

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> 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.

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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

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## 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,*

3       **SECTION 1. SHORT TITLE.**

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

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

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

4           (2) COMMISSION.—The term “Commission”  
5       means the North Pacific Fisheries Commission es-  
6       tablished pursuant to the North Pacific Fisheries  
7       Convention.

8           (3) COMMISSIONER.—The term “Commis-  
9       sioner” means a U.S. Commissioner appointed under  
10      section 3.

11          (4) CONVENTION AREA.—The term “Conven-  
12      tion Area” means the waters of the high seas areas  
13      of the North Pacific Ocean, excluding the high seas  
14      areas of the Bering Sea and other high seas areas  
15      that are surrounded by the exclusive economic zone  
16      of a single nation, which are bounded to the south  
17      by a continuous line beginning at the seaward limit  
18      of waters under the jurisdiction of the United States  
19      around the Commonwealth of the Northern Mariana  
20      Islands at 20 degrees North latitude, then pro-  
21      ceeding East and connecting the coordinates:  
22      20°00'00”,        180°00'00”E/W;        10°00'00”N  
23      180°00'00”E/W;    10°00'00”N,        140°00'00”W;  
24      20°00'00”N, 140°00'00”W; and thence East to the

1 seaward limit of waters under the fisheries jurisdic-  
2 tion of Mexico.

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

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

11 (7) FISHERIES RESOURCES.—

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

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

18 (i) sedentary species insofar as they  
19 are subject to the sovereign rights of coast-  
20 al nations consistent with Article 77, para-  
21 graph 4 of the 1982 Convention and indi-  
22 cator species of vulnerable marine eco-  
23 systems as listed in, or adopted pursuant  
24 to, Article 13, paragraph 5 of the North  
25 Pacific Fisheries Convention;

- 1 (ii) catadromous species;  
2 (iii) marine mammals, marine reptiles,  
3 or seabirds; or  
4 (iv) other marine species already cov-  
5 ered by pre-existing international fisheries  
6 management instruments within the area  
7 of competence of such instruments.

8 (8) FISHING ACTIVITIES.—

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

11 (i) the actual or attempted searching  
12 for, catching, taking, or harvesting of fish-  
13 eries resources;

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

18 (iii) the processing of fisheries re-  
19 sources at sea;

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

22 (v) any operation at sea in direct sup-  
23 port of, or in preparation for, any activity  
24 described in clauses (i) through (iv), in-  
25 cluding transshipment.

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

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

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

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

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

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

1 (C) any Federal, State, local, tribal, or for-  
2 eign government or any entity of such govern-  
3 ment.

4 (12) SECRETARY.—The term “Secretary”  
5 means the Secretary of Commerce.

6 (13) STATE.—The term “State” means each of  
7 the several States of the United States, the District  
8 of Columbia, the Commonwealth of the Northern  
9 Mariana Islands, and any other commonwealth, ter-  
10 ritory, or possession of the United States.

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

16 (15) 1982 CONVENTION.—The term “1982  
17 Convention” means the United Nations Convention  
18 on the Law of the Sea of 10 December 1982.

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

20 (a) APPOINTMENT.—The United States shall be rep-  
21 resented on the Commission by 1 U.S. Commissioner. The  
22 President shall appoint an individual to serve on the Com-  
23 mission at the pleasure of the President. In making an  
24 appointment, the President shall select an individual who

1 is knowledgeable or experienced concerning fisheries re-  
2 sources in the North Pacific Ocean.

3 (b) ALTERNATE COMMISSIONERS.—The Secretary of  
4 State, in consultation with the Secretary, may designate  
5 from time to time and for periods of time considered ap-  
6 propriate an alternate Commissioner to the Commission.  
7 An alternate Commissioner may exercise all powers and  
8 duties of a Commissioner in the absence of a Commis-  
9 sioner appointed under subsection (a) for whatever reason.

10 (c) ADMINISTRATIVE MATTERS.—

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

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

25 (3) TRAVEL EXPENSES.—

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

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

11 (d) ADVISORY COMMITTEE.—

12 (1) ESTABLISHMENT OF PERMANENT ADVISORY  
13 COMMITTEE.—

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

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

20 (ii) an individual appointed by the Pa-  
21 cific Fishery Management Council;

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

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

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

8 (II) a marine fisheries scientist  
9 that is a resident of a State the adja-  
10 cent exclusive economic zone for which  
11 is bounded by the Convention Area.

12 (B) TERMS AND PRIVILEGES.—Each mem-  
13 ber of the Advisory Committee shall serve for a  
14 term of 2 years and shall be eligible for re-  
15 appointment. The Commissioner shall notify in  
16 advance the Advisory Committee of each meet-  
17 ing of the Commission. The Advisory Com-  
18 mittee may attend each meeting and may exam-  
19 ine and be heard on all proposed programs of  
20 investigation, reports, recommendations, and  
21 regulations of the Commission.

22 (C) PROCEDURES.—The Advisory Com-  
23 mittee shall determine its organization and pre-  
24 scribe its practices and procedures for carrying  
25 out its functions under this Act, the North Pa-

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

15 (D) PROVISION OF INFORMATION.—The  
16 Secretary and the Secretary of State shall fur-  
17 nish the Advisory Committee with relevant in-  
18 formation concerning fisheries resources and  
19 international fishery agreements.

20 (2) ADMINISTRATIVE MATTERS.—

21 (A) SUPPORT SERVICES.—The Secretary  
22 shall provide to the Advisory Committee in a  
23 timely manner such administrative and tech-  
24 nical support services as are necessary to func-  
25 tion effectively.

1           (B)    COMPENSATION;    STATUS;    EX-  
2           PENSES.—An individual appointed to serve as a  
3           member of the Advisory Committee—

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

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

20           (e) MEMORANDUM OF UNDERSTANDING.—For fish-  
21           eries resources in the Convention Area, the Secretary, in  
22           coordination with the Secretary of State, shall develop a  
23           memorandum of understanding with the Western Pacific,  
24           Pacific, and North Pacific Fishery Management Councils,

1 that clarifies the role of each relevant Council with respect  
2 to—

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

6 (2) providing formal recommendations to the  
7 Secretary and the Secretary of State regarding nec-  
8 essary measures for both domestic and foreign ves-  
9 sels fishing for fisheries resources;

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

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

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

21 The Secretary of State may—

22 (1) receive and transmit, on behalf of the  
23 United States, reports, requests, recommendations,  
24 proposals, decisions, and other communications of  
25 and to the Commission;

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

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

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

13 **SEC. 5. RULEMAKING AUTHORITY OF THE SECRETARY OF**  
14 **COMMERCE.**

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

1 authority of a Regional Fishery Management Council, the  
2 Secretary may promulgate, to the extent practicable with-  
3 in the implementation schedule of the North Pacific Fish-  
4 eries Convention and any recommendations and decisions  
5 adopted by the Commission, such regulations in accord-  
6 ance with the procedures established by the Magnuson-  
7 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  
11 person, a fishing vessel, or fisheries resources covered by  
12 the North Pacific Fisheries Convention or this Act.

13 (c) JUDICIAL REVIEW OF REGULATIONS.—

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

22 (2) RESPONSES.—Notwithstanding any other  
23 provision of law, the Secretary shall file a response  
24 to any petition filed in accordance with paragraph  
25 (1), not later than 30 days after the date the Sec-

1       retary is served with that petition, except that the  
2       appropriate court may extend the period for filing  
3       such a response upon a showing by the Secretary of  
4       good cause for that extension.

5           (3) COPIES OF ADMINISTRATIVE RECORD.—A  
6       response of the Secretary under paragraph (2) shall  
7       include a copy of the administrative record for the  
8       regulations that are the subject of the petition.

9           (4) EXPEDITED HEARINGS.—Upon a motion by  
10      the person who files a petition under this subsection,  
11      the appropriate court shall assign the matter for  
12      hearing at the earliest possible date.

13 **SEC. 6. ENFORCEMENT.**

14      (a) IN GENERAL.—The Secretary and the Secretary  
15      of the department in which the Coast Guard is oper-  
16      ating—

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

22           (2) may request and utilize on a reimbursed or  
23      non-reimbursed basis the assistance, services, per-  
24      sonnel, equipment, and facilities of other Federal de-

1       partments and agencies in the administration and  
2       enforcement of this Act.

3       (b) ADDITIONAL AUTHORITY.—The Secretary may  
4       conduct, and may request and utilize on a reimbursed or  
5       non-reimbursed basis the assistance, services, personnel,  
6       equipment, and facilities of other Federal departments  
7       and agencies in—

8               (1) scientific, research, and other programs  
9       under this Act;

10              (2) fishing operations and biological experi-  
11       ments for purposes of scientific investigation or  
12       other purposes necessary to implement the North  
13       Pacific Fisheries Convention;

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

21              (4) if recommended by the Commissioners or  
22       proposed by a Council with authority over the rel-  
23       evant fisheries, the assessment and collection of fees,  
24       not to exceed 3 percent of the ex-vessel value of fish  
25       harvested by vessels of the United States in fisheries

1 managed pursuant to this Act, to recover the actual  
2 costs to the United States of management and en-  
3 forcement under this Act, which shall be deposited  
4 as an offsetting collection in, and credited to, the ac-  
5 count providing appropriations to carry out the func-  
6 tions of the Secretary under this Act; and

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

13 (c) CONSISTENCY WITH OTHER LAWS.—The Sec-  
14 retary shall ensure the consistency, to the extent prac-  
15 ticable, of fishery management programs administered  
16 under this Act, the Magnuson-Stevens Fishery Conserva-  
17 tion and Management Act (16 U.S.C. 1801 et seq.), the  
18 Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.),  
19 the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et  
20 seq.), section 401 of Public Law 108–219 (16 U.S.C. 1821  
21 note) (relating to Pacific albacore tuna), the Atlantic  
22 Tunas Convention Act (16 U.S.C. 971 et seq.), and the  
23 Western and Central Pacific Fisheries Convention Imple-  
24 mentation Act (16 U.S.C. 6901 et seq.).

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

19       (e) JURISDICTION OF THE COURTS.—

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

1 (A) enter restraining orders or prohibi-  
2 tions;

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

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

7 (D) take such other actions as are in the  
8 interest of justice.

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

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

17 (B) in the case of the Northern Mariana  
18 Islands, the appropriate court is the United  
19 States District Court for the District of the  
20 Northern Mariana Islands.

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

1       mitted in any district is subject to the venue provi-  
2       sions of section 3238 of title 18, United States  
3       Code.

4       (f) CONFIDENTIALITY.—

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

9           (A) to a Federal employee who is respon-  
10       sible for administering, implementing, and en-  
11       forcing this Act;

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

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

23           (D) when required by court order; or

24           (E) when the Secretary has obtained writ-  
25       ten authorization from the person submitting

1 such information to release such information to  
2 another person for a reason not otherwise pro-  
3 vided for in this paragraph, and such release  
4 does not violate other requirements of this Act.

5 (2) USE OF INFORMATION.—

6 (A) IN GENERAL.—Except as provided  
7 under subparagraph (B), the Secretary shall  
8 promulgate regulations regarding the proce-  
9 dures the Secretary considers necessary to pre-  
10 serve the confidentiality of information sub-  
11 mitted under this Act.

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

18 (3) RULE OF CONSTRUCTION.—Nothing in this  
19 subsection shall be interpreted or construed to pre-  
20 vent the use for conservation and management pur-  
21 poses by the Secretary of any information submitted  
22 under this Act.

23 **SEC. 7. PROHIBITED ACTS.**

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

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

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

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

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

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

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

1 any regulation, permit, or agreement referred to in  
2 paragraph (1) 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  
8 Secretary false information (including false informa-  
9 tion regarding the capacity and extent to which a  
10 United States fish processor, on an annual basis,  
11 will process a portion of the optimum yield of a fish-  
12 ery that will be harvested by fishing vessels of the  
13 United States), regarding any matter that the Sec-  
14 retary is considering in the course of carrying out  
15 this Act;

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

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

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

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  
13 pursuant to a recommendation, resolution, or deci-  
14 sion of the Commission, or any fisheries resources in  
15 any form not under regulation but under investiga-  
16 tion by the Commission, during the period such fish-  
17 eries resources have been denied entry in accordance  
18 with the provisions of this Act.

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

4 (II) 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.

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