

**(B) Exclusions**

The term “fishing activities” does not include any operation related to an emergency involving the health or safety of a crew member or the safety of a fishing vessel.

**(8) Fishing vessel**

The term “fishing vessel” means any vessel used or intended for use for the purpose of engaging in fishing activities, including a processing vessel, a support ship, a carrier vessel, or any other vessel directly engaged in such fishing activities.

**(9) High seas**

The term “high seas” does not include an area that is within the exclusive economic zone of the United States or of any other country.

**(10) North Pacific Fisheries Convention**

The term “North Pacific Fisheries Convention” means the Convention on the Conservation and Management of the High Seas Fisheries Resources in the North Pacific Ocean (including any annexes, amendments, or protocols that are in force, or have come into force) for the United States, which was adopted at Tokyo on February 24, 2012.

**(11) Person**

The term “person” means—

- (A) any individual, whether or not a citizen or national of the United States;
- (B) any corporation, partnership, association, or other entity, whether or not organized or existing under the laws of any State; or
- (C) any Federal, State, local, tribal, or foreign government or any entity of such government.

**(12) Secretary**

Except as otherwise specifically provided, the term “Secretary” means the Secretary of Commerce.

**(13) State**

The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

**(14) Straddling stock**

The term “straddling stock” means a stock of fisheries resources that migrates between, or occurs in, the economic exclusion zone of one or more parties to the Convention and the Convention Area.

**(15) Transshipment**

The term “transshipment” means the unloading of any fisheries resources taken in the Convention Area from one fishing vessel to another fishing vessel either at sea or in port.

**(16) 1982 convention**

The term “1982 Convention” means the United Nations Convention on the Law of the Sea of 10 December 1982.

(Pub. L. 114-327, title I, §101, Dec. 16, 2016, 130 Stat. 1974.)

## SHORT TITLE

Pub. L. 114-327, §1, Dec. 16, 2016, 130 Stat. 1974, provided that: “This Act [enacting this chapter, chapter 97, and section 6909a of this title, amending sections 1826g, 1826h, 1826j, 1826k, 5003, 5004, 5601 to 5604, 5606, 5607, 5609, 5610, 6902, and 6910 of this title, section 1541 of Title 15, Commerce and Trade, and section 3103 of Title 33, Navigation and Navigable Waters, repealing section 5612 of this title, enacting provisions set out as a note under section 5601 of this title, and amending provisions set out as a note under section 1823 of this title] may be cited as the ‘Ensuring Access to Pacific Fisheries Act’.”

**§ 7702. United States participation in the North Pacific Fisheries Convention****(a) United States Commissioners****(1) Number of Commissioners**

The United States shall be represented on the Commission by five United States Commissioners.

**(2) Selection of commissioners**

The Commissioners shall be as follows:

**(A) Appointment by the President****(i) In general**

Two of the Commissioners shall be appointed by the President and shall be an officer or employee of—

- (I) the Department of Commerce;
- (II) the Department of State; or
- (III) the Coast Guard.

**(ii) Selection criteria**

In making each appointment under clause (i), the President shall select a Commissioner from among individuals who are knowledgeable or experienced concerning fisheries resources in the North Pacific Ocean.

**(B) North Pacific Fishery Management Council**

One Commissioner shall be the chairman of the North Pacific Fishery Management Council or a designee of such chairman.

**(C) Pacific Fishery Management Council**

One Commissioner shall be the chairman of the Pacific Fishery Management Council or a designee of such chairperson.

**(D) Western Pacific Fishery Management Council**

One Commissioner shall be the chairman of the Western Pacific Fishery Management Council or a designee of such chairperson.

**(b) Alternate Commissioners**

In the event of a vacancy in a position as a Commissioner appointed under subsection (a), the Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time considered appropriate an alternate Commissioner to the Commission. An alternate Commissioner may exercise all powers and duties of a Commissioner in the absence of a Commissioner appointed under subsection (a), and shall serve the remainder of the term of the absent Commissioner for which designated.

**(c) Administrative matters****(1) Employment status**

An individual serving as a Commissioner, or an alternative Commissioner, other than an

officer or employee of the United States Government, shall not be considered a Federal employee, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.

**(2) Compensation**

An individual serving as a Commissioner or an alternate Commissioner, although 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.

**(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 11 members appointed by the Secretary as follows:

(i) A member engaging in commercial fishing activities in the management area of the North Pacific Fishery Management Council.

(ii) A member engaging in commercial fishing activities in the management area of the Pacific Fishery Management Council.

(iii) A member engaging in commercial fishing activities in the management area of the Western Pacific Fishery Management Council.

(iv) Three members from the indigenous population of the North Pacific, including an Alaska Native, Native Hawaiian, or a native-born inhabitant of any State of the United States in the Pacific, and an individual from a Pacific Coast tribe.

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

(vi) A member nominated by the Governor of the State of Alaska.

(vii) A member nominated by the Governor of the State of Hawaii.

(viii) A member nominated by the Governor of the State of Washington.

(ix) A member nominated by the Governor of the State of California.

**(B) Terms and privileges**

Each member of the Advisory Committee shall serve for a term of 2 years and shall be eligible for reappointment for not more than 3 consecutive terms. The Commissioners

shall notify the Advisory Committee in advance of each meeting of the Commissioners. The Advisory Committee shall attend each meeting and shall examine and be heard on all proposed programs, investigations, reports, recommendations, and regulations of the Commissioners.

**(C) Procedures**

**(i) In general**

The Advisory Committee shall determine its organization and prescribe its practices and procedures for carrying out its functions under this chapter, the North Pacific Fisheries Convention, and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

**(ii) Public availability of procedures**

The Advisory Committee shall publish and make available to the public a statement of its organization, practices, and procedures.

**(iii) Quorum**

A majority of the members of the Advisory Committee shall constitute a quorum to conduct business.

**(iv) Public meetings**

Meetings of the Advisory Committee, except when in executive session, shall be open to the public. Prior notice of each non-executive meeting shall be made public in a timely fashion. The Advisory Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

**(v) Cost savings**

In order to reduce the cost of Advisory Committee meetings, the Advisory Committee shall, to the extent practicable, utilize teleconferences and webinars for that purpose.

**(D) Provision of information**

The Secretary and the Secretary of State shall furnish the Advisory Committee with relevant information concerning fisheries resources and international fishery agreements.

**(2) Administrative matters**

**(A) Support services**

The Secretary shall provide to the Advisory Committee in a timely manner such administrative and technical support services as are necessary to function effectively.

**(B) Compensation; status**

An individual appointed to serve as a member of the Advisory Committee—

(i) shall serve without pay; and

(ii) shall not be considered a Federal employee, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.

**(C) Travel expenses**

**(i) In general**

The Secretary of State may pay the necessary travel expenses of members of the

Advisory Committee in carrying out the duties of the Advisory Committee in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5.

**(ii) Reimbursement**

The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subparagraph.

(Pub. L. 114-327, title I, §102, Dec. 16, 2016, 130 Stat. 1976.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (d)(1)(C)(i), is Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (d)(1)(C)(iv), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

**§ 7703. Authority and responsibility of the Secretary of State**

The Secretary of State may—

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

(2) in consultation with the Secretary, act upon, or refer to another appropriate authority, any communication received pursuant to paragraph (1);

(3) with the concurrence of the Secretary, and in accordance with the Convention, object to the decisions of the Commission; and

(4) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies, foreign governments or agencies, or international intergovernmental organizations, in the conduct of scientific research and other programs under this chapter.

(Pub. L. 114-327, title I, §103, Dec. 16, 2016, 130 Stat. 1979.)

**§ 7704. Authority of the Secretary of Commerce**

**(a) Promulgation of regulations**

**(1) Authority**

The Secretary, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the department in which the Coast Guard is operating, may promulgate such regulations as may be necessary to carry out the United States international obligations under the North Pacific Fisheries Convention and this chapter, including recommendations and decisions adopted by the Commission.

**(2) Regulations of straddling stocks**

In the implementation of a measure adopted by the Commission that would govern a straddling stock under the authority of a Council, any regulation promulgated by the Secretary

to implement such measure within the exclusive economic zone shall be approved by such Council.

**(b) Rule of construction**

Regulations promulgated under subsection (a) shall be applicable only to a person or a fishing vessel that is or has engaged in fishing activities, or fisheries resources covered by the North Pacific Fisheries Convention under this chapter.

**(c) Additional authority**

The Secretary may conduct, and may request and utilize on a reimbursed or nonreimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in—

(1) scientific, research, and other programs under this chapter;

(2) fishing operations and biological experiments for purposes of scientific investigation or other purposes necessary to implement the North Pacific Fisheries Convention;

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

(4) the issuance of permits to owners and operators of United States vessels to engage in fishing activities in the Convention Area seaward of the exclusive economic zone of the United States, under such terms and conditions as the Secretary may prescribe, including the period of time that a permit is valid; and

(5) if recommended by the United States Commissioners, the assessment and collection of fees, not to exceed 3 percent of the ex-vessel value of fisheries resources harvested by vessels of the United States in fisheries conducted in the Convention Area, to recover the actual costs to the United States to carry out the functions of the Secretary under this chapter.

**(d) Consistency with other laws**

The Secretary shall ensure the consistency, to the extent practicable, of fishery management programs administered under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.), the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.), section 401 of Public Law 108-219 (16 U.S.C. 1821 note) (relating to Pacific albacore tuna), the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.), the National Oceanic and Atmospheric Administration Authorization Act of 1992 (Public Law 102-567) and the amendments made by that Act, and Public Law 100-629 (102 Stat. 3286).

**(e) Judicial review of regulations**

**(1) In general**

Regulations promulgated by the Secretary under this chapter shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5 if a petition