

Subject:International Fisheries Legislation...

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Attached are section-by-sections for H.R. 3269, the North Pacific Fisheries Convention Implementation Act, and S. 1336, the South Pacific Fisheries Convention Implementation Act.

I have also taken a look at the staff discussion draft that I received. This discussion draft combines the two bills and makes some modifications to the bills. At this point, some of the changes are only proposed and have not been finalized in the draft. Now that the hearing has been pushed to February, I suspect there will be a new draft released prior to the hearing so all of this may change again.

Kitty, there are a number of substantial changes to the South Pacific title. Some of them I suspect are drafting changes suggested by the House Legislative Counsel (the House Counsel hates the way the Senate Counsels draft legislation). Some appear to be substantial changes suggested by the minority staff of the Committee that are then altered by the majority staff. I suspect this will all be worked out before the hearing, but you should take a look at the discussion draft and see if there are any real problems.

As a general matter, the discussion draft removes some provisions that will hinder movement of the bill. In particular, House republicans do not like "such sums" authorizations so these have been removed from the discussion draft from both the North Pacific and the South Pacific titles. In addition, House republicans do not like authorizations of payments or grants to foreign nations so those have been removed. House republicans are not generally excited about giving the Secretary of Commerce the authority to charge new fees so those authorities have been removed.

Here are some of the specific changes that have been made from the introduced versions of the bills in the discussion draft:

- * There are a variety of technical drafting changes throughout the discussion draft - presumable suggested by the House Legislative Counsel.
- * In both the North Pacific and South Pacific titles, the specific longitude and latitude boundaries of the Convention Areas in the definitions sections of the bills have been replaced with a reference to the appropriate article of the Convention.
- * American Samoa and Guam have been added in the definition of "State" in the North Pacific title.
- * Minor changes in the definitions section changing "chairperson" to "chairman" have been made.
- * In both titles, the limitation on the terms of advisory committee members have been changed from "3 consecutive terms" to "3 terms".
- * In both titles, the authority for the Secretary of Commerce to collect fees has been removed.
- * The Advisory Committee in the South Pacific title has been reduced from 7 members to 6 members - removing the NGO seat. In addition, the bill called for a "Native Hawaiian" to be included. The discussion draft changes this to "Native".
- * The discussion draft requires that the Advisory Committee attend all U.S. Commission meetings and requires that the Advisory Committee examine and be heard on all proposed actions by the U.S. Commissioners.
- * The discussion draft (in the South Pacific title) removes the requirement that the Secretary enter into a MOU with the Western Pacific Council.

- * The discussion draft (in the South Pacific title) removes the authority for the Secretary of State to request and utilize assistance and personnel of other federal departments, foreign governments and international NGOs.
- * The section regarding the authorities of the Secretary of Commerce in the South Pacific title has been rewritten and the language regarding straddling stocks has been removed.
- * The language in the South Pacific title requiring the Secretary to ensure consistency with other laws removes the citation to the Atlantic Tunas Convention Act of 1975 and adds a citation to the NOAA Authorization Act of 1992.
- * The enforcement section in the South Pacific title has been slightly rewritten and removes the reference to "except to the extent otherwise provided for in the MSA...".
- * The district court jurisdiction section in the South Pacific title is slightly rewritten and removes the word "exclusive" before "jurisdiction".
- * The provision dealing with confidentiality of information in the South Pacific title has been removed.
- * The prohibited acts section of the South Pacific title has been rewritten and the specific reference to "capacity" and "processors" have been removed. In addition, the language making it a violation to fish in violation of any regulations is removed.
- * The discussion draft removes language making it a violation to harvest fishery resources that are under investigation by the Commission and removes language that appears to have been added that would make it a violation to falsely identify the species, vessel, or location where fish have been harvested. This language was not in S. 1336, but appears to have been added and then struck in the discussion draft.
- * As noted above, the discussion draft removes the authorization of appropriations from the South Pacific title and also strikes the authority for international cooperation and assistance and the authority for the Secretary of State to transfer funds to foreign governments or NGOs.
- * Finally, a new Title III is added to amend the Western and Central Pacific Fisheries Convention Implementation Act to require that, no later than 15 days prior to a meeting of the Commission, the Advisory Committee to transmit recommendations on the agenda items to the U.S. Commissioners. The language would also require that those recommendations be agreed to by a majority of the Advisory Committee members and that the U.S. Commissioners consider the recommendations in formulating the U.S. positions for the Commission meeting and during negotiations at the Commission meeting.

Let me know if you have any questions.

H.R. 3269, the “North Pacific Fisheries Convention Implementation Act”

Sponsor: Congressman Don Young (R-Alaska)

Introduced on July 28, 2015

Referred to the House Natural Resources Committee

Note: The bill includes duties for the North Pacific, Pacific, and Western Pacific Councils.

Section 1 - Short Title.

Section 2 - Definitions. The bill would define the following terms for the purposes of this Act: “Advisory Committee”; “Commission”; “Commissioner”; “Convention Area”; “Council”; “Exclusive Economic Zone”; “Fisheries Resources”; “Fishing Activities”; “Fishing Vessel”; “High Seas”; “North Pacific Fisheries Convention”; “Person”; “Secretary”; “State”; “Straddling Stock”; “Transshipment”; and “1982 Convention”.

Section 3 – United States Participation in the North Pacific Fisheries Convention. The bill would establish that there would be five U.S. Commissioners to the North Pacific Fisheries Commission (established pursuant to the North Pacific Fisheries Convention) as well as the selection and appointment of the U.S. Commissioners. The bill would that two of the U.S. Commissioners would be appointed by the President and would be an officer or employee of one of three agencies – the Department of Commerce, the Department of State, or the United States Coast Guard. The remaining three U.S. Commissioners would be: the chair of the North Pacific Fishery Management Council or his designee; the chair of the Pacific Fishery Management Council or his designee; and the chair of the Western Pacific Fishery Management Council or his designee.

The bill would authorize U.S. Alternative Commissioners and would establish compensation and travel expenses for U.S. Commissioners and Alternate Commissioners.

The bill would establish an 11-member permanent advisory committee and details the membership including the appointment process, terms, and compensation, as well as the procedures, practices, and public meeting requirements for the advisory committee. The bill would require the Secretary of Commerce and the Secretary of State to furnish the advisory committee with relevant information concerning fishery resources and international fishery agreements.

Section 4 – Authority and Responsibility of the Secretary of State. The bill would authorize the Secretary of State to: receive and transmit reports, requests, recommendations, proposals, decisions, and other communications to the Commission on behalf of the United States; in consultation with the Secretary of Commerce, approve, disapprove, object to, or withdraw objections to bylaws, rules, or amendments adopted by the Commission; with the concurrence of the Secretary of Commerce, approve or disapprove the annual program or other measure proposed or adopted by the Commission in accordance with the North Pacific Fisheries Convention; and act upon or refer to other appropriate authorities, any communication from the Commission.

Section 5 – Authority of the Secretary of Commerce. The bill would authorize the Secretary of Commerce, in consultation with the Secretary of State, to promulgate regulations as may be necessary

to carry out the obligations of the U.S. under the Convention or this Act including to implement recommendations and decisions adopted by the Commission. For any regulations regarding enforcement measures necessary to carry out the obligations of the U.S. under the Convention, the Secretary is required to consult with the Secretary of the department in which the Coast Guard is operating in addition to the Secretary of State.

The bill would require that if any measure adopted by the Commission would affect a straddling stock under the authority of a regional fishery management council, the appropriate council must approve any measure prior to the Secretary of Commerce acting to promulgate the regulations to implement the measure.

The bill would limit the application of regulations promulgated by the Secretary of Commerce to fishery resources and persons or fishing vessels that have been or are engaged in fishing activities covered by the North Pacific Fisheries Convention under this Act.

The bill would allow the Secretary of Commerce to request and utilize personnel, equipment, services and facilities of other Federal departments and agencies for: scientific research; fishing operations and biological experiments for the purpose of scientific investigation necessary to implement the Convention; collecting, utilizing, and disclosing information necessary to implement the Convention (subject to the data confidentiality provisions in the US Code and the Magnuson-Stevens Fishery Conservation and Management Act).

The bill would allow the Secretary of Commerce, if recommended by the U.S. Commissioners, to assess and collect a fee from U.S. vessels fishing in the Convention area to cover the actual costs of U.S. management and enforcement under this Act. The fee cannot exceed 3 percent of the ex-vessel value of fish harvested in the Convention Area and must be deposited as an offsetting collection and credited to the account providing the appropriations to the Secretary for carrying out this Act.

The bill would allow the Secretary of Commerce to issue permits to owners and operators of U.S. vessels to engage in fishing activities in the Convention Area seaward of the U.S. EEZ and to determine under what terms, conditions, and time periods the permits will be issued.

The bill would require that the Secretary of Commerce ensure consistency, to the extent practicable, of fishery management programs administered under this Act with a number of other statutes including: the Magnuson-Stevens Fishery Conservation and Management Act; the Tunas Convention Act of 1950; the South Pacific Tuna Treaty Act of 1988; Western and Central Pacific Fisheries Convention Implementation Act, the National Oceanic and Atmospheric Administration Authorization Act of 1992 (including amendments made to that Act); Public Law 100-629; and section 401 of Public Law 108-219 (relating to Pacific albacore tuna).

The bill would require that regulations promulgated by the Secretary of Commerce under this Act be subject to judicial review if a petition for review is filed within 30 days of the publication date of the regulation in the *Federal Register*. The bill would require the Secretary of Commerce to file a response to any petition for review within 30 days of the petition being filed unless the appropriate court extends the time period. The bill would require the Secretary of Commerce to include a copy of the administrative record for the regulations in the response. The bill would require the appropriate court to schedule a hearing at the earliest date upon a motion by the petitioner.

Section 6 – Enforcement. The bill would require the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating to administer and enforce this Act and any regulations issued under this Act to the extent provided for in the Magnuson-Stevens Fishery Conservation and Management Act.

The bill would allow the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating to request and utilize personnel, services, equipment and facilities of other Federal departments and agencies in the administration and enforcement of this Act.

The bill would require the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating to prevent any person from violating this Act with respect to fishing activities or the conservation of fishery resources in the Convention Area in the same manner and with the same jurisdiction, powers, and duties as authorized in sections 308 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act and as if these provisions were incorporated into this Act. The bill would treat any person who violates any provision of this Act in the same manner and with the same penalties and privileges and immunities as provided in the Magnuson-Stevens Fishery Conservation and Management Act and as if these provisions were incorporated into this Act.

The bill would clarify that the district courts of the United States would have exclusive jurisdiction over cases or controversies arising under provisions of this Act. The bill would clarify that the appropriate district court in the case of Hawaii or any possession of the United States in the Pacific Ocean would be the United States District Court for the District of Hawaii except in the case of Guam and Wake Island in which the appropriate court would be the United States District Court for the District of Guam and except in the case of the Northern Mariana Islands in which case the appropriate court would be the United States District Court for the District of the Northern Mariana Islands.

The bill would clarify that the district courts of the United States may, at any time, enter restraining orders or prohibitions, issue warrants, prescribe an accept bonds or other securities, or take other actions as are in the interest of justice.

The bill would clarify that each violation of this Act will be considered a separate offense and each offense shall be deemed to have been committed not only in the district where the violation occurred, but also in any other district authorized by law. The bill would also clarify that any offense committed in not in district is subject to the venue provisions of section 3238 of title 18 of the U.S. Code.

The bill would clarify that any information submitted to the Secretary of Commerce in compliance with any requirement under this Act shall be considered confidential and may only be disclosed in certain circumstances. Those circumstances are: to a Federal employee who is responsible for administering, implementing, or enforcing this Act; to the North Pacific Fisheries Commission (Commission) in accordance with the requirements of the Convention and decisions of the Commission and in accordance with an agreement with the Commission that prevents public disclosure of the identity or business of any person; to State, Council, or Marine Fisheries Commission employees pursuant to an agreement with the Secretary of Commerce that prevents public disclosure of the identity or business of any person; when required by a court order; or when the Secretary of Commerce has obtained written authorization from the person submitting the information that authorizes the release of the information to another person for a reason not otherwise provided for in this paragraph and if the release of the information does not violate other requirements of this Act.

The bill would require the Secretary of Commerce to promulgate regulations regarding the procedures the Secretary considers necessary to preserve the confidentiality of information submitted under this Act; however, the Secretary may release or make public information submitted under this Act if the information is released in an aggregate form or summary form that does not directly or indirectly disclose the identity or business of any person.

The bill would clarify that the confidentiality provisions of this Act should not be interpreted to prevent the use of information submitted under this Act for conservation and management purposes by the Secretary.

Section 7 – Prohibited Acts. The bill would clarify that it is unlawful for any person: to violate any provision, any regulation or any permit issued pursuant to this Act; to use any fishing vessel to engage in fishing activities without an applicable permit or to engage in fishing activities after the revocation of a permit or during the suspension of any applicable permit; to refuse to permit any enforcement officer authorized under this Act to board a fishing vessel for the purposes of conducting a search, investigation, or inspection in connection with the enforcement of this Act, regulations, permits, or the North Pacific Fisheries Convention; to assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search, investigation, or inspection in connection with the enforcement of this Act, regulations, permits, or the North Pacific Fisheries Convention; to resist a lawful arrest for any act prohibited by this Act or any regulation promulgated or any permit issued under this Act; to knowingly and willfully ship, transport, offer for sale, purchase, import, export, or have custody, control, or possession of any fishery resources taken or retained in violation of this Act, the regulations or permits issued under this Act, to interfere with, delay or prevent the apprehension or arrest of another person knowing that such person has committed any act prohibited by this Act; to willfully submit to the Secretary of Commerce false information; to resist, oppose, impede, intimidate, or sexually harass, bribe or interfere with any observer on a vessel or any data collector employed by or under contract to any person carrying out responsibilities under this Act; to engage in fishing in violation of any regulations adopted under this Act; to knowingly and willfully ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession or control any fishery resources taken or retained in violation of regulations adopted under this Act; to fail to keep or furnish any catch returns, statistical records, or other reports required by regulations adopted under this Act; to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States; to import any fishery resources in any form of those species subject to regulation pursuant to a recommendation, resolution, or decision of the Commission or any fishery resources in any form not under regulation but under investigation by the Commission during the period such fishery resources have been denied entry in accordance with provisions of this Act; to make or submit any false record, account, label, or identification of any fishery resources which have been or are intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce; or to refuse to authorize and accept boarding by a duly authorized inspector pursuant to procedures adopted by the Commission for the boarding and inspecting of vessels in the Convention Area.

Section 8 – Cooperation in Carrying Out Convention. The bill would authorize the Secretary of Commerce to cooperate with any Federal agency, any public or private institution or organization within the United States or abroad to carry out the responsibilities of this Act and authorizes the Secretary of Commerce, acting through the Secretary of State, to cooperate with duly authorized officials of the

government of any party to the North Pacific Fisheries Convention in carrying out the responsibilities of this Act.

The bill would authorize each Federal agency, upon the request of the Secretary of Commerce, to cooperate in the conduct of scientific and other programs and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out duties under the North Pacific Fisheries Convention.

The bill would clarify that nothing in this Act or the laws of any State would prevent the Secretary of Commerce from conducting or authorizing the conduct of fishing operations and biological experiments at any time for the purposes of scientific investigation or from discharging any duties prescribed by the North Pacific Fisheries Convention.

The bill would clarify that nothing in this Act is construed to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

Section 9 – Territorial Participation. The bill requires the Secretary of Commerce to ensure participation in the Commission and its subsidiary bodies by the Commonwealth of the Northern Mariana Islands to the same extent provided to the territories of other nations.

Section 10 – Exclusive Economic Zone Notifications. The bill would require masters of commercial fishing vessels under the management authority of the North Pacific Fisheries Convention that do not carry vessel monitoring systems capable of communicating with United States enforcement authorities, prior to, or as soon as is reasonably possible after, entering and transiting the EEZ bounded by the Convention Area to: notify the United States Coast Guard regarding the name, flag, state, location, route, and destination of the vessels and under what circumstances the vessel will enter United States waters; ensure that all fishing gear on board the vessel is stowed below deck or otherwise removed from the place it is normally used for fishing activities and place where it is not readily available for fishing activities; and proceed to a specified location so that a vessel inspection can be conducted if requested by an enforcement officer.

Section 11 – Authorization of Appropriations. The bill would authorize “such sums as may be necessary to carry out this Act and to pay the United States contribution to the Commission under Article 12 of the North Pacific Fisheries Convention” to be appropriated to the Secretary of Commerce and to the Secretary of State.

S. 1336, the South Pacific Fisheries Convention Implementation Act

Sponsor - Senator Schatz (D-Hawaii)

Introduced on May 13, 2015

Referred to the Senate Commerce, Science, and Transportation Committee

Section 1 – Short Title.

Section 2 – Definitions. The bill would define the following terms for the purposes of this Act: “Advisory Committee”; “Commission”; “Convention Area”; “Council”; “Exclusive Economic Zone of the United States”; “Fishery Resources”; “Fishing”; “Fishing Vessel”; “Panel”; “Person”; “Secretary”; “South Pacific Fisheries Convention”; “State”; “Straddling Stock”; “Transshipment”; and “1982 Convention”.

Section 3 – Appointment of Commissioners. The bill would establish the number of U.S. Commissioners and Alternative Commissioners to the South Pacific Fisheries Commission (established pursuant to the South Pacific Fisheries Convention) as well as the selection procedures for the U.S. Commissioners. The bill would require that the United States be represented on the Commission by not more than 3 Commissioners who are to be selected by the President and serve at the pleasure of the President. The bill would require that at least one of the Commissioners be an officer or employee of one of the following agencies - the Department of Commerce, the Department of State, or the United States Coast Guard. The bill would require that one Commissioner be the chair or a designee of the Western Pacific Regional Fishery Management Council. The bill would establish compensation and travel expenses for U.S. Commissioners and Alternate Commissioners.

The bill would establish a 7-member permanent advisory committee and details the membership including the appointment process, terms, and compensation, as well as the procedures, practices, and public meeting requirements for the advisory committee. The bill would require the Secretary of Commerce and the Secretary of State to furnish the advisory committee with relevant information concerning fishery resources and international fishery agreements. The bill would require the Secretary of Commerce to provide the Advisory Committee with administrative and technical support services as necessary for the Advisory Committee to function effectively.

The bill would require that the Secretary of Commerce, in coordination with the Secretary of State, to develop a memorandum of understanding with the Western Pacific Fishery Management Council that clarifies the role of the Council for the fishery resources in the Convention Area with respect to: participation in U.S. delegations to international fishery organizations in the Pacific Ocean (including government-to-government consultations); providing formal recommendations to the Secretaries of Commerce and State regarding necessary measures for domestic and foreign fishing vessels; coordinating positions with the U.S. delegation for presentation to the appropriate international fishery organizations; and recommending domestic fishing regulations that are consistent with the actions of the international fishery organization for approval and implementation under the Magnuson-Stevens Fishery Conservation and Management Act.

Section 4 - Authority and Responsibility of the Secretary of State. The bill would authorize the Secretary of State to: receive and transmit reports, requests, recommendations, proposals, decisions,

and other communications to the Commission on behalf of the United States; in consultation with the Secretary of Commerce, approve, disapprove, object to, or withdraw objections to bylaws, rules, or amendments adopted by the Commission; with the concurrence of the Secretary of Commerce, approve or disapprove the annual program or other measure proposed or adopted by the Commission in accordance with the North Pacific Fisheries Convention; and act upon or refer to other appropriate authorities, any communication from the Commission.

Section 5 – Authority of the Secretary of Commerce. The bill would authorize the Secretary of Commerce, in consultation with the Secretary of State, to promulgate regulations as may be necessary to carry out the obligations of the U.S. under the Convention or this Act including to implement recommendations and decisions adopted by the Commission. For any regulations regarding enforcement measures necessary to carry out the obligations of the U.S. under the Convention, the Secretary is required to consult with the Secretary of the department in which the Coast Guard is operating in addition to the Secretary of State.

The bill would require that if the Secretary of Commerce has discretion in implementing any measure adopted by the Commission would affect a straddling stock under the authority of the Western Pacific Fishery Management Council, the Secretary shall promulgate the regulation, to the extent practicable, within the implementation schedule of the South Pacific Fisheries Convention and in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act.

The bill would limit the application of regulations promulgated by the Secretary of Commerce to fishery resources and persons or fishing vessels that have been or are engaged in fishing activities covered by the South Pacific Fisheries Convention under this Act.

The bill would allow the Secretary of Commerce to request and utilize personnel, equipment, services and facilities of other Federal departments and agencies for: scientific research; fishing operations and biological experiments for the purpose of scientific investigation necessary to implement the Convention; collecting, utilizing, and disclosing information necessary to implement the Convention (subject to the data confidentiality provisions in the US Code and the Magnuson-Stevens Fishery Conservation and Management Act).

The bill would allow the Secretary of Commerce, if recommended by the U.S. Commissioners, to assess and collect a fee from U.S. vessels fishing in the Convention area to cover the actual costs of U.S. management and enforcement under this Act. The fee cannot exceed 3 percent of the ex-vessel value of fish harvested in the Convention Area and must be deposited as an offsetting collection and credited to the account providing the appropriations to the Secretary for carrying out this Act.

The bill would allow the Secretary of Commerce to issue permits to owners and operators of U.S. vessels to engage in fishing activities in the Convention Area seaward of the U.S. EEZ and to determine under what terms, conditions, and time periods the permits will be issued.

The bill would require that the Secretary of Commerce ensure consistency, to the extent practicable, of fishery management programs administered under this Act with a number of other statutes including: the Magnuson-Stevens Fishery Conservation and Management Act; the Tunas Convention Act of 1950; the South Pacific Tuna Treaty Act of 1988; the Atlantic Tunas Convention Act of 1975; the Western and

Central Pacific Fisheries Convention Implementation Act; and section 401 of Public Law 108-219 (relating to Pacific albacore tuna).

The bill would require that regulations promulgated by the Secretary of Commerce under this Act be subject to judicial review if a petition for review is filed within 30 days of the publication date of the regulation in the Federal Register. The bill would require the Secretary of Commerce to file a response to any petition for review within 30 days of the petition being filed unless the appropriate court extends the time period. The bill would require the Secretary of Commerce to include a copy of the administrative record for the regulations in the response. The bill would require the appropriate court to schedule a hearing at the earliest date upon a motion by the petitioner.

Section 6 – Enforcement. The bill would require the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating to administer and enforce this Act and any regulations issued under this Act to the extent provided for in the Magnuson-Stevens Fishery Conservation and Management Act.

The bill would allow the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating to request and utilize personnel, services, equipment and facilities of other Federal departments and agencies in the administration and enforcement of this Act.

The bill would require the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating to prevent any person from violating this Act with respect to fishing activities or the conservation of fishery resources in the Convention Area in the same manner and with the same jurisdiction, powers, and duties as authorized in sections 308 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act and as if these provisions were incorporated into this Act. The bill would treat any person who violates any provision of this Act in the same manner and with the same penalties and privileges and immunities as provided in the Magnuson-Stevens Fishery Conservation and Management Act and as if these provisions were incorporated into this Act.

The bill would clarify that the district courts of the United States would have exclusive jurisdiction over cases or controversies arising under provisions of this Act. The bill would clarify that the appropriate district court in the case of Hawaii or any possession of the United States in the Pacific Ocean would be the United States District Court for the District of Hawaii except in the case of Guam and Wake Island in which the appropriate court would be the United States District Court for the District of Guam and except in the case of the Northern Mariana Islands in which case the appropriate court would be the United States District Court for the District of the Northern Mariana Islands.

The bill would clarify that the district courts of the United States may, at any time, enter restraining orders or prohibitions, issue warrants, prescribe an accept bonds or other securities, or take other actions as are in the interest of justice.

The bill would clarify that each violation of this Act will be considered a separate offense and each offense shall be deemed to have been committed not only in the district where the violation occurred, but also in any other district authorized by law. The bill would also clarify that any offense committed in not in district is subject to the venue provisions of section 3238 of title 18 of the U.S. Code.

The bill would clarify that any information submitted to the Secretary of Commerce in compliance with any requirement under this Act shall be considered confidential and may only be disclosed in certain

circumstances. Those circumstances are: to a Federal employee who is responsible for administering, implementing, or enforcing this Act; to the South Pacific Fisheries Commission (Commission) in accordance with the requirements of the Convention and decisions of the Commission and in accordance with an agreement with the Commission that prevents public disclosure of the identity or business of any person; to State, Council, or Marine Fisheries Commission employees pursuant to an agreement with the Secretary of Commerce that prevents public disclosure of the identity or business of any person; when required by a court order; or when the Secretary of Commerce has obtained written authorization from the person submitting the information that authorizes the release of the information to another person for a reason not otherwise provided for in this paragraph and if the release of the information does not violate other requirements of this Act.

The bill would require the Secretary of Commerce to promulgate regulations regarding the procedures the Secretary considers necessary to preserve the confidentiality of information submitted under this Act; however, the Secretary may release or make public information submitted under this Act if the information is released in an aggregate form or summary form that does not directly or indirectly disclose the identity or business of any person.

The bill would clarify that the confidentiality provisions of this Act should not be interpreted to prevent the use of information submitted under this Act for conservation and management purposes by the Secretary.

Section 7 – Prohibited Acts. The bill would clarify that it is unlawful for any person: to violate any provision, any regulation or any permit issued pursuant to this Act; to use any fishing vessel to engage in fishing activities without an applicable permit or to engage in fishing activities after the revocation of a permit or during the suspension of any applicable permit; to refuse to permit any enforcement officer authorized under this Act to board a fishing vessel for the purposes of conducting a search, investigation, or inspection in connection with the enforcement of this Act, regulations, permits, or the South Pacific Fisheries Convention; to assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search, investigation, or inspection in connection with the enforcement of this Act, regulations, permits, or the South Pacific Fisheries Convention; to resist a lawful arrest for any act prohibited by this Act or any regulation promulgated or any permit issued under this Act; to knowingly and willfully ship, transport, offer for sale, purchase, import, export, or have custody, control, or possession of any fishery resources taken or retained in violation of this Act, the regulations or permits issued under this Act, to interfere with, delay or prevent the apprehension or arrest of another person knowing that such person has committed any act prohibited by this Act; to willfully submit to the Secretary of Commerce false information; to resist, oppose, impede, intimidate, or sexually harass, bribe or interfere with any observer on a vessel or any data collector employed by or under contract to any person carrying out responsibilities under this Act; to engage in fishing in violation of any regulations adopted under this Act; to knowingly and willfully ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession or control any fishery resources taken or retained in violations of regulations adopted under this Act; to fail to keep or furnish any catch returns, statistical records, or other reports required by regulations adopted under this Act; to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States; to import any fishery resources in any form of those species subject to regulation pursuant to a recommendation, resolution, or decision of the Commission or any fishery resources in any form not under regulation but under investigation by the Commission during the period such fishery resources have been denied entry

in accordance with provisions of this Act; to make or submit any false record, account, label, or identification of any fishery resources which have been or are intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce; or to refuse to authorize and accept boarding by a duly authorized inspector pursuant to procedures adopted by the Commission for the boarding and inspecting of vessels in the Convention Area.

Section 8 – Cooperation in Carrying Out Convention. The bill would authorize the Secretary of Commerce to cooperate with any Federal agency, any public or private institution or organization within the United States or abroad to carry out the responsibilities of this Act and authorizes the Secretary of Commerce, acting through the Secretary of State, to cooperate with duly authorized officials of the government of any party to the South Pacific Fisheries Convention in carrying out the responsibilities of this Act.

The bill would authorize each Federal agency, upon the request of the Secretary of Commerce, to cooperate in the conduct of scientific and other programs and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out duties under the South Pacific Fisheries Convention.

The bill would clarify that nothing in this Act or the laws of any State would prevent the Secretary of Commerce from conducting or authorizing the conduct of fishing operations and biological experiments at any time for the purposes of scientific investigation or from discharging any duties prescribed by the South Pacific Fisheries Convention.

The bill would clarify that nothing in this Act is construed to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

Section 9 – Territorial Participation. The bill requires the Secretary of Commerce to ensure participation in the Commission and its subsidiary bodies by the Commonwealth of the Northern Mariana Islands to the same extent provided to the territories of other nations.

Section 10 – Exclusive Economic Zone Notifications. The bill would require masters of commercial fishing vessels under the management authority of the South Pacific Fisheries Convention that do not carry vessel monitoring systems capable of communicating with United States enforcement authorities, prior to, or as soon as is reasonably possible after, entering and transiting the EEZ bounded by the Convention Area to: notify the United States Coast Guard regarding the name, flag, state, location, route, and destination of the vessels and under what circumstances the vessel will enter the United States exclusive economic zone seaward of the Convention Area; ensure that all fishing gear on board the vessel is stowed below deck or otherwise removed from the place it is normally used for fishing activities and place where it is not readily available for fishing activities; and proceed to a specified location so that a vessel inspection can be conducted if requested by an enforcement officer.

Section 11 – Authorization of Appropriations. The bill would authorize “such sums as may be necessary to carry out this Act and to pay the United States contribution to the Commission under Article 15 of the South Pacific Fisheries Convention” to be appropriated to the Secretary of Commerce and to the Secretary of State.

The bill would also, subject to the limits of available appropriations and consistent with applicable law, require the Secretary of Commerce or the Secretary of State to provide appropriate assistance – including grants – to developing nations and international organizations of which such nations are

member to assist those nations in meeting their obligations under the South Pacific Fisheries Convention.

The bill would also, subject to the limits of available appropriations and consistent with applicable law, authorize the Secretary of Commerce and the Secretary of State to transfer funds to any foreign government, international, non-governmental, or international organization including the Commission for the purposes of carrying out the international responsibilities under the South Pacific Fisheries Convention.