner.*

1 (3) *TRAVEL EXPENSES.*—

2 (A) *IN GENERAL.*—*The Secretary of State*
 3 *shall pay the necessary travel expenses of a Com-*
 4 *missioner or an alternate Commissioner in ac-*
 5 *cordance with the Federal Travel Regulations*
 6 *and sections 5701, 5702, 5704 through 5708, and*
 7 *5731 of title 5, United States Code.*

8 (B) *REIMBURSEMENT.*—*The Secretary may*
 9 *reimburse the Secretary of State for amounts ex-*
 10 *pende d by the Secretary of State under this*
 11 *paragraph.*

12 (d) *ADVISORY COMMITTEE.*—

13 (1) *ESTABLISHMENT OF PERMANENT ADVISORY*
 14 *COMMITTEE.*—

15 (A) *MEMBERSHIP.*—*There is established an*
 16 *advisory committee which shall be composed of*
 17 *11 members appointed by the Secretary, includ-*
 18 *ing—*

19 (i) *a member engaging in commercial*
 20 *fishing activities in the management area of*
 21 *the North Pacific Fishery Management*
 22 *Council;*

23 (ii) *a member engaging in commercial*
 24 *fishing activities in the management area of*
 25 *the Pacific Fishery Management Council;*

1 (iii) a member engaging in commercial
2 fishing activities in the management area of
3 the Western Pacific Regional Fishery Man-
4 agement Council;

5 (iv) 3 members from the indigenous
6 population of the North Pacific including
7 an Alaska Native, Native Hawaiian or a
8 native-born inhabitant of any possession of
9 the United States in the Pacific, and an in-
10 dividual from a Pacific Coast tribe;

11 (v) a member that is a marine fisheries
12 scientist that is a resident of a State the ad-
13 jacent exclusive economic zone for which is
14 bounded by the Convention Area;

15 (vi) a member representing a non-gov-
16 ernmental organization active in fishery
17 issues in the North Pacific;

18 (vii) a member nominated by the Gov-
19 ernor of the State of Alaska;

20 (viii) a member nominated by the Gov-
21 ernor of the State of Hawaii; and

22 (ix) a member nominated by the Gov-
23 ernor of the State of Washington.

24 (B) *TERMS AND PRIVILEGES.*—Each mem-
25 ber of the Advisory Committee shall serve for a

1 *term of 2 years and shall be eligible for re-*
2 *appointment for not more than 3 consecutive*
3 *terms. The Commissioners shall notify the Advi-*
4 *sory Committee in advance of each meeting of*
5 *the Commissioners. The Advisory Committee*
6 *may attend each meeting and may examine and*
7 *be heard on all proposed programs, investiga-*
8 *tions, reports, recommendations, and regulations*
9 *of the Commissioners.*

10 (C) *PROCEDURES.—The Advisory Com-*
11 *mittee shall determine its organization and pre-*
12 *scribe its practices and procedures for carrying*
13 *out its functions under this Act, the North Pa-*
14 *cific Fisheries Convention, and the Magnuson-*
15 *Stevens Fishery Conservation and Management*
16 *Act (16 U.S.C. 1801 et seq.). The Advisory Com-*
17 *mittee shall publish and make available to the*
18 *public a statement of its organization, practices,*
19 *and procedures. A majority of the members of the*
20 *Advisory Committee shall constitute a quorum to*
21 *conduct business. Meetings of the Advisory Com-*
22 *mittee, except when in executive session, shall be*
23 *open to the public. Prior notice of each non-exec-*
24 *utive meeting shall be made public in a timely*
25 *fashion. The Advisory Committee shall not be*

1 *subject to the Federal Advisory Committee Act (5*
 2 *U.S.C. App.).*

3 *(D) PROVISION OF INFORMATION.—The Sec-*
 4 *retary and the Secretary of State shall furnish*
 5 *the Advisory Committee with relevant informa-*
 6 *tion concerning fisheries resources and inter-*
 7 *national fishery agreements.*

8 *(2) ADMINISTRATIVE MATTERS.—*

9 *(A) SUPPORT SERVICES.—The Secretary*
 10 *shall provide to the Advisory Committee in a*
 11 *timely manner such administrative and tech-*
 12 *nical support services as are necessary to func-*
 13 *tion effectively.*

14 *(B) COMPENSATION; STATUS; EXPENSES.—*
 15 *An individual appointed to serve as a member of*
 16 *the Advisory Committee—*

17 *(i) shall serve without pay; and*

18 *(ii) shall not be considered a Federal*
 19 *employee, except for the purposes of injury*
 20 *compensation or tort claims liability as*
 21 *provided in chapter 81 of title 5, United*
 22 *States Code, and chapter 171 of title 28,*
 23 *United States Code.*

24 *(e) MEMORANDUM OF UNDERSTANDING.—For fisheries*
 25 *resources in the Convention Area, the Secretary, in coordi-*

1 *nation with the Secretary of State, shall develop a memo-*
 2 *randum of understanding with each relevant Council that*
 3 *clarifies the role of each relevant Council with respect to—*

4 (1) *participation in U.S. delegations to inter-*
 5 *national fishery organizations in the Pacific Ocean,*
 6 *including government-to-government consultations;*

7 (2) *providing formal recommendations to the*
 8 *Secretary and the Secretary of State regarding nec-*
 9 *essary measures for both domestic and foreign fishing*
 10 *vessels;*

11 (3) *coordinating positions with the U.S. delega-*
 12 *tion for presentation to the appropriate international*
 13 *fishery organization; and*

14 (4) *recommending those domestic fishing regula-*
 15 *tions that are consistent with the actions of the inter-*
 16 *national fishery organization, for approval and im-*
 17 *plementation under the Magnuson-Stevens Fishery*
 18 *Conservation and Management Act (16 U.S.C. 1801*
 19 *et seq.).*

20 **SEC. 4. AUTHORITY AND RESPONSIBILITY OF THE SEC-**
 21 **RETARY OF STATE.**

22 *The Secretary of State may—*

23 (1) *receive and transmit, on behalf of the United*
 24 *States, reports, requests, recommendations, proposals,*

1 *decisions, and other communications of and to the*
 2 *Commission;*

3 *(2) in consultation with the Secretary, approve,*
 4 *disapprove, object to, or withdraw objections to by-*
 5 *laws and rules, or amendments thereof, adopted by*
 6 *the Commission;*

7 *(3) with the concurrence of the Secretary, ap-*
 8 *prove or disapprove the general annual program of*
 9 *the Commission with respect to conservation and*
 10 *management measures and other measures proposed*
 11 *or adopted in accordance with the North Pacific Fish-*
 12 *eries Convention; and*

13 *(4) act upon, or refer to other appropriate au-*
 14 *thority, any communication under paragraph (1).*

15 **SEC. 5. AUTHORITY OF THE SECRETARY OF COMMERCE.**

16 *(a) PROMULGATION OF REGULATIONS.—The Sec-*
 17 *retary, in consultation with the Secretary of State and,*
 18 *with respect to enforcement measures, the Secretary of the*
 19 *department in which the Coast Guard is operating, is au-*
 20 *thorized to promulgate such regulations as may be nec-*
 21 *essary to carry out the U.S. international obligations under*
 22 *the North Pacific Fisheries Convention and this Act, includ-*
 23 *ing recommendations and decisions adopted by the Com-*
 24 *mission. If the Secretary has discretion in the implementa-*
 25 *tion of 1 or more measures adopted by the Commission that*

1 *would govern a straddling stock under the authority of a*
 2 *Council, the Secretary shall promulgate, to the extent prac-*
 3 *ticable within the implementation schedule of the North Pa-*
 4 *cific Fisheries Convention and any recommendations and*
 5 *decisions adopted by the Commission, such regulations in*
 6 *accordance with the procedures established by the Magnu-*
 7 *son-Stevens Fishery Conservation and Management Act (16*
 8 *U.S.C. 1801 et seq.).*

9 (b) *RULE OF CONSTRUCTION.*—*Regulations promul-*
 10 *gated under subsection (a) shall be applicable only to a per-*
 11 *son or a fishing vessel that is or has engaged in fishing*
 12 *activities, or fisheries resources covered by the North Pacific*
 13 *Fisheries Convention under this Act.*

14 (c) *ADDITIONAL AUTHORITY.*—*The Secretary may*
 15 *conduct, and may request and utilize on a reimbursed or*
 16 *non-reimbursed basis the assistance, services, personnel,*
 17 *equipment, and facilities of other Federal departments and*
 18 *agencies in—*

19 (1) *scientific, research, and other programs*
 20 *under this Act;*

21 (2) *fishing operations and biological experiments*
 22 *for purposes of scientific investigation or other pur-*
 23 *poses necessary to implement the North Pacific Fish-*
 24 *eries Convention;*

1 (3) *the collection, utilization, and disclosure of*
 2 *such information as may be necessary to implement*
 3 *the North Pacific Fisheries Convention, subject to sec-*
 4 *tions 552 and 552a of title 5, United States Code,*
 5 *and section 402(b) of the Magnuson-Stevens Fishery*
 6 *Conservation and Management Act (16 U.S.C.*
 7 *1881a(b));*

8 (4) *if recommended by the Commissioners, the*
 9 *assessment and collection of fees, not to exceed 3 per-*
 10 *cent of the ex-vessel value of fisheries resource har-*
 11 *vested by vessels of the United States in fisheries con-*
 12 *ducted in the Convention Area, to recover the actual*
 13 *costs to the United States of management and enforce-*
 14 *ment under this Act, which shall be deposited as an*
 15 *offsetting collection in, and credited to, the account*
 16 *providing appropriations to carry out the functions of*
 17 *the Secretary under this Act; and*

18 (5) *the issuance of permits to owners and opera-*
 19 *tors of U.S. vessels to engage in fishing activities in*
 20 *the Convention Area seaward of the U.S. exclusive*
 21 *economic zone, under such terms and conditions as*
 22 *the Secretary may prescribe, including the period of*
 23 *time that a permit is valid.*

24 (d) *CONSISTENCY WITH OTHER LAWS.—The Secretary*
 25 *shall ensure the consistency, to the extent practicable, of*

1 *fishery management programs administered under this Act,*
 2 *the Magnuson-Stevens Fishery Conservation and Manage-*
 3 *ment Act (16 U.S.C. 1801 et seq.), the Tuna Conventions*
 4 *Act of 1950 (16 U.S.C. 951 et seq.), the South Pacific Tuna*
 5 *Act of 1988 (16 U.S.C. 973 et seq.), section 401 of Public*
 6 *Law 108–219 (16 U.S.C. 1821 note) (relating to Pacific*
 7 *albacore tuna), the Atlantic Tunas Convention Act (16*
 8 *U.S.C. 971 et seq.), and the Western and Central Pacific*
 9 *Fisheries Convention Implementation Act (16 U.S.C. 6901*
 10 *et seq.).*

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

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

20 *(2) RESPONSES.—Notwithstanding any other*
 21 *provision of law, the Secretary shall file a response to*
 22 *any petition filed in accordance with paragraph (1),*
 23 *not later than 30 days after the date the Secretary is*
 24 *served with that petition, except that the appropriate*
 25 *court may extend the period for filing such a response*

1 upon a showing by the Secretary of good cause for
2 that extension.

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

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

11 **SEC. 6. ENFORCEMENT.**

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

14 (1) shall administer and enforce this Act and
15 any regulations issued under this Act, except to the
16 extent otherwise provided for in the Magnuson-Ste-
17 vens Fishery Conservation and Management Act (16
18 U.S.C. 1801 et seq.); and

19 (2) may request and utilize on a reimbursed or
20 non-reimbursed basis the assistance, services, per-
21 sonnel, equipment, and facilities of other Federal de-
22 partments and agencies in the administration and
23 enforcement of this Act.

24 (b) *SECRETARIAL ACTIONS.*—Except as provided
25 under subsection (c), the Secretary and the Secretary of the

1 department in which the Coast Guard is operating shall
 2 prevent any person from violating this Act with respect to
 3 fishing activities or the conservation of fisheries resources
 4 in the Convention Area in the same manner, by the same
 5 means, and with the same jurisdiction, powers, and duties
 6 as though sections 308 through 311 of the Magnuson-Stevens
 7 Fishery Conservation and Management Act (16 U.S.C.
 8 1858, 1859, 1860, 1861) were incorporated into and made
 9 a part of this Act. Any person that violates any provision
 10 of this Act is subject to the penalties and entitled to the
 11 privileges and immunities provided in the Magnuson-Stevens
 12 Fishery Conservation and Management Act (16 U.S.C.
 13 1801 et seq.) in the same manner, by the same means, and
 14 with the same jurisdiction, power, and duties as though sections
 15 308 through 311 of that Act (16 U.S.C. 1858, 1859,
 16 1860, 1861) were incorporated into and made a part of this
 17 Act.

18 (c) JURISDICTION OF THE COURTS.—

19 (1) IN GENERAL.—Subject to paragraphs (2) and
 20 (3), the district courts of the United States shall have
 21 exclusive jurisdiction over any case or controversy
 22 arising under the provisions of this Act, and any such
 23 court may at any time—

24 (A) enter restraining orders or prohibitions;

1 (B) issue warrants, process in rem, or other
2 process;

3 (C) prescribe and accept satisfactory bonds
4 or other security; and

5 (D) take such other actions as are in the in-
6 terest of justice.

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

12 (A) in the case of Guam and Wake Island,
13 the appropriate court is the United States Dis-
14 trict Court for the District of Guam; and

15 (B) in the case of the Northern Mariana Is-
16 lands, the appropriate court is the United States
17 District Court for the District of the Northern
18 Mariana Islands.

19 (3) *CONSTRUCTION.*—Each violation shall be a
20 separate offense and the offense shall be deemed to
21 have been committed not only in the district where
22 the violation first occurred, but also in any other dis-
23 trict authorized by law. Any offense not committed in
24 any district is subject to the venue provisions of sec-
25 tion 3238 of title 18, United States Code.

1 (d) *CONFIDENTIALITY.*—

2 (1) *IN GENERAL.*—Any information submitted to
3 the Secretary in compliance with any requirement
4 under this Act shall be confidential and may not be
5 disclosed, except—

6 (A) to a Federal employee who is respon-
7 sible for administering, implementing, or enforce-
8 ing this Act;

9 (B) to the Commission, in accordance with
10 requirements in the North Pacific Fisheries Con-
11 vention and decisions of the Commission, and,
12 insofar as possible, in accordance with an agree-
13 ment with the Commission that prevents public
14 disclosure of the identity or business of any per-
15 son;

16 (C) to State, Council, or Marine Fisheries
17 Commission employees pursuant to an agreement
18 with the Secretary that prevents public disclo-
19 sure of the identity or business of any person;

20 (D) when required by court order; or

21 (E) when the Secretary has obtained writ-
22 ten authorization from the person submitting
23 such information to release such information to
24 another person for a reason not otherwise pro-

1 *vided for in this paragraph, and such release*
 2 *does not violate other requirements of this Act.*

3 *(2) USE OF INFORMATION.—*

4 *(A) IN GENERAL.—Except as provided*
 5 *under subparagraph (B), the Secretary shall pro-*
 6 *mulgate regulations regarding the procedures the*
 7 *Secretary considers necessary to preserve the con-*
 8 *fidentiality of information submitted under this*
 9 *Act.*

10 *(B) EXCEPTION.—The Secretary may re-*
 11 *lease or make public information submitted*
 12 *under this Act if the information is in any ag-*
 13 *gregate or summary form that does not directly*
 14 *or indirectly disclose the identity or business of*
 15 *any person.*

16 *(3) RULE OF CONSTRUCTION.—Nothing in this*
 17 *subsection shall be interpreted or construed to prevent*
 18 *the use for conservation and management purposes by*
 19 *the Secretary of any information submitted under*
 20 *this Act.*

21 **SEC. 7. PROHIBITED ACTS.**

22 *It is unlawful for any person—*

23 *(1) to violate any provision of this Act or any*
 24 *regulation or permit issued pursuant to this Act;*

1 (2) to use any fishing vessel to engage in fishing
2 activities without, or after the revocation or during
3 the period of suspension of, an applicable permit
4 issued pursuant to this Act;

5 (3) to refuse to permit any officer authorized to
6 enforce the provisions of this Act to board a fishing
7 vessel subject to such person's control for the purposes
8 of conducting any search, investigation, or inspection
9 in connection with the enforcement of this Act or any
10 regulation, permit, or the North Pacific Fisheries
11 Convention;

12 (4) to assault, resist, oppose, impede, intimidate,
13 or interfere with any such authorized officer in the
14 conduct of any search, investigation, or inspection in
15 connection with the enforcement of this Act or any
16 regulation, permit, or the North Pacific Fisheries
17 Convention;

18 (5) to resist a lawful arrest for any act prohib-
19 ited by this Act or any regulation promulgated or
20 permit issued under this Act;

21 (6) to knowingly and willfully ship, transport,
22 offer for sale, sell, purchase, import, export, or have
23 custody, control, or possession of, any fisheries re-
24 sources taken or retained in violation of this Act or

1 *any regulation or permit referred to in paragraph (1)*
2 *or (2);*

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

7 *(8) to knowingly and willfully submit to the Sec-*
8 *retary false information (including false information*
9 *regarding the capacity and extent to which a United*
10 *States fish processor, on an annual basis, will process*
11 *a portion of the optimum yield of a fishery that will*
12 *be harvested by fishing vessels of the United States),*
13 *regarding any matter that the Secretary is consid-*
14 *ering in the course of carrying out this Act;*

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

20 *(10) to engage in fishing activities in violation*
21 *of any regulation adopted pursuant to this Act;*

22 *(11) to knowingly and willfully ship, transport,*
23 *purchase, sell, offer for sale, import, export, or have*
24 *in custody, possession, or control any fisheries re-*

1 *sources taken or retained in violation of such regula-*
2 *tions;*

3 *(12) to fail to make, keep, or furnish any catch*
4 *returns, statistical records, or other reports required*
5 *by regulations adopted pursuant to this Act to be*
6 *made, kept, or furnished;*

7 *(13) to fail to stop a vessel upon being hailed*
8 *and instructed to stop by a duly authorized official*
9 *of the United States;*

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

19 *(15) to make or submit any false record, account,*
20 *or label for, or any false identification of, any fish-*
21 *eries resources which has been, or is intended to be*
22 *imported, exported, transported, sold, offered for sale,*
23 *purchased, or received in interstate or foreign com-*
24 *merce; or*

1 (16) to refuse to authorize and accept boarding
 2 by a duly authorized inspector pursuant to proce-
 3 dures adopted by the Commission for the boarding
 4 and inspection of fishing vessels in the Convention
 5 Area.

6 **SEC. 8. COOPERATION IN CARRYING OUT CONVENTION.**

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

15 (b) *SCIENTIFIC AND OTHER PROGRAMS; FACILITIES*
 16 *AND PERSONNEL.*—*Each Federal agency is authorized,*
 17 *upon the request of the Secretary, to cooperate in the con-*
 18 *duct of scientific and other programs and to furnish facili-*
 19 *ties and personnel for the purpose of assisting the Commis-*
 20 *sion in carrying out its duties under the North Pacific*
 21 *Fisheries Convention.*

22 (c) *SANCTIONED FISHING OPERATIONS AND BIOLOGI-*
 23 *CAL EXPERIMENTS.*—*Nothing in this Act, or in the laws*
 24 *of any State, prevents the Secretary or the Commission*
 25 *from—*

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 North Pacific Fisheries Convention.*

6 (d) *STATE JURISDICTION NOT AFFECTED.—Nothing*
 7 *in this Act 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. 9. TERRITORIAL PARTICIPATION.**

11 *The Secretary of State shall ensure participation in*
 12 *the Commission and its subsidiary bodies by the Common-*
 13 *wealth of the Northern Mariana Islands to the same extent*
 14 *provided to the territories of other nations.*

15 **SEC. 10. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.**

16 *Masters of commercial fishing vessels of nations fishing*
 17 *under the management authority of the North Pacific Fish-*
 18 *eries Convention that do not carry vessel monitoring sys-*
 19 *tems capable of communicating with U.S. enforcement au-*
 20 *thorities shall, prior to or as soon as reasonably possible*
 21 *after, entering and transiting the exclusive economic zone*
 22 *bounded by the Convention Area—*

23 (1) *notify the U.S. Coast Guard of the name,*
 24 *flag state, location, route, and destination of the vessel*

1 *and of the circumstances under which it will enter*
 2 *U.S. waters;*

3 *(2) ensure that all fishing gear on board the ves-*
 4 *sel is stowed below deck or otherwise removed from the*
 5 *place it is normally used for fishing activities and*
 6 *placed where it is not readily available for fishing ac-*
 7 *tivities; and*

8 *(3) if requested by an enforcement officer, pro-*
 9 *ceed to a specified location so that a vessel inspection*
 10 *can be conducted.*

11 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

12 *(a) IN GENERAL.—There are authorized to be appro-*
 13 *priated to the Secretary and the Secretary of State such*
 14 *sums as may be necessary to carry out this Act and to pay*
 15 *the United States contribution to the Commission under Ar-*
 16 *ticle 12 of the North Pacific Fisheries Convention.*

17 *(b) INTERNATIONAL COOPERATION AND ASSIST-*
 18 *ANCE.—*

19 *(1) IN GENERAL.—Subject to the limits of avail-*
 20 *able appropriations and consistent with applicable*
 21 *law, the Secretary or the Secretary of State shall pro-*
 22 *vide appropriate assistance to developing nations,*
 23 *and international organizations of which such na-*
 24 *tions are members, to assist those nations in meeting*
 25 *their obligations under the Convention.*

1 (2) *TRANSFER OF FUNDS.*—*Subject to the limits*
2 *of available appropriations and consistent with other*
3 *applicable law, the Secretary and the Secretary of*
4 *State are authorized to transfer funds to any foreign*
5 *government, international, non-governmental, or*
6 *international organization, including the Commis-*
7 *sion, for purposes of carrying out the international*
8 *responsibilities under paragraph (1).*

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113TH CONGRESS
2^D Session

S. 2482

A BILL

To implement the Convention on the Conservation and Management of the High Seas Fisheries Resources in the North Pacific Ocean, as adopted at Tokyo on February 24, 2012, and for other purposes.

DECEMBER 8, 2014

Reported with an amendment