

Calendar No. 419114TH CONGRESS
2^D SESSION**S. 1336****[Report No. 114–235]**

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

MAY 13, 2015

Mr. SCHATZ (for himself and Mr. SULLIVAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

APRIL 6, 2016

Reported by Mr. THUNE, without amendment

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,*

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 “Advi-
7 sory Committee” means the advisory committee es-
8 tablished under section 3.

9 (2) **COMMISSION.**—The term “Commission”
10 means the South Pacific Fisheries Commission es-
11 tablished under the South Pacific Fisheries Conven-
12 tion.

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

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

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

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

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

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

21 (iii) west of a line extending north
22 along the $67^{\circ} 16'$ 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 lati-
14 tude to its intersection with the outer lim-
15 its of the national jurisdiction of the Mar-
16 shall Islands; and then generally south and
17 around the outer limits of the national ju-
18 risdictions of Pacific States and territories,
19 New Zealand and Australia until it con-
20 nects to the commencement of the line de-
21 scribed in clause (i).

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

1 (6) EXCLUSIVE ECONOMIC ZONE OF THE
2 UNITED STATES.—The term “exclusive economic
3 zone of the United States” means the zone estab-
4 lished by Presidential Proclamation Numbered 5030
5 of March 10, 1983 (16 U.S.C. 1453 note).

6 (7) FISHERY RESOURCES.—

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

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

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

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

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

22 (iii) anadromous species;

23 (iv) catadromous species;

24 (v) marine mammals;

25 (vi) marine reptiles; or

1 (vii) sea birds.

2 (8) FISHING.—

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

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

8 (ii) engaging in any activity that can
9 reasonably be expected to result in the lo-
10 cating, catching, taking, or harvesting of
11 fishery resources for any purpose;

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

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

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

23 (9) FISHING VESSEL.—The term “fishing ves-
24 sel” means any vessel used or intended for use for
25 the purpose of fishing, including a support ship, a

1 carrier vessel, or any other vessel directly involved in
2 such 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
10 or 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”
15 means the Secretary of Commerce.

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

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

4 (15) STRADDLING STOCK.—The term “strad-
5 dling stock” means a stock of fishery resources
6 which migrates between, or occurs in, the exclusive
7 economic zone of 1 or more parties to the South Pa-
8 cific Fisheries Convention and the 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 de-
12 rived from fishing in the Convention Area on board
13 a fishing vessel to another fishing vessel either at
14 sea or in port.

15 (17) 1982 CONVENTION.—The term “1982
16 Convention” means the United Nations Convention
17 on the 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 Commissioners. In making each appointment, the
23 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 Presi-
6 dent, 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
12 Council.

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 ap-
16 propriate an alternate Commissioner to the Commission.
17 An alternate Commissioner may exercise all powers and
18 duties of a Commissioner in the absence of a Commis-
19 sioner appointed 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 compensa-

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

4 (2) COMPENSATION.—An individual serving as
5 a 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 individ-
8 ual's services as such Commissioner or alternate
9 Commissioner.

10 (3) TRAVEL EXPENSES.—

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

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

21 (d) ADVISORY COMMITTEE.—

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

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

1 of 7 members appointed by the Secretary, in-
2 cluding—

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

6 (ii) 2 members from the indigenous
7 population of the Pacific, including a Na-
8 tive Hawaiian and a native-born inhabitant
9 of any State in the Pacific;

10 (iii) a member that is a marine fish-
11 eries scientist and a member of the Coun-
12 cil's Scientific and Statistical Committee;

13 (iv) a member representing a non-gov-
14 ernmental organization active in fishery
15 issues in the Pacific;

16 (v) a member nominated by the Gov-
17 ernor of the State of Hawaii; and

18 (vi) a member designated by the
19 Council.

20 (B) TERMS AND PRIVILEGES.—Each mem-
21 ber of the Advisory Committee shall serve for a
22 term of 2 years and shall be eligible for re-
23 appointment for not more than 3 consecutive
24 terms. The Commissioners shall notify the Ad-
25 visory Committee in advance of each meeting of

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

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

24 (D) PROVISION OF INFORMATION.—The
25 Secretary and the Secretary of State shall fur-

1 nish the Advisory Committee with relevant in-
2 formation concerning fishery resources and
3 international fishery agreements.

4 (2) ADMINISTRATIVE MATTERS.—

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

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

13 (i) shall serve without pay; and

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

20 (e) MEMORANDUM OF UNDERSTANDING.—For fish-
21 ery resources in the Convention Area, the Secretary, in
22 coordination with the Secretary of State, shall develop a
23 memorandum of understanding with the Council that
24 clarifies the role of the Council with respect to—

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

4 (2) providing formal recommendations to the
5 Secretary and the Secretary of State regarding nec-
6 essary measures for both domestic and foreign fish-
7 ing vessels;

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

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

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

19 The Secretary of State may—

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

24 (2) in consultation with the Secretary, approve,
25 disapprove, object to, or withdraw objections to by-

1 laws and rules, or amendments thereof, adopted by
2 the Commission;

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

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

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

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

1 ommendations and decisions adopted by the Commission,
2 such regulations in accordance with the procedures estab-
3 lished by the Magnuson-Stevens Fishery Conservation and
4 Management Act (16 U.S.C. 1801 et seq.).

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

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

15 (1) scientific, research, and other programs
16 under this Act;

17 (2) fishing operations and biological experi-
18 ments for purposes of scientific investigation or
19 other purposes necessary to implement the South
20 Pacific Fisheries Convention;

21 (3) the collection, utilization, and disclosure of
22 such information as may be necessary to implement
23 the South Pacific Fisheries Convention, subject to
24 sections 552 and 552a of title 5, United States
25 Code, and section 402(b) of the Magnuson-Stevens

1 Fishery Conservation and Management Act (16
2 U.S.C. 1881a(b));

3 (4) if recommended by the Commissioners, the
4 assessment and collection of fees, not to exceed 3
5 percent of the ex-vessel value of fishery resources
6 harvested by vessels of the United States in fisheries
7 conducted in the Convention Area, to recover the ac-
8 tual costs to the United States of management and
9 enforcement under this Act, which shall be deposited
10 as an offsetting collection in, and credited to, the ac-
11 count providing appropriations to carry out the func-
12 tions of the Secretary under this Act; and

13 (5) the issuance of permits to owners and oper-
14 ators of U.S. vessels to engage in fishing in the Con-
15 vention Area seaward of the exclusive economic zone
16 of the United States, under such terms and condi-
17 tions as the Secretary may prescribe, including the
18 period of time that a permit is valid.

19 (d) CONSISTENCY WITH OTHER LAWS.—The Sec-
20 retary shall ensure the consistency, to the extent prac-
21 ticable, of fishery management programs administered
22 under this Act, the Magnuson-Stevens Fishery Conserva-
23 tion and Management Act (16 U.S.C. 1801 et seq.), the
24 Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.),
25 the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et

1 seq.), section 401 of Public Law 108–219 (16 U.S.C. 1821
2 note) (relating to Pacific albacore tuna), the Atlantic
3 Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.),
4 and the Western and Central Pacific Fisheries Convention
5 Implementation Act (16 U.S.C. 6901 et seq.).

6 (e) JUDICIAL REVIEW OF REGULATIONS.—

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

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

23 (3) COPIES OF ADMINISTRATIVE RECORD.—A
24 response of the Secretary under paragraph (2) shall

1 include a copy of the administrative record for the
2 regulations that are the subject of the petition.

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

7 **SEC. 6. ENFORCEMENT.**

8 (a) IN GENERAL.—The Secretary and the Secretary
9 of the department in which the Coast Guard is oper-
10 ating—

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

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

21 (b) SECRETARIAL ACTIONS.—Except as provided
22 under subsection (c), the Secretary and the Secretary of
23 the department in which the Coast Guard is operating
24 shall prevent any person from violating this Act with re-
25 spect to fishing or the conservation of fishery resources

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

15 (c) JURISDICTION OF THE COURTS.—

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

21 (A) enter restraining orders or prohibi-
22 tions;

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

1 (C) prescribe and accept satisfactory bonds
2 or other security; and

3 (D) take such other actions as are in the
4 interest of justice.

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

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

13 (B) in the case of the Northern Mariana
14 Islands, the appropriate court is the United
15 States District Court for the District of the
16 Northern Mariana Islands.

17 (3) CONSTRUCTION.—Each violation shall be a
18 separate offense and the offense shall be deemed to
19 have been committed not only in the district where
20 the violation first occurred, but also in any other
21 district authorized by law. Any offense not com-
22 mitted in any district is subject to the venue provi-
23 sions of section 3238 of title 18, United States
24 Code.

25 (d) CONFIDENTIALITY.—

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

5 (A) to a Federal employee who is respon-
6 sible for administering, implementing, or en-
7 forcing this Act;

8 (B) to the Commission, in accordance with
9 requirements in the South Pacific Fisheries
10 Convention and decisions of the Commission,
11 and, insofar as possible, in accordance with an
12 agreement with the Commission that prevents
13 public disclosure of the identity or business of
14 any person;

15 (C) to a State or Council employee pursu-
16 ant to an agreement with the Secretary that
17 prevents public disclosure of the identity or
18 business of any person;

19 (D) when required by court order; or

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

1 (2) USE OF INFORMATION.—

2 (A) IN GENERAL.—Except as provided
3 under subparagraph (B), the Secretary shall
4 promulgate regulations regarding the proce-
5 dures the Secretary considers necessary to pre-
6 serve the confidentiality of information under
7 this Act.

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

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

19 **SEC. 7. PROHIBITED ACTS.**

20 It is unlawful for any person—

21 (1) to violate any provision of this Act or any
22 regulation or permit issued under this Act;

23 (2) to use any fishing vessel to engage in fish-
24 ing without, or after the revocation or during the pe-

1 riod of suspension of, an applicable permit issued
2 under this Act;

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

9 (4) to assault, resist, oppose, impede, intimi-
10 date, or interfere with any such authorized officer in
11 the conduct of any search, investigation, or inspec-
12 tion in connection with the enforcement of this Act
13 or the South Pacific Fisheries Convention;

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

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

23 (7) to interfere with, delay, or prevent, by any
24 means, the apprehension or arrest of another person,

1 knowing that such other person has committed any
2 act prohibited by this section;

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

12 (9) to assault, resist, oppose, impede, intimi-
13 date, sexually harass, bribe, or interfere with any ob-
14 server on a vessel under this Act, or any data col-
15 lector employed by or under contract to any person
16 to carry out responsibilities under this Act;

17 (10) to engage in fishing in violation of any
18 regulation adopted under this Act;

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

1 (12) to fail to make, keep, or furnish any catch
2 returns, statistical records, or other reports required
3 to be made, kept, or furnished under this Act;

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

7 (14) to import, in violation of any regulation
8 promulgated under this Act, any fishery resources in
9 any form of those species subject to regulation pur-
10 suant to a recommendation, resolution, or decision
11 of the Commission, or any fishery resources in any
12 form not under regulation but under investigation by
13 the Commission, during the period the fishery re-
14 sources have been denied entry in accordance with
15 the provisions of this Act;

16 (15) to make or submit any false record, ac-
17 count, or label for, or any false identification of, any
18 fishery resources which have been, or are intended to
19 be imported, exported, transported, sold, offered for
20 sale, purchased, or received in interstate or foreign
21 commerce; or

22 (16) to refuse to authorize and accept boarding
23 by a duly authorized inspector pursuant to proce-
24 dures adopted by the Commission for the boarding

1 and inspection of fishing vessels in the Convention
2 Area.

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

4 (a) FEDERAL AND STATE AGENCIES; PRIVATE INSTI-
5 TUTIONS AND ORGANIZATIONS.—The Secretary may co-
6 operate with any Federal department or agency, any pub-
7 lic or private institution or organization within the United
8 States or abroad, and, through the Secretary of State, a
9 duly authorized official of the government of any party
10 to the South Pacific Fisheries Convention, in carrying out
11 responsibilities under this Act.

12 (b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES
13 AND PERSONNEL.—Each Federal department and agency
14 is authorized, upon the request of the Secretary, to cooper-
15 ate in the conduct of scientific and other programs and
16 to furnish facilities and personnel for the purpose of as-
17 sisting the Commission in carrying out its duties under
18 the South Pacific Fisheries Convention.

19 (c) SANCTIONED FISHING OPERATIONS AND BIO-
20 LOGICAL EXPERIMENTS.—Nothing in this Act, or in the
21 laws of any State, prevents the Secretary or the Commis-
22 sion from—

23 (1) conducting or authorizing the conduct of
24 fishing operations and biological experiments at any
25 time for purposes of scientific investigation; or

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

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

7 **SEC. 9. TERRITORIAL PARTICIPATION.**

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

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

14 Masters of commercial fishing vessels of nations fish-
15 ing under the management authority of the South Pacific
16 Fisheries Convention that do not carry vessel monitoring
17 systems capable of communicating with U.S. enforcement
18 authorities shall, prior to, or as soon as reasonably pos-
19 sible after, entering and transiting the exclusive economic
20 zone of the United States seaward of the Convention
21 Area—

22 (1) notify the U.S. Coast Guard of the name,
23 flag state, location, route, and destination of the ves-
24 sel and of the circumstances under which it will

1 enter the exclusive economic zone of the United
2 States seaward of the Convention Area;

3 (2) ensure that all fishing gear on board the
4 vessel is stowed below deck or otherwise removed
5 from the place it is normally used for fishing and
6 placed where it is not readily available for fishing;
7 and

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

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

12 (a) IN GENERAL.—There are authorized to be appro-
13 priated to the Secretary and the Secretary of State such
14 sums as may be necessary to carry out this Act and to
15 pay the United States contribution to the Commission
16 under Article 15 of the South Pacific Fisheries Conven-
17 tion.

18 (b) INTERNATIONAL COOPERATION AND ASSIST-
19 ANCE.—

20 (1) IN GENERAL.—Subject to the limits of
21 available appropriations and consistent with applica-
22 ble law, the Secretary or the Secretary of State shall
23 provide appropriate assistance, including grants, to
24 developing nations and international organizations of
25 which such nations are members to assist those na-

1 tions in meeting their obligations under the South
2 Pacific Fisheries Convention.

3 (2) TRANSFER OF FUNDS.—Subject to the lim-
4 its of available appropriations and consistent with
5 other applicable law, the Secretary and the Secretary
6 of State are authorized to transfer funds to any for-
7 eign government, international, non-governmental,
8 or international organization, including the Commis-
9 sion, for purposes of carrying out the international
10 responsibilities under paragraph (1).

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114TH CONGRESS
2^D SESSION

S. 1336

[Report No. 114-235]

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.

APRIL 6, 2016

Reported without amendment