

Calendar No. 622

113TH CONGRESS
2D SESSION**S. 2484**

To implement the Convention on the Conservation and Management of the High Seas Fishery Resources in the South Pacific Ocean, as adopted at Auckland on November 14, 2009, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2014

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 Fishery Resources in the South Pacific Ocean, as adopted at Auckland on November 14, 2009, 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 “South Pacific Fisheries
5 Convention Implementation Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

6 (2) **COMMISSION.**—The term “Commission”
7 means the South Pacific Fisheries Commission es-
8 tablished pursuant to the South Pacific Fisheries
9 Convention.

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

13 (4) **CONVENTION AREA.**—The term “Conven-
14 tion Area” means—

15 (A) the waters of the Pacific Ocean beyond
16 areas of national jurisdiction and in accordance
17 with international law jurisdiction, bounded by
18 the 10° parallel of north latitude and the 20°
19 parallel of south latitude and by the 135° me-
20 ridian of east longitude and the 150° meridian
21 of west longitude; and

22 (B) the waters of the Pacific Ocean beyond
23 areas of national jurisdiction and in accordance
24 with international law jurisdiction—

25 (i) east of a line extending south
26 along the 120° meridian of east longitude

from the outer limit of the national jurisdiction of Australia off the south coast of Western Australia to the intersection with the 55° parallel of south latitude; then due east along the 55° parallel of south latitude to the intersection with the 150° meridian of east longitude; then due south along the 150° meridian of east longitude to the intersection with the 60° parallel of south latitude;

(ii) north of a line extending east along the 60° parallel of south latitude from the 150° meridian of east longitude to the intersection with the $67^{\circ} 16'$ meridian of west longitude;

(iii) west of a line extending north along the $67^{\circ} 16'$ meridian of west longitude from the 60° parallel of south latitude to its intersection with the outer limit of the national jurisdiction of Chile; then along the outer limits of the national jurisdictions of Chile, Peru, Ecuador and Colombia to the intersection with the 2° parallel of north latitude; and

(iv) south of a line extending west along the 2° parallel of north latitude (but not including the national jurisdiction of Ecuador (Galapagos Islands)) to the intersection with the 150° meridian of west longitude; then due north along the 150° meridian of west longitude to its intersection with 10° parallel of north latitude; then west along the 10° parallel of north latitude to its intersection with the outer limits of the national jurisdiction of the Marshall Islands; and then generally south and around the outer limits of the national jurisdictions of Pacific States and territories, New Zealand and Australia until it connects to the commencement of the line described in clause (i).

(5) COUNCIL.—The term “Council” means the Western Pacific Regional Fishery Management Council.

(6) EXCLUSIVE ECONOMIC ZONE.—The term “exclusive economic zone” means the zone established by Presidential Proclamation Numbered 5030 of March 10, 1983.

(7) FISHERY RESOURCES.—

1 (A) IN GENERAL.—The term “fishery re-
 2 sources” means all fish within the Convention
 3 Area.

4 (B) INCLUSIONS.—The term “fishery re-
 5 sources” includes mollusks, crustaceans, and
 6 other living marine resources as may be decided
 7 by the Commission.

8 (C) EXCLUSIONS.—The term “fishery re-
 9 sources” does not include—

10 (i) sedentary species in so far as they
 11 are subject to the national jurisdiction of
 12 coastal States pursuant to Article 77 para-
 13 graph 4 of the 1982 Convention;

14 (ii) highly migratory species listed in
 15 Annex I of the 1982 Convention;

16 (iii) anadromous species;

17 (iv) catadromous species;

18 (v) marine mammals;

19 (vi) marine reptiles; or

20 (vii) sea birds.

21 (8) FISHING.—

22 (A) IN GENERAL.—The term “fishing”
 23 means—

1 (i) the actual or attempted searching
2 for, catching, taking, or harvesting of fish-
3 ery resources;

4 (ii) engaging in any activity that can
5 reasonably be expected to result in the lo-
6 cating, catching, taking, or harvesting of
7 fishery resources for any purpose;

8 (iii) transshipment and any operation
9 at sea in direct support of, or in prepara-
10 tion for, any activity described in this sub-
11 paragraph; and

12 (iv) the use of any vessel, vehicle, air-
13 craft, or hovercraft, in relation to any ac-
14 tivity described in clauses (i) through (iii).

15 (B) EXCLUSIONS.—The term “fishing”
16 does not include any operation related to an
17 emergency involving the health or safety of a
18 crew member or the safety of a fishing vessel.

19 (9) FISHING VESSEL.—The term “fishing ves-
20 sel” means any vessel used or intended for use for
21 the purpose of fishing, including a support ship, a
22 carrier vessel, or any other vessel directly involved in
23 such fishing operations.

1 (10) PANEL.—The term “Panel” means the
 2 Western Pacific Regional Fishery Management
 3 Council’s Advisory Panel.

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

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

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

10 (C) any Federal, State, local, tribal, or for-
 11 eign government or any entity of such govern-
 12 ment.

13 (12) SECRETARY.—The term “Secretary”
 14 means the Secretary of Commerce.

15 (13) SOUTH PACIFIC FISHERIES CONVEN-
 16 TION.—The term “South Pacific Fisheries Conven-
 17 tion” means the Convention on the Conservation and
 18 Management of the High Seas Fishery Resources in
 19 the South Pacific Ocean (including any annexes,
 20 amendments, or protocols that are in force, or have
 21 come into force, for the United States), which was
 22 adopted at Auckland on November 14, 2009.

23 (14) STATE.—The term “State” means each of
 24 the several States of the United States, the District
 25 of Columbia, American Samoa, Guam, and any other

1 commonwealth, territory, or possession of the United
 2 States.

3 (15) TRANSSHIPMENT.—The term “trans-
 4 shipment” means the unloading of all or any of the
 5 fishery resources or fishery resource products de-
 6 rived from fishing in the Convention Area on board
 7 a fishing vessel to another fishing vessel either at
 8 sea or in port.

9 (16) 1982 CONVENTION.—The term “1982
 10 Convention” means the United Nations Convention
 11 on the Law of the Sea of 10 December 1982.

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

13 (a) APPOINTMENT.—The United States shall be rep-
 14 resented on the Commission by 1 U.S. Commissioner. The
 15 President shall appoint an individual to serve on the Com-
 16 mission at the pleasure of the President. In making an
 17 appointment, the President shall select an individual who
 18 is knowledgeable or experienced concerning fishery re-
 19 sources in the South Pacific Ocean.

20 (b) ALTERNATE COMMISSIONERS.—The Secretary of
 21 State, in consultation with the Secretary, may designate
 22 from time to time and for periods of time considered ap-
 23 propriate an alternate Commissioner to the Commission.
 24 An alternate Commissioner may exercise all powers and

1 duties of a Commissioner in the absence, for whatever rea-
 2 son, of a Commissioner appointed under subsection (a).

3 ~~(c) ADMINISTRATIVE MATTERS.—~~

4 ~~(1) EMPLOYMENT STATUS.—~~An individual serv-
 5 ing as a Commissioner, or as an alternate Commis-
 6 sioner, other than an officer or employee of the U.S.
 7 Government, shall not be considered a Federal em-
 8 ployee, except for the purposes of injury compensa-
 9 tion or tort claims liability as provided in chapter 81
 10 of title 5, United States Code and chapter 171 of
 11 title 28, United States Code.

12 ~~(2) COMPENSATION.—~~An individual serving as
 13 a Commissioner or an alternate Commissioner, al-
 14 though an officer of the United States while so serv-
 15 ing, shall receive no compensation for the individ-
 16 ual's services as such Commissioner or alternate
 17 Commissioner.

18 ~~(3) TRAVEL EXPENSES.—~~

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

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

5 (d) ADVISORY COMMITTEE.—

6 (1) ESTABLISHMENT OF PERMANENT ADVISORY
 7 COMMITTEE.—

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

11 (i) not less than 15 nor more than 20
 12 individuals appointed by the Secretary in
 13 consultation with the Commissioner, who
 14 shall select such individuals from the var-
 15 ious groups concerned with the fishery re-
 16 sources covered by the South Pacific Fish-
 17 eries Convention, providing, to the max-
 18 imum extent practicable, an equitable bal-
 19 ance among such groups; and

20 (ii) the chairperson of the Panel or
 21 the chairperson's designee.

22 (B) TERMS AND PRIVILEGES.—Each mem-
 23 ber of the Advisory Committee shall serve for a
 24 term of 2 years and shall be eligible for re-
 25 appointment. The Commissioner shall notify in

1 advance the Advisory Committee of each meet-
2 ing of the Commission. The Advisory Com-
3 mittee may attend each meeting and may exam-
4 ine and be heard on all proposed programs of
5 investigation, reports, recommendations, and
6 regulations of the Commission.

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

1 ~~(D) PROVISION OF INFORMATION.—~~The
 2 Secretary and the Secretary of State shall fur-
 3 nish the Advisory Committee with relevant in-
 4 formation concerning fishery resources and
 5 international fishery agreements.

6 ~~(2) ADMINISTRATIVE MATTERS.—~~

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

12 ~~(B) COMPENSATION; STATUS; EX-~~
 13 ~~PENSES.—~~An individual appointed to serve as a
 14 member of the Advisory Committee—

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

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

7 (e) MEMORANDUM OF UNDERSTANDING.—For fish-
 8 ery resources in the Convention Area, the Secretary, in
 9 coordination with the Secretary of State, shall develop a
 10 memorandum of understanding with the Council, that
 11 clarifies the role of the Council with respect to—

12 (1) participation in U.S. delegations to inter-
 13 national fishery organizations in the Pacific Ocean;
 14 including government-to-government consultations;

15 (2) providing formal recommendations to the
 16 Secretary and the Secretary of State regarding nec-
 17 essary measures for both domestic and foreign ves-
 18 sels fishing for fishery resources;

19 (3) coordinating positions with the U.S. delega-
 20 tion for presentation to the appropriate international
 21 fishery organization; and

22 (4) recommending those domestic fishing regu-
 23 lations that are consistent with the actions of the
 24 international fishery organization, for approval and
 25 implementation under the Magnuson-Stevens Fish-

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

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

5 The Secretary of State may—

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

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

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

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

22 **SEC. 5. RULEMAKING AUTHORITY OF THE SECRETARY OF**
23 **COMMERCE.**

24 (a) **PROMULGATION OF REGULATIONS.**—The Sec-
25 retary, in consultation with the Secretary of State and,

1 with respect to enforcement measures, the Secretary of the
 2 department in which the Coast Guard is operating, is au-
 3 thorized to promulgate such regulations as may be nec-
 4 essary to carry out U.S. international obligations under
 5 the South Pacific Fisheries Convention and this Act, in-
 6 cluding recommendations and decisions adopted by the
 7 Commission. If the Secretary has discretion in the imple-
 8 mentation of 1 or more measures adopted by the Commis-
 9 sion that would govern fishery resources under the author-
 10 ity of the Council, the Secretary may promulgate, to the
 11 extent practicable within the implementation schedule of
 12 the South Pacific Fisheries Convention and any rec-
 13 ommendations and decisions adopted by the Commission,
 14 such regulations in accordance with the procedures estab-
 15 lished by the Magnuson-Stevens Fishery Conservation and
 16 Management Act (16 U.S.C. 1801 et seq.).

17 (b) JUDICIAL REVIEW OF REGULATIONS.—

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

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

9 (3) **COPIES OF ADMINISTRATIVE RECORD.**—A
 10 response of the Secretary under paragraph (2) shall
 11 include a copy of the administrative record for the
 12 regulations that are the subject of the petition.

13 (4) **EXPEDITED HEARINGS.**—Upon a motion by
 14 the person who files a petition under this subsection,
 15 the appropriate court shall assign the matter for
 16 hearing at the earliest possible date.

17 **SEC. 6. ENFORCEMENT.**

18 (a) **IN GENERAL.**—The Secretary and the Secretary
 19 of the department in which the Coast Guard is oper-
 20 ating—

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

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

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

11 (1) scientific, research, and other programs
12 under this Act;

13 (2) fishing operations and biological experi-
14 ments for purposes of scientific investigation or
15 other purposes necessary to implement the South
16 Pacific Fisheries Convention;

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

24 (4) if recommended by the Commissioner or
25 proposed by the Council, the assessment and collec-

1 tion of fees, not to exceed 3 percent of the ex-vessel
 2 value of fish harvested by vessels of the United
 3 States from fishery resources managed under this
 4 Act, to recover the actual costs to the United States
 5 of management and enforcement under this Act,
 6 which shall be deposited as an offsetting collection
 7 in, and credited to, the account providing appropria-
 8 tions to carry out the functions of the Secretary
 9 under this Act; and

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

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

1 Western and Central Pacific Fisheries Convention Imple-
2 mentation Act (16 U.S.C. 6901 et seq.).

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

21 (e) JURISDICTION OF THE COURTS.—

22 (1) IN GENERAL.—Subject to paragraphs (2)
23 and (3), the district courts of the United States
24 shall have exclusive jurisdiction over any case or

1 controversy arising under the provisions of this Act,
2 and any such court may at any time—

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

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

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

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

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

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

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

23 (3) CONSTRUCTION.—Each violation shall be a
24 separate offense and the offense shall be deemed to
25 have been committed not only in the district where

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

6 ~~(f) CONFIDENTIALITY.—~~

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

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

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

21 ~~(C) to a State or Marine Fisheries Com-~~
 22 ~~mission employee pursuant to an agreement~~
 23 ~~with the Secretary that prevents public disclo-~~
 24 ~~sure of the identity of any business or indi-~~
 25 ~~vidual;~~

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

2 ~~(E)~~ when the Secretary has obtained writ-
 3 ten authorization from the person submitting
 4 such information to release such information to
 5 another person for a reason not otherwise pro-
 6 vided for in this paragraph; and such release
 7 does not violate other requirements of this Act.

8 ~~(2)~~ USE OF INFORMATION.—

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

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

21 ~~(3)~~ RULE OF CONSTRUCTION.—Nothing in this
 22 subsection shall be interpreted or construed to pre-
 23 vent the use for conservation and management pur-
 24 poses by the Secretary of any information submitted
 25 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 after the revocation, or during the period of sus-
7 pension, on an applicable permit issued under this
8 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 the South Pacific Fisheries Convention;

15 (4) to forcibly assault, resist, oppose, impede,
16 intimidate, or interfere with any such authorized of-
17 ficer in the conduct of any search, investigation, or
18 inspection in connection with the enforcement of this
19 Act or the South Pacific 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 fishery re-
25 source 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 in violation of any
22 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 fishery re-

1 source 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 to be made, kept, or furnished under this Act;

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

9 (14) to import, in violation of any regulation
10 adopted pursuant to this Act, any fishery resource
11 in any form of those species subject to regulation
12 pursuant to a recommendation, resolution, or deci-
13 sion of the Commission, or any fishery resource in
14 any form not under regulation but under investiga-
15 tion by the Commission, during the period the fish-
16 ery resource has been denied entry in accordance
17 with the provisions of this Act.

18 (b) ENTRY CERTIFICATION.—In the case of any fish-
19 ery resource described in subsection (a) offered for entry
20 into the United States, the Secretary shall require proof
21 satisfactory to the Secretary that the fishery resource is
22 not ineligible for such entry under the terms of this Act.

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

24 (a) FEDERAL AND STATE AGENCIES; PRIVATE INSTI-
25 TUTIONS AND ORGANIZATIONS.—The Secretary may co-

1 operate with any Federal agency, any public or private in-
 2 stitution or organization within the United States or
 3 abroad, and, through the Secretary of State, a duly au-
 4 thorized official of the government of any party to the
 5 South Pacific Fisheries Convention, in carrying out re-
 6 sponsibilities under this Act.

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

14 (c) ~~SANCTIONED FISHING OPERATIONS AND BIO-~~
 15 ~~LOGICAL EXPERIMENTS.~~—Nothing in this Act, or in the
 16 laws of any State, prevents the Secretary or the Commis-
 17 sion from—

18 (1) conducting or authorizing the conduct of
 19 fishing operations and biological experiments at any
 20 time for purposes of scientific investigation; or

21 (2) discharging any other duties prescribed by
 22 the South Pacific Fisheries Convention.

23 (d) ~~STATE JURISDICTION NOT AFFECTED.~~—Except
 24 as provided in subsection (c), nothing in this Act shall be

1 construed to diminish or to increase the jurisdiction of any
 2 State in the territorial sea of the United States.

3 ~~(c) APPLICATION OF REGULATIONS.—~~

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

7 ~~(A) the Secretary has provided notice to~~
 8 ~~the State;~~

9 ~~(B) the State does not request a formal~~
 10 ~~agency hearing; and~~

11 ~~(C) the Secretary determines that the~~
 12 ~~State—~~

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

19 ~~(ii) has enacted laws that implement~~
 20 ~~the recommendations of the Commission~~
 21 ~~within the boundaries of the State that—~~

22 ~~(I) are less restrictive than the~~
 23 ~~regulations promulgated under this~~
 24 ~~Act; or~~

25 ~~(II) are not effectively enforced.~~

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

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

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

19 **SEC. 9. TERRITORIAL PARTICIPATION.**

20 The Secretary of State shall ensure participation in
 21 the Commission and its subsidiary bodies by American
 22 Samoa, Guam, and the Commonwealth of the Northern
 23 Mariana Islands to the same extent provided to the terri-
 24 tories of other nations.

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

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

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

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

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

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

22 There are authorized to be appropriated to the Sec-
 23 retary of Commerce such sums as may be necessary to
 24 carry out this Act and to pay the United States contribu-
 25 tion to the Commission under Article 15 of the South Pa-
 26 cific Fisheries Convention.

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. DEFINITIONS.**

5 *In this Act:*

6 (1) **ADVISORY COMMITTEE.**—*The term “Advisory*
 7 *Committee” means the advisory committee established*
 8 *under section 3.*

9 (2) **COMMISSION.**—*The term “Commission”*
 10 *means the South Pacific Fisheries Commission estab-*
 11 *lished pursuant to the South Pacific Fisheries Con-*
 12 *vention.*

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

16 (4) **CONVENTION AREA.**—*The term “Convention*
 17 *Area” means—*

18 (A) *the waters of the Pacific Ocean beyond*
 19 *areas of national jurisdiction and in accordance*
 20 *with international law jurisdiction, bounded by*
 21 *the 10° parallel of north latitude and the 20°*
 22 *parallel of south latitude and by the 135° merid-*
 23 *ian of east longitude and the 150° meridian of*
 24 *west longitude; and*

1 *(B) the waters of the Pacific Ocean beyond*
 2 *areas of national jurisdiction and in accordance*
 3 *with international law jurisdiction—*

4 *(i) east of a line extending south along*
 5 *the 120° meridian of east longitude from the*
 6 *outer limit of the national jurisdiction of*
 7 *Australia off the south coast of Western*
 8 *Australia to the intersection with the 55°*
 9 *parallel of south latitude; then due east*
 10 *along the 55° parallel of south latitude to*
 11 *the intersection with the 150° meridian of*
 12 *east longitude; then due south along the*
 13 *150° meridian of east longitude to the inter-*
 14 *section with the 60° parallel of south lati-*
 15 *tude;*

16 *(ii) north of a line extending east*
 17 *along the 60° parallel of south latitude from*
 18 *the 150° meridian of east longitude to the*
 19 *intersection with the 67° 16' meridian of*
 20 *west longitude;*

21 *(iii) west of a line extending north*
 22 *along the 67° 16' meridian of west lon-*
 23 *gitude from the 60° parallel of south lati-*
 24 *tude to its intersection with the outer limit*
 25 *of the national jurisdiction of Chile; then*

1 along the outer limits of the national juris-
 2 dictions of Chile, Peru, Ecuador and Co-
 3 lombia to the intersection with the 2° par-
 4 allel of north latitude; and

5 (iv) south of a line extending west
 6 along the 2° parallel of north latitude (but
 7 not including the national jurisdiction of
 8 Ecuador (Galapagos Islands)) to the inter-
 9 section with the 150° meridian of west lon-
 10 gitude; then due north along the 150° me-
 11 ridian of west longitude to its intersection
 12 with 10° parallel of north latitude; then
 13 west along the 10° parallel of north latitude
 14 to its intersection with the outer limits of
 15 the national jurisdiction of the Marshall Is-
 16 lands; and then generally south and around
 17 the outer limits of the national jurisdictions
 18 of Pacific States and territories, New Zea-
 19 land and Australia until it connects to the
 20 commencement of the line described in
 21 clause (i).

22 (5) COUNCIL.—The term “Council” means the
 23 Western Pacific Regional Fishery Management Coun-
 24 cil.

1 (6) *EXCLUSIVE ECONOMIC ZONE*.—The term “ex-
 2 *clusive economic zone*” means the zone established by
 3 *Presidential Proclamation Numbered 5030 of March*
 4 *10, 1983.*

5 (7) *FISHERY RESOURCES*.—

6 (A) *IN GENERAL*.—The term “fishery re-
 7 *sources*” means all fish within the Convention
 8 *Area.*

9 (B) *INCLUSIONS*.—The term “fishery re-
 10 *sources*” includes mollusks, crustaceans, and
 11 *other living marine resources as may be decided*
 12 *by the Commission.*

13 (C) *EXCLUSIONS*.—The term “fishery re-
 14 *sources*” does not include—

15 (i) *sedentary species in so far as they*
 16 *are subject to the national jurisdiction of*
 17 *coastal States pursuant to Article 77 para-*
 18 *graph 4 of the 1982 Convention;*

19 (ii) *highly migratory species listed in*
 20 *Annex I of the 1982 Convention;*

21 (iii) *anadromous species;*

22 (iv) *catadromous species;*

23 (v) *marine mammals;*

24 (vi) *marine reptiles; or*

25 (vii) *sea birds.*

1 (8) *FISHING*.—

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

4 (i) the actual or attempted searching
5 for, catching, taking, or harvesting of fish-
6 ery resources;

7 (ii) engaging in any activity that can
8 reasonably be expected to result in the locat-
9 ing, catching, taking, or harvesting of fish-
10 ery resources for any purpose;

11 (iii) transshipment and any operation
12 at sea in direct support of, or in prepara-
13 tion for, any activity described in this sub-
14 paragraph; or

15 (iv) the use of any vessel, vehicle, air-
16 craft, or hovercraft, in relation to any ac-
17 tivity described in clauses (i) through (iii).

18 (B) *EXCLUSIONS*.—The term “fishing” does
19 not include any operation related to an emer-
20 gency involving the health or safety of a crew
21 member or the safety of a fishing vessel.

22 (9) *FISHING VESSEL*.—The term “fishing vessel”
23 means any vessel used or intended for use for the pur-
24 pose of fishing, including a support ship, a carrier

1 vessel, or any other vessel directly involved in such
2 fishing operations.

3 (10) *PANEL.*—The term “Panel” means the
4 Council’s Advisory Panel.

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

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

8 (B) any corporation, partnership, associa-
9 tion, or other entity, whether or not organized or
10 existing under the laws of any State; or

11 (C) any Federal, State, local, tribal, or for-
12 eign government or any entity of such govern-
13 ment.

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

16 (13) *SOUTH PACIFIC FISHERIES CONVENTION.*—
17 The term “South Pacific Fisheries Convention”
18 means the Convention on the Conservation and Man-
19 agement of the High Seas Fishery Resources in the
20 South Pacific Ocean (including any annexes, amend-
21 ments, or protocols that are in force, or have come
22 into force, for the United States), which was adopted
23 at Auckland on November 14, 2009.

24 (14) *STATE.*—The term “State” means each of
25 the several States of the United States, the District of

1 *Columbia, American Samoa, Guam, and any other*
 2 *commonwealth, territory, or possession of the United*
 3 *States.*

4 (15) *STRADDLING STOCK.*—*The term “straddling*
 5 *stock” means a stock of fishery resources which mi-*
 6 *grates between, or occurs in, the economic exclusion*
 7 *zone of 1 or more parties to the Convention and the*
 8 *Convention Area.*

9 (16) *TRANSSHIPMENT.*—*The term “trans-*
 10 *shipment” means the unloading of all or any of the*
 11 *fishery resources or fishery resources products derived*
 12 *from fishing in the Convention Area on board a fish-*
 13 *ing vessel to another fishing vessel either at sea or in*
 14 *port.*

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

18 **SEC. 3. APPOINTMENT OF U.S. COMMISSIONERS.**

19 (a) *APPOINTMENT.*—

20 (1) *IN GENERAL.*—*The United States shall be*
 21 *represented on the Commission by not more than 3*
 22 *U.S. Commissioners. In making each appointment,*
 23 *the President shall select a Commissioner from among*
 24 *individuals who are knowledgeable or experienced*

1 *concerning fishery resources in the South Pacific*
 2 *Ocean.*

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

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

7 (i) *the Department of Commerce;*

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

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

10 *and*

11 (B) *the chairperson or designee of the Coun-*
 12 *cil.*

13 (b) *ALTERNATE COMMISSIONERS.*—*The Secretary of*
 14 *State, in consultation with the Secretary, may designate*
 15 *from time to time and for periods of time considered appro-*
 16 *priate an alternate Commissioner to the Commission. An*
 17 *alternate Commissioner may exercise all powers and duties*
 18 *of a Commissioner in the absence of a Commissioner ap-*
 19 *pointed under subsection (a).*

20 (c) *ADMINISTRATIVE MATTERS.*—

21 (1) *EMPLOYMENT STATUS.*—*An individual serv-*
 22 *ing as a Commissioner, or as an alternate Commis-*
 23 *sioner, other than an officer or employee of the U.S.*
 24 *Government, shall not be considered a Federal em-*
 25 *ployee, except for the purposes of injury compensation*

1 *or tort claims liability as provided in chapter 81 of*
 2 *title 5, United States Code and chapter 171 of title*
 3 *28, United States Code.*

4 (2) *COMPENSATION.*—*An individual serving as a*
 5 *Commissioner or an alternate Commissioner, al-*
 6 *though an officer of the United States while so serv-*
 7 *ing, shall receive no compensation for the individual's*
 8 *services as such Commissioner or alternate Commis-*
 9 *sioner.*

10 (3) *TRAVEL EXPENSES.*—

11 (A) *IN GENERAL.*—*The Secretary of State*
 12 *shall pay the necessary travel expenses of a Com-*
 13 *missioner or an alternate Commissioner in ac-*
 14 *cordance with the Federal Travel Regulations*
 15 *and sections 5701, 5702, 5704 through 5708, and*
 16 *5731 of title 5, United States Code.*

17 (B) *REIMBURSEMENT.*—*The Secretary may*
 18 *reimburse the Secretary of State for amounts ex-*
 19 *pended by the Secretary of State under this*
 20 *paragraph.*

21 (d) *ADVISORY COMMITTEE.*—

22 (1) *ESTABLISHMENT OF PERMANENT ADVISORY*
 23 *COMMITTEE.*—

24 (A) *MEMBERSHIP.*—*There is established an*
 25 *advisory committee which shall be composed of 7*

members appointed by the Secretary, including—

(i) a member engaging in commercial fishing in the management area of the Council;

(ii) 2 members from the indigenous population of the Pacific including a Native Hawaiian and a native-born inhabitant of any possession of the United States in the Pacific;

(iii) a member that is a marine fisheries scientist and a member of the Council's Scientific and Statistical Committee;

(iv) a member representing a non-governmental organization active in fishery issues in the Pacific;

(v) a member nominated by the Governor of the State of Hawaii; and

(vi) a member designated by the Council.

(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 Advi-

1 *sory Committee in advance of each meeting of*
2 *the Commissioners. The Advisory Committee*
3 *may attend each meeting and may examine and*
4 *be heard on all proposed programs, investiga-*
5 *tions, reports, recommendations, and regulations*
6 *of the Commissioners.*

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

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

6 (2) *ADMINISTRATIVE MATTERS.*—

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

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

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

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

22 (e) *MEMORANDUM OF UNDERSTANDING.*—*For fishery*
 23 *resources in the Convention Area, the Secretary, in coordi-*
 24 *nation with the Secretary of State, shall develop a memo-*

1 *random of understanding with the Council that clarifies*
 2 *the role of the Council with respect 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 fishing*
 9 *vessels;*

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 regula-*
 14 *tions that are consistent with the actions of the inter-*
 15 *national fishery organization, for approval and im-*
 16 *plementation under the Magnuson-Stevens Fishery*
 17 *Conservation and Management Act (16 U.S.C. 1801*
 18 *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 United*
 23 *States, reports, requests, recommendations, proposals,*
 24 *decisions, and other communications of and to the*
 25 *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 South Pacific Fish-*
 10 *eries Convention; and*

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

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

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

1 *licable within the implementation schedule of the South Pa-*
 2 *cific Fisheries Convention and any recommendations and*
 3 *decisions adopted by the Commission, such regulations in*
 4 *accordance with the procedures established by the Magnu-*
 5 *son-Stevens Fishery Conservation and Management Act (16*
 6 *U.S.C. 1801 et seq.).*

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

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

17 (1) *scientific, research, and other programs*
 18 *under this Act;*

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

23 (3) *the collection, utilization, and disclosure of*
 24 *such information as may be necessary to implement*
 25 *the South Pacific Fisheries Convention, subject to sec-*

1 *tions 552 and 552a of title 5, United States Code,*
2 *and section 402(b) of the Magnuson-Stevens Fishery*
3 *Conservation and Management Act (16 U.S.C.*
4 *1881a(b));*

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

15 *(5) the issuance of permits to owners and opera-*
16 *tors of U.S. vessels to engage in fishing in the Con-*
17 *vention Area seaward of the U.S. exclusive economic*
18 *zone, under such terms and conditions as the Sec-*
19 *retary may prescribe, including the period of time*
20 *that a permit is valid.*

21 *(d) CONSISTENCY WITH OTHER LAWS.—The Secretary*
22 *shall ensure the consistency, to the extent practicable, of*
23 *fishery management programs administered under this Act,*
24 *the Magnuson-Stevens Fishery Conservation and Manage-*
25 *ment Act (16 U.S.C. 1801 et seq.), the Tuna Conventions*

1 *Act of 1950 (16 U.S.C. 951 et seq.), the South Pacific Tuna*
 2 *Act of 1988 (16 U.S.C. 973 et seq.), section 401 of Public*
 3 *Law 108–219 (16 U.S.C. 1821 note) (relating to Pacific*
 4 *albacore tuna), the Atlantic Tunas Convention Act (16*
 5 *U.S.C. 971 et seq.), and the Western and Central Pacific*
 6 *Fisheries Convention Implementation Act (16 U.S.C. 6901*
 7 *et seq.).*

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

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

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

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

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

9 **SEC. 6. ENFORCEMENT.**

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

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

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

22 (b) *SECRETARIAL ACTIONS.*—Except as provided
 23 *under subsection (c), the Secretary and the Secretary of the*
 24 *department in which the Coast Guard is operating shall*
 25 *prevent any person from violating this Act with respect to*

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

15 (c) *JURISDICTION OF THE COURTS.—*

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

21 (A) enter restraining orders or prohibitions;

22 (B) issue warrants, process in rem, or other
 23 process;

24 (C) prescribe and accept satisfactory bonds
 25 or other security; and

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

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

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

11 (B) in the case of the Northern Mariana Is-
12 lands, the appropriate court is the United States
13 District Court for the District of the Northern
14 Mariana Islands.

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

22 (d) *CONFIDENTIALITY.*—

23 (1) *IN GENERAL.*—Any information submitted to
24 the Secretary in compliance with any requirement

1 *under this Act shall be confidential and may not be*
2 *disclosed, except—*

3 *(A) to a Federal employee who is respon-*
4 *sible for administering, implementing, or enforce-*
5 *ing this Act;*

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

13 *(C) to a State or Council employee pursu-*
14 *ant to an agreement with the Secretary that pre-*
15 *vents public disclosure of the identity or business*
16 *of any person;*

17 *(D) when required by court order; or*

18 *(E) when the Secretary has obtained writ-*
19 *ten authorization from the person submitting*
20 *such information to release such information to*
21 *another person for a reason not otherwise pro-*
22 *vided for in this paragraph, and such release*
23 *does not violate other requirements of this Act.*

24 (2) *USE OF INFORMATION.—*

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

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

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

17 **SEC. 7. PROHIBITED ACTS.**

18 *It is unlawful for any person—*

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

21 (2) *to use any fishing vessel to engage in fishing*
 22 *without, or after the revocation or during the period*
 23 *of suspension of, an applicable permit issued under*
 24 *this Act;*

1 (3) to refuse to permit any officer authorized to
2 enforce the provisions of this Act to board a fishing
3 vessel subject to such person's control for the purposes
4 of conducting any search, investigation, or inspection
5 in connection with the enforcement of this Act or the
6 South Pacific Fisheries Convention;

7 (4) to assault, resist, oppose, impede, intimidate,
8 or interfere with any such authorized officer in the
9 conduct of any search, investigation, or inspection in
10 connection with the enforcement of this Act or the
11 South Pacific Fisheries Convention;

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

15 (6) to knowingly and willfully ship, transport,
16 offer for sale, sell, purchase, import, export, or have
17 custody, control, or possession of, any fishery re-
18 sources taken or retained in violation of this Act or
19 any regulation or permit referred to in paragraph (1)
20 or (2);

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

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

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

14 (10) *to engage in fishing in violation of any reg-*
15 *ulation adopted pursuant to this Act;*

16 (11) *to knowingly and willfully ship, transport,*
17 *purchase, sell, offer for sale, import, export, or have*
18 *in custody, possession, or control any fishery re-*
19 *sources taken or retained in violation of such regula-*
20 *tions;*

21 (12) *to fail to make, keep, or furnish any catch*
22 *returns, statistical records, or other reports required*
23 *to be made, kept, or furnished under this Act;*

1 (13) to fail to stop a vessel upon being hailed
2 and instructed to stop by a duly authorized official
3 of the United States;

4 (14) to import, in violation of any regulation
5 adopted pursuant to this Act, any fishery resources in
6 any form of those species subject to regulation pursu-
7 ant to a recommendation, resolution, or decision of
8 the Commission, or any fishery resources in any form
9 not under regulation but under investigation by the
10 Commission, during the period the fishery resources
11 have been denied entry in accordance with the provi-
12 sions of this Act;

13 (15) to make or submit any false record, account,
14 or label for, or any false identification of, any fishery
15 resources which have been, or are intended to be im-
16 ported, exported, transported, sold, offered for sale,
17 purchased, or received in interstate or foreign com-
18 merce; or

19 (16) to refuse to authorize and accept boarding
20 by a duly authorized inspector pursuant to proce-
21 dures adopted by the Commission for the boarding
22 and inspection of fishing vessels in the Convention
23 Area.

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 author-*
 7 *ized official of the government of any party to the South*
 8 *Pacific Fisheries Convention, in carrying out responsibil-*
 9 *ities 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 Commis-*
 15 *sion in carrying out its duties under the South Pacific*
 16 *Fisheries Convention.*

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

- 21 (1) *conducting or authorizing the conduct of fish-*
 22 *ing operations and biological experiments at any time*
 23 *for purposes of scientific investigation; or*
 24 (2) *discharging any other duties prescribed by*
 25 *the South Pacific Fisheries Convention.*

1 (d) *STATE JURISDICTION NOT AFFECTED.*—Nothing
 2 in this Act shall be construed to diminish or to increase
 3 the jurisdiction of any State in the territorial sea of the
 4 United States.

5 **SEC. 9. TERRITORIAL PARTICIPATION.**

6 The Secretary of State shall ensure participation in
 7 the Commission and its subsidiary bodies by American
 8 Samoa, Guam, and the Commonwealth of the Northern
 9 Mariana Islands to the same extent provided to the terri-
 10 tories of other nations.

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

12 Masters of commercial fishing vessels of nations fishing
 13 under the management authority of the South Pacific Fish-
 14 eries Convention that do not carry vessel monitoring sys-
 15 tems capable of communicating with U.S. enforcement au-
 16 thorities shall, prior to, or as soon as reasonably possible
 17 after, entering and transiting the exclusive economic zone
 18 seaward of the Convention Area—

19 (1) notify the U.S. Coast Guard of the name,
 20 flag state, location, route, and destination of the vessel
 21 and of the circumstances under which it will enter
 22 U.S. waters;

23 (2) ensure that all fishing gear on board the ves-
 24 sel is stowed below deck or otherwise removed from the

1 *place it is normally used for fishing and placed where*
 2 *it is not readily available for fishing; and*

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

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

7 (a) *IN GENERAL.*—*There are authorized to be appro-*
 8 *priated to the Secretary and the Secretary of State such*
 9 *sums as may be necessary to carry out this Act and to pay*
 10 *the United States contribution to the Commission under Ar-*
 11 *ticle 15 of the South Pacific Fisheries Convention.*

12 (b) *INTERNATIONAL COOPERATION AND ASSIST-*
 13 *ANCE.*—

14 (1) *IN GENERAL.*—*Subject to the limits of avail-*
 15 *able appropriations and consistent with applicable*
 16 *law, the Secretary or the Secretary of State shall pro-*
 17 *vide appropriate assistance, including grants, to de-*
 18 *veloping nations and international organizations of*
 19 *which such nations are members to assist those na-*
 20 *tions in meeting their obligations under the Conven-*
 21 *tion.*

22 (2) *TRANSFER OF FUNDS.*—*Subject to the limits*
 23 *of available appropriations and consistent with other*
 24 *applicable law, the Secretary and the Secretary of*
 25 *State are authorized to transfer funds to any foreign*

1 *government, international, non-governmental, or*
2 *international organization, including the Commis-*
3 *sion, for purposes of carrying out the international*
4 *responsibilities under paragraph (1).*

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113TH CONGRESS
2^D Session

S. 2484

A BILL

To implement the Convention on the Conservation and Management of the High Seas Fishery Resources in the South Pacific Ocean, as adopted at Auckland on November 14, 2009, and for other purposes.

DECEMBER 8, 2014

Reported with an amendment