

to in subparagraph (A) for that country, consistent with international law.

(6) Fisheries resources

(A) In general

Except as provided in subparagraph (B), the term “fisheries resources” means all fish, mollusks, crustaceans, and other marine species caught by a fishing vessel within the Convention Area, as well as any products thereof.

(B) Exclusions

The term “fisheries resources” does not include—

- (i) sedentary species insofar as they 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 preexisting international fisheries management instruments within the area of competence of such instruments.

(7) 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;
- (iv) the transshipment of fisheries resources at sea or in port; or
- (v) any operation at sea in direct support of, or in preparation for, any activity described in clauses (i) through (iv), including transshipment.

(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 Conserva-

tion 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 state-

ment 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;