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FISHERY ZONES AND
REGULATION OF FOREIGN FISHING

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TITLE 27

FISHING

DIVISION 1: FOREIGN FISHING

Chapter 1: Fishery Zones
and Regulation of Foreign Fishing

Subchapter I: General Provisions

§101. Purposes.

§102. Definitions.

§101. Purposes.

By this legislation, the Republic enacts its own fishery zone legislation to manage, conserve, and regulate the harvesting of fish throughout their habitat, both within the reef areas of islands and atolls, and in other areas within the jurisdictional competence of the Republic.

Source: PL 6-7-14 §1, modified.

§102. Definitions.

Unless the context otherwise requires, in this chapter:

(a) "Atoll" means a circular or oval coral reef forming a geographic and ecologic unity crowned by at least one island.

(b) "Authority" means the Palau Maritime Authority established by subchapter II of this chapter.

(c) "Director" means the Director of the Palau Maritime Authority.

(d) "Fish" means any living resource.

(e) "Fishery" means:

(1) One or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical recreational, and economic characteristics; and

(2) Any fishing for such stocks.

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(f) "Foreign fishing agreement" means an agreement approved by the national government and one or more foreign commercial fishing interests to permit foreign vessels to harvest fish within the exclusive or extended fishery zones of the Republic. A "foreign party" is a party to such an agreement other than the Authority.

(g) "Foreign Fishing" means fishing by vessels not duly registered in the Republic pursuant to Title 7 of this Code.

(h) "Island" means a naturally formed area of land, surrounded by water, which is above water at high tide.

(i) "Living resource" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine birds.

(j) "Person" means any individual, corporation, partnership, association, or other entity, the national government or any subdivision or entity thereof, and any foreign government or any subdivision or entity thereof.

(k) "Reef fish" means any species of living resource which predominately inhabit reef areas, the territorial sea, or internal waters, excluding bait fish used in the fishery for highly migratory species.

(l) "Stock of fish" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(m) "Submerged reef" means a coral reef forming a geographic and ecologic unity which is wholly submerged at high tide.

Source: PL 6-7-14 §2, modified. Subsection (g) amended by PL 6-6S-8 §1; subsection (k) amended by PL 6-6S-8 §2.

Subchapter II: Palau
Maritime Authority

- §121. Palau Maritime Authority; created; term; chairman; meetings; compensation.
§122. Same; rules of procedure and regulations.
§123. Same; functions and duties.

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§124. Same; director; staff.

§125. Chairman's report.

§121. Palau Maritime Authority; created; term; chairman; meetings; compensation.

(a) The Authority shall meet at such times and places as may be designated by the chairman or by the Authority.

(b) Members of the Authority shall be compensated at the rate of \$20.00 per day when actually on the business of the Authority. If any member of the Authority is employed by the national government he shall receive his regular salary while on the business of the Authority, or \$20.00 per day, whichever is greater. All members of the Authority shall receive per diem and travel expenses at established national government rates while on the business of the Authority.

Source: Subsections (a) through (d) -- PL 6-7-14 §10(1), as amended by PL 7-1-21 §1(1), modified. (The last three sentences of PL 6-7-14 §10(1), as amended, have been moved to §122, below.) Subsection (e) -- PL 6-7-14 §10(4), as amended by PL 7-1-21 §1, modified.

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§122. Same; rules of procedure and regulations.

(a) The Authority shall adopt its own rules of procedure and regulations by majority vote.

(b) Regulations adopted by the Authority shall have the full force and effect of law. The process of the adoption of the regulations by the Authority is expressly exempt from the requirements of the Administrative Procedure Act set forth in chapter 1 of Title 6 of this Code, but the Authority nevertheless shall insure wide dissemination of the proposed regulations and afford the public a reasonable opportunity to present its views prior to the adoption of any regulations.

Source: Last three sentences of PL 6-7-14 §10(1), as amended by PL 7-1-21 §1, modified.

§123. Same; functions and duties.

The Authority shall have the following duties, functions, and authority:

(a) To adopt regulations for the conservation, management, and exploitation of all living resources in the extended and exclusive fishery zones of the Republic pursuant to sections 125 and 144 of this title;

(b) To participate in the delimitation of the extended fishery zone in accordance with section 147 of this title;

(c) To negotiate and conclude foreign fishing agreements in accordance with sections 162 through 165 of this title;

(d) To issue foreign fishing permits in accordance with regulations promulgated pursuant to section 122 of this title and subsection (a) of this section;

(e) To submit its budget and a report regarding the expenditure of its funds to the Olbiil Era Kelulau each regular session for approval; and

(f) To perform such other duties and functions as may be necessary to carry out the purposes of this chapter.

Source: PL 6-7-14 §10(2), as amended by PL 7-1-21 §1, modified.

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§124. Same; director; staff.

The Authority shall employ a full-time director qualified in fishery management and experienced in international negotiation. The Authority may employ such other staff as it may deem necessary.

Source: PL 6-7-14 §10(3), as amended by PL 7-1-21 §1, modified.

§125. Chairman's report.

The chairman of the Authority shall report on its activities to the presiding officers of the Olbiil Era Kelulau on a quarterly basis, and to the President on an annual basis. The annual report shall contain a detailed accounting of the expenditure of funds by the Authority.

Source: PL 6-7-14 §10(5), as amended by PL 7-1-21 §1, modified.

Subchapter III: Fishery Zones

- §141. Baselines.
- §142. Territorial sea; internal waters.
- §143. Exclusive fishery zone.
- §144. Extended fishery zone.
- §145. Merged zone.
- §146. Submerged reefs.
- §147. Delimitation.

§141. Baselines.

A baseline is a continuous line which encircles an island or atoll. The baseline from which the zones designated in this chapter are to be measured is as follows:

(a) The baseline of an island or portion of an island lacking a barrier reef, fringing reef, or other reef system is the low water line of the island as marked on large scale charts officially recognized by the national government.

(b) The baseline of an atoll or island or portion of an island having a barrier reef, fringing reef, or other reef system is a line following the contour of the seaward edge of the reef system, which line connects those outermost elevations of the reef which are above water at low tide, and which line exists as marked on large scale charts officially recognized by the national government.

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Source: PL 6-7-14 §3, modified.

Cross-reference: ROP Const., Art. I, §1.

§142. Territorial sea; internal waters.

(a) There is hereby established a territorial sea of three miles' breadth. The inner boundary of the territorial sea of each island or atoll is the baseline as defined in section 141 of this title. The outer boundary is a line, every point of which is three nautical miles seaward of the nearest point on the baseline.

(b) Waters landward of the baseline, including the lagoons of atolls or islands, are internal waters.

Source: PL 6-7-14 §4, modified.

Cross-reference: ROP Const., Art. I, §1.

§143. Exclusive fishery zone.

(a) There is hereby established an exclusive fishery zone contiguous to the territorial sea. The inner boundary of the exclusive fishery zone of each island or atoll is the seaward boundary of the territorial sea, and the outer boundary is a line, every point of which is 12 nautical miles seaward of the nearest point on the baseline as defined in section 141 of this title.

(b) The national government possesses and may exercise the same sovereign rights to living resources in the exclusive fishery zone as it does in the territorial sea.

Source: PL 6-7-14 §5, as amended by PL 6-6S-8 §3, modified.

§144. Extended fishery zone.

(a) There is hereby established an extended fishery zone contiguous to the exclusive fishery zone. The inner boundary of the extended fishery zone of each island or atoll is the seaward boundary of the exclusive fishery zone, and the outer boundary is a line, every point of which is 200 nautical miles seaward of the nearest point on the baseline as defined in section 141 of this title.

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(b) The national government shall have exclusive management, conservation, and regulatory authority over all living resources within the extended fishery zone to the full extent recognized by international law.

Source: PL 6-7-14 §6, modified.

§145. Merged zone.

Where the zone of one island overlaps a like zone of another island, they merge and become one zone, the outer boundary of which is the seaward-most boundary of the merged zone.

Source: PL 6-7-14 §7, modified.

§146. Submerged reefs.

Traditionally recognized fishing rights in submerged reef areas wherever located within the fishery zones of the Republic shall be preserved and respected in accordance with the regulations of the Authority.

Source: PL 6-7-14 §8, modified.

§147. Delimitation.

(a) The Authority, the United States Government and the Trust Territory Government shall cooperate in the delimitation of the extended fishery zone when it overlaps a zone of national jurisdiction established by another nation.

(b) In the event a fishery zone of the Republic overlaps with that of another nation of the Trust Territory, the Authority may by agreement with the appropriate agency of that nation resolve the conflict in their respective fishery zones.

Source: PL 6-7-14 §9, modified.

Subchapter IV: Regulation
of Foreign Fishing

§161. Foreign fishing restricted.

§162. Foreign fishing agreements; exclusive authority of national government.

§163. Same; terms and conditions Authority is to seek.

§164. Same; allowable level of foreign fishing.

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- §165. Same; allocation among foreign nations of allowable level of fishing.
- §166. International fishery agreements.
- §167. Fishing permits; in general.
- §168. Same; application process.
- §169. Same; fees and compensation.
- §170. Same; consequences of prohibited act.
- §171. Same; noncommercial fishing.
- §172. Same; bait fish.

§161. Foreign fishing restricted.

(a) No foreign fishing vessel may fish in the territorial sea or internal waters of the Republic for reef fish as defined in section 102(k) of this title.

(b) Foreign fishing may be permitted in the territorial sea, the internal waters, the exclusive fishery zone and the extended fishery zone of the Republic as provided in sections 167 through 172 of this title.

Source: PL 6-7-14 §11, as amended by PL 6-6S-8 §4, modified.

§162. Foreign fishing agreements; exclusive authority of national government.

Each foreign fishing agreement shall acknowledge the exclusive fishery management authority of the national government as set forth in this chapter.

Source: PL 6-7-14 §12(1), modified.

§163. Same; terms and conditions Authority is to seek.

In negotiating foreign fishing agreements, the Authority shall seek substantial agreement by the foreign parties to the following terms and conditions:

(a) The foreign party and the owner or operator of any fishing vessel fishing pursuant to such agreement will abide by all regulations issued under authority of section 122 of this title.

(b) The foreign party and the owner or operator of any fishing vessel fishing pursuant to such foreign fishing agreement will abide by the agreement that:

(1) Any officer authorized to enforce the provisions of this chapter shall be permitted to board and search or inspect any vessel at any time

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and make arrests and seizures provided for in section 188 of this title whenever such officer has reasonable cause to believe, as a result of such a search or inspection, that any such vessel or any person has committed an act prohibited by this chapter;

(2) Such officer shall also be permitted to examine and make notations on the permit issued pursuant to sections 167 through 172 of this title;

(3) The permit issued for any such vessel pursuant to sections 167 through 172 of this title shall be prominently displayed in the wheelhouse of such vessel;

(4) Appropriate position-fixing and identification equipment shall be installed and maintained in working order on each such vessel;

(5) Duly authorized Palauan observers shall be permitted on board any such vessel and the national government shall be reimbursed for the cost of such observers; and

(6) Agents shall be appointed and maintained within the Republic who are authorized to receive and respond to any legal process issued in the Republic with respect to such owner or operator.

(c) The foreign party and the owners or operators of all of the fishing vessels of such party shall not, in any year, exceed such party's allocation of the total allowance level of foreign fishing.

(d) Foreign parties will:

(1) Apply, pursuant to sections 167 through 172, for any required permits;

(2) Deliver promptly to the owner or operator of the appropriate fishing vessel any permit which is issued under those sections for such vessel; and

(3) Abide by the requirement that no foreign fishing will be permitted in the exclusive or extended fishery zones of the Republic after January 1, 1979, without a valid and applicable permit, and the requirement that all conditions and

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restrictions of the permit be complied with.

(e) The foreign party and the owner or operator of any fishing vessel fishing pursuant to such agreement will abide by all other terms and conditions of the agreement.

Source: PL 6-7-14 §12(2), modified.

§164. Same; allowable level of foreign fishing.
The total allowable level of foreign fishing, if any, with respect to any fishery subject to the provisions of this chapter, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the Republic.

Source: PL 6-7-14 §12(3), modified.

§165. Same; allocation among foreign nations of allowable level of fishing.

After reviewing recommendations by the Authority, the Olbiil Era Kelulau by legislation shall determine the allocation among foreign nations of the total allowable level of foreign fishing which is permitted with respect to any fishery subject to the provisions of this chapter. In determining the allocation among nations, the Olbiil Era Kelulau shall take into consideration:

(a) The extent to which vessels of such nations have traditionally fished the particular regulated species;

(b) Whether such nations have cooperated with the national government in, and made substantial contributions to, fishery research and the identification of fishery resources;

(c) Such other matters as it may deem appropriate.

Source: PL 6-7-14 §12(4), modified.

§166. International fishery agreements.

An international fishery agreement is an international agreement primarily affecting living resources within the fishery zones of the Republic. Such agreements shall be negotiated and concluded in cooperation between the United States Government and the Authority. Prior to the conclusion of such an agreement, the United States Government shall obtain the concurrence of the Olbiil Era Kelulau by resolution to its terms and provisions to the

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extent such terms and provisions affect living resources within the fishery zones of the Republic.

Source: PL 6-7-14 §13, modified.

§167. Fishing permits; in general.

After January 1, 1979, a foreign fishing vessel may engage in fishing in the exclusive or extended fishery zone of the Republic only if such vessel has on board a valid permit issued under sections 167 through 172 for such vessel.

Source: PL 6-7-14 §14(1) and (2), modified.

§168. Same; application process.

(a) Each foreign party entitled to permits in accordance with its foreign fishing agreement shall make application on forms prescribed by the Authority specifying, among other things:

(1) The name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof;

(2) The tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other pertinent information with respect to characteristics of each such vessel as the Authority may require;

(3) Each fishery in which such vessel wishes to fish;

(4) The amount of fish or tonnage of catch contemplated for each such vessel during the time such permit is in force; and

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(5) The ocean area in which, and the season or period during which, such fishing will be conducted.

(b) Upon receipt of an application, the Director shall transmit copies to each member of the Authority and to the chairman of the Senate Committee on Resources and Development.

(c) The Authority shall review the application, solicit views from appropriate persons in the Republic, hold public hearings where necessary, and may approve the application on such terms and conditions and with such restrictions as the Authority deems appropriate.

(d) If the Authority does not approve the application submitted by the foreign party, the chairman shall notify such foreign party of the disapproval and the reasons therefor. After taking into consideration the reason for disapproval, the foreign party may submit a revised application.

(e) Upon notification by the foreign party of acceptance of the terms, conditions, and restrictions on the application and permit, the chairman shall issue the permit.

Source: PL 6-7-14 §14(3) through (6), and (8), modified.

§169. Same; fees and compensation.

Fees and other forms of compensation for the right to exploit living resources within the territorial sea or fishery zones of the Republic shall be established in the foreign fishing agreement.

Source: PL 6-7-14 §14(7), modified.

§170. Same; consequences of prohibited act.

If any foreign fishing vessel for which a permit has been issued pursuant to sections 167 through 172 has been used in the commission of any act prohibited by this chapter, or if any civil penalty or criminal fine imposed by this chapter has not been paid and is overdue, the Authority shall:

(a) Revoke such permit with or without prejudice to the right of the foreign party involved to obtain a permit for such vessel in any subsequent year; or

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(b) Suspend such permit for the period of time deemed appropriate; or

(c) Impose additional conditions and restrictions on the approved application of the foreign party involved and on any permit issued under such application.

Source: PL 6-7-14 §14(9), modified.

§171. Same; noncommercial fishing.

Notwithstanding any other provision of this chapter, the Authority may by regulation provide for the issuance of permits, on reasonable conditions, to foreign vessels or parties for research, recreational, or other noncommercial fishing within the fishing zones of the Republic.

Source: PL 6-7-14 §14(10), modified.

§172. Same; bait fish.

Notwithstanding any other provision of this chapter, a foreign fishing vessel is permitted to fish for bait fish used in the fishery for highly migratory species only pursuant to such terms and conditions as may be contained in a special bait fishing permit to be issued in the sole discretion of the Authority.

Source: PL 6-7-14 §14(11), as added by PL 6-6S-8 §6, modified.

Subchapter V: Enforcement
and Penalties

- §181. Prohibited acts.
- §182. Criminal penalties.
- §183. Civil penalties.
- §184. Forfeitures; procedure.
- §185. Revenues.
- §186. Jurisdiction of court.
- §187. Enforcement; primary responsibility.
- §188. Same; powers of officer.
- §189. Same; reward.
- §190. Same; provisions of regulation or permit enforceable.

§181. Prohibited acts.

It is unlawful for any person:

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

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

(c) To violate any provision of, or regulations under, an applicable foreign fishing agreement entered into pursuant to sections 161, and 167 through 172 of this title;

(d) 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 purposes of conducting any search or inspection in connection with the enforcement of this chapter or any regulation, permit, or agreement referred to in subsections (a), (b) or (c) of this section;

(e) To forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subsection (d) of this section;

(f) To resist a lawful arrest for any act prohibited by this section;

(g) To knowingly 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 subsections (a), (b) or (c) of this section; or

(h) To interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such person has committed any act prohibited by this section.

Source: PL 6-7-14 §15(1), modified. PL 6-7-14 §15(2), prohibiting any vessel other than a vessel owned solely by citizens of Palau from fishing in the territorial sea, was repealed by PL 6-6S-8 §5.

§182. Criminal penalties.

(a) A person is guilty of an offense if he commits any act prohibited by section 181 of this title.

(b) Any offense described as a prohibited act by section 181(a), (b), (c), or (g), is punishable by a fine of not more than \$50,000.00.

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(c) Any offense described as a prohibited act by section 181(d), (e), (f), or (h), is punishable by a fine of not more than \$100,000.00, or imprisonment for not more than two years, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this chapter, or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$250,000.00. Each day of continuing violation shall be considered a separate offense.

Source: PL 6-7-14 §16, as amended by PL 6-6S-8 §7(a), modified.

§183. Civil penalties.

(a) Any person who is found by the Supreme Court in a civil proceeding to have committed an act prohibited by section 181 of this title shall be liable to the national government for a civil penalty which shall not exceed \$75,000.00 for each violation. Each day of continuing violation shall constitute a separate offense.

(b) In determining the amount of such penalty, the Supreme Court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violators, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(c) The Attorney General or the Director or his designee on behalf of the national government is authorized to initiate all proceedings under this section and to recover the amount assessed as a civil penalty.

(d) The proceeds of civil penalties shall be remitted to the National Treasury in accordance with section 185 of this title.

Source: PL 6-7-14 §16, as amended by PL 6-6S-8 §7(b), modified.

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§184. Forfeitures; procedure.

(a) Any fishing vessel, including its fishing gear, furniture, appurtenances, stores, and cargo used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 181 of this title, shall be subject to forfeiture to the national government. All or part of such vessel, and all such fish, shall be forfeited to the national government pursuant to a civil proceeding under this section.

(b) The Supreme Court shall have jurisdiction, upon application by the Attorney General or the Director on behalf of the national government, to order any forfeiture authorized under subsection (a) of this section.

(c) If a judgement is entered for the national government in a civil forfeiture proceeding under this section, the Attorney General shall seize any property or other interest declared forfeited to the national government which has not previously been seized pursuant to this chapter.

(d) The forfeited vessel, gear, furniture, appurtenances, stores, cargo, and fish may be sold and the proceeds deposited with the Authority for use in accordance with section 185 of this title, or may be retained for use by or at the direction of the national government.

(e) Pending completion of the civil forfeiture proceeding, the seized vessel, gear, furniture, appurtenances, stores, cargo, and fish, or any part thereof, may be discharged at the discretion of the court upon deposit with the court of a satisfactory bond or other security at least equal to the fair market value of the seized property. Such bond or other security shall be conditioned upon delivery of such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgement shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

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(f) Any fish seized pursuant to this chapter may be sold, subject to the approval and direction of the court. The proceeds of any such sale shall be deposited with such court pending the disposition of the civil forfeiture proceeding.

(g) For purposes of this chapter, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 181 of this title were taken or retained in violation of this chapter.

Source: PL 6-7-14 §17, modified.

§185. Revenues.

All revenues, including fees collected by the Authority pursuant to section 169 and all fines and proceeds of sale of all forfeitures shall be transmitted immediately upon collection to the National Treasury.

Source: PL 6-7-14 §18, modified.

§186. Jurisdiction of court.

The Supreme Court shall have exclusive jurisdiction over any case or controversy arising under this chapter. The court may at any time enter restraining orders or prohibitions, issue warrants, process in rem, or other processes, prescribe and accept satisfactory bonds or other security, and take such other actions as are in the interests of justice.

Source: PL 6-7-14 §19, modified.

§187. Enforcement; primary responsibility.

Primary responsibility for the enforcement of this chapter shall be assumed by the Office of the Attorney General through the Bureau of Public Safety. The President and the Attorney General may, from time to time, seek enforcement assistance from the United States Government.

Source: PL 6-7-14 §20(1), modified.

§188. Same; powers of officer.

Any officer who is authorized by the Attorney General to enforce the provisions of this chapter may:

(a) With or without a warrant or other process:

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(1) Arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 181 of this title;

(2) Board and search or inspect any fishing vessel which is subject to the provisions of this chapter;

(3) Seize any fishing vessel when the vessel has been used or employed in, or when it reasonably appears that such vessel was used or employed in, violation of any provision of this chapter;

(4) Seize any fishing gear, furniture, appurtenances, stores, cargoes, and fish in the possession of a fishing vessel seized pursuant to authority granted by paragraph (3) of this subsection; and

(5) Seize any other evidence related to any violation of any provision of this chapter.

(b) Execute any warrant or other process issued by any court of competent jurisdiction; and

(c) Exercise any other lawful authority.

Source: PL 6-7-14 §20(2), modified.

§189. Same; reward.

Any individual who provides information to the Attorney General concerning any violation of this chapter which results in the imposition of any penalty under section 182 or 183 of this title shall be paid 50 percent of any such penalty imposed and collected.

Source: PL 6-7-14 §20(3), modified.

§190. Same; provisions of regulation or permit enforceable.

For purposes of this chapter, the terms "provisions of this chapter" and "violation of any provisions of this chapter" include the provisions of any regulation or permit issued pursuant to this chapter.

Source: PL 6-7-14 §20(4), modified.