

# Committee on Natural Resources

Rob Bishop Chairman  
Markup Memorandum

November 13, 2018

To: All Natural Resources Committee Members

From: Majority Committee Staff— William Ball  
Subcommittee on Water, Power and Oceans (x58331)

Markup: **H.R. 5025 (Rep. Aumua Amata Coleman Radewagen, R-AS)**, To amend the Western and Central Pacific Fisheries Convention Implementation Act to limit the imposition of penalties against a person fishing on a United States flag fishing vessel in certain areas of the Pacific Ocean based on a report by an observer on such a vessel.  
**November 15, 2018, 9:30am; 1324 Longworth HOB**

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## **Summary of the Bill**

H.R. 5025 would amend the Western and Central Pacific Fisheries Convention Implementation Act to require that any violations of the convention conducted by United States flagged vessels be justified within 60 days of the alleged violation with submission of the observer report to the vessel captain, and any enforcement of such violations be done within one year of the violation being logged.

## **Background**

The coordinated management of shared fishery stocks in international waters (201 or more miles from U.S. shores) is accomplished by nations participating in Regional Fisheries Management Organizations (RFMOs). These international commissions guide and coordinate the fisheries management activities of multiple nations in a specific region.<sup>1</sup> There are a number of RFMOs that the U.S. is party to, with the five major RFMOs being the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the Inter-American Tropical Tuna Commission (IATTC), the International Commission for the Conservation of Atlantic Tuna (ICCAT), the Indian Ocean Tuna Commission (IOTC), and the Western and Central Pacific Fisheries Commission (WCPFC).<sup>2</sup>

In each case, an RFMO – comprised of designees from each participating country and territory – fosters cooperative management of these shared resources.<sup>3</sup> Cooperation under such

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<sup>1</sup> <http://www.state.gov/e/oes/ocns/fish/regionalorganizations/>

<sup>2</sup> <http://www.fao.org/fishery/topic/12270/en>

<sup>3</sup> [Id at 2.](#)

a convention allows the U.S. to address fisheries resources not covered under preexisting fisheries management instruments and helps to prevent destructive fishing practices by other participating nations that may hurt domestic fisheries.<sup>4</sup>

The Western and Central Pacific Fisheries Convention Implementation Act (Public Law 109-479)<sup>5</sup> was signed into law in January 2007 to codify the United States participation in the Convention and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.<sup>6</sup> The Convention established the WCPFC which, according to its website, is responsible for overseeing the compliance of the Convention by signatory nations, as well as supporting three subsidiary committees: Scientific, Technical and Compliance, and Northern Committees.<sup>7</sup>

To ensure fair, consistent implementation and enforcement of the Convention, H.R. 5025 simply states that any U.S. flagged vessel that is accused of violating the Convention be afforded the opportunity to see the on-board observer's report citing the violation within 60 days of the alleged violation taking place. The legislation also simply states that any enforcement action taken against a U.S. flagged vessel for a violation under the Convention be convened within one year of the violation occurring.

### **Major Provisions of H.R. 5025**

*Section 1* of H.R. 5025 amends Section 507 of the Western and Central Pacific Fisheries Convention Implementation Act to mandate that: 1) an at-sea observer must provide his or her report to any United States flagged vessel accused of violating the Convention within 60 days of the alleged violation; and 2) any enforcement that results from a violation of the Convention based on an observer report be convened within one year of the violation being logged.

### **Cost**

The Congressional Budget Office has not completed a cost estimate of this bill.

### **Administration Position**

N/A

### **Anticipated Amendments**

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<sup>4</sup> [Kelly Welsh letter to Chairman Rob Bishop, September 15, 2015.](#)

<sup>5</sup> [Public Law 109-479, Signed January 12, 2007](#)

<sup>6</sup> <https://www.wcpfc.int/about-wcpfc>

<sup>7</sup> Id at 6

None anticipated.

**Effect on Current Law (Ramseyer):**

**Showing Current Law as Amended by H.R. 5025**

[new text highlighted in yellow]

**Section 507 of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6906)**

**§6906. Prohibited acts**

**(a) In general**

It is unlawful for any person-

(1) to violate any provision of this chapter or any regulation or permit issued pursuant to this chapter;

(2) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this chapter;

(3) to refuse to permit any officer authorized to enforce the provisions of this chapter to board a fishing vessel subject to such person's control for the purposes of conducting any search, investigation, or inspection in connection with the enforcement of this chapter or any regulation, permit, or the Convention;

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigations, or inspection in connection with the enforcement of this chapter or any regulation, permit, or the Convention;

(5) to resist a lawful arrest for any act prohibited by this chapter;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this chapter or any regulation, permit, or agreement referred to in paragraph (1) or (2);

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any chapter <sup>1</sup> prohibited by this section;

(8) to knowingly and willfully submit to the Secretary false information (including false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishery vessels of the United States), regarding any matter that the Secretary is considering in the course of carrying out this chapter;

(9) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this chapter, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this chapter;

(10) to engage in fishing in violation of any regulation adopted pursuant to [section 6905\(a\) of this title](#);

(11) to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations;

(12) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished;

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

(14) to import, in violation of any regulation adopted pursuant to [section 6905\(a\) of this title](#), any fish in any form of those species subject to regulation pursuant to a recommendation, resolution, or decision of the Commission, or any tuna in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of [section 6905\(a\) of this title](#).

**(b) Entry certification**

In the case of any fish described in subsection (a) offered for entry into the United States, the Secretary of Commerce shall require proof satisfactory to the Secretary that such fish is not ineligible for such entry under the terms of [section 6905\(a\) of this title](#).

**(c) Limitation on Enforcement Based on Observer Reports.**--No person fishing on a United States flag fishing vessel in the Convention Area shall be subject to any penalty under this Act or any other law or regulation applicable to such vessels based on a report by an observer on such a vessel, unless--

(1) the observer report is provided to the captain and the owner of the vessel within 60 days after the end of the fishing trip; and

(2) any enforcement action based on such report is brought within one year after the end of the fishing trip.