

113TH CONGRESS
2^D 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

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”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

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

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

11 (4) CONVENTION AREA.—The term “Conven-
12 tion Area” means—

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

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

23 (i) east of a line extending south
24 along the 120° meridian of east longitude
25 from the outer limit of the national juris-

1 diction of Australia off the south coast of
2 Western Australia to the intersection with
3 the 55° parallel of south latitude; then due
4 east along the 55° parallel of south lati-
5 tude to the intersection with the 150° me-
6 ridian of east longitude; then due south
7 along the 150° meridian of east longitude
8 to the intersection with the 60° parallel of
9 south latitude;

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

15 (iii) west of a line extending north
16 along the $67^{\circ} 16'$ meridian of west lon-
17 gitude from the 60° parallel of south lati-
18 tude to its intersection with the outer limit
19 of the national jurisdiction of Chile; then
20 along the outer limits of the national juris-
21 dictions of Chile, Peru, Ecuador and Co-
22 lombia to the intersection with the 2° par-
23 allel of north latitude; and

24 (iv) south of a line extending west
25 along the 2° parallel of north latitude (but

1 not including the national jurisdiction of
2 Ecuador (Galapagos Islands)) to the inter-
3 section with the 150° meridian of west lon-
4 gitude; then due north along the 150° me-
5 ridian of west longitude to its intersection
6 with 10° parallel of north latitude; then
7 west along the 10° parallel of north lati-
8 tude to its intersection with the outer lim-
9 its of the national jurisdiction of the Mar-
10 shall Islands; and then generally south and
11 around the outer limits of the national ju-
12 risdictions of Pacific States and territories,
13 New Zealand and Australia until it con-
14 nects to the commencement of the line de-
15 scribed in clause (i).

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

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

23 (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 (e), 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 (e), 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 (e) 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-

1 tion to the Commission under Article 15 of the South Pa-
2 cific Fisheries Convention.

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