

FEDERATED STATES OF MICRONESIA

The Federated States of Micronesia ('FSM') is a group of 607 islands located between the Equator and 14° North and 136° East and 166° East. The total land area covered by the islands is approximately 700 sq km and the distance from east to west is greater than 2,500 km. It has a total population of 127,616 (1994). FSM is a federation consisting of four States: Kosrae, Yap, Chuuk and Pohnpei. It entered into a Compact of Free Association with the United States on 21 October 1986 which marked the end of the US trusteeship.

Under the FSM Constitution the National Government (the Congress of the Federated States of Micronesia) has powers over specified matters. Subject to a small number of important powers held concurrently with the National Government, the four State governments have legislative power over the remaining subject areas. Maritime powers are distributed between the FSM National and State governments. The distribution of power over fisheries is largely determined on a geographic basis. Article IX, s.2(m) of the Constitution gives the National Government power –

“...to regulate the ownership, exploration, and exploitation of natural resources within the marine space of the Federated States of Micronesia beyond 12 miles from island baselines..”

However, National legislation enacted pursuant to that power does give the States a role in the management of areas beyond the twelve nautical mile territorial sea while also recognising that the States may want the National Government to have a role within the territorial sea.

Limits of National Jurisdiction

Title 18 of the 1982 Code of the Federated States of Micronesia establishes a territorial sea twelve nautical miles in breadth drawn from a baseline also defined by the same title. Where there is a fringing reef to an island the baseline runs between low tide elevations on that reef. Waters landward of the baseline are internal waters. FSM also has a 200 nautical mile exclusive economic zone of 2.98 million sq km the outer limit of which is measured from the same baseline. Article I of the Constitution also asserts jurisdiction over the waters connecting the islands of the archipelago (unless limited by international obligation or its own act), the continental shelves and “any other...water belonging to Micronesia by historic right, custom or legal title”.

FSM shares maritime boundaries with Palau, Papua New Guinea, Marshall Islands and the USA (in respect of Guam). A maritime boundary agreement has been negotiated with Papua New Guinea, but has not been ratified.

Fisheries Legislation

Fisheries within the territorial sea and the internal waters of FSM are subject to the legislative control of the adjacent State. These laws are to be found in the Code of each State. For example, Title 18 of the Yap State Code establishes a State Fishery Zone consisting of the area within the outer boundary of the territorial sea. Unless the fishing is for non-commercial purposes such as research, a permit will only be issued to a foreign vessel to fish in this zone by the Yap Fishing Authority if to do so would be in accordance with a foreign fishing agreement. Foreign fishing is not permitted in the internal waters of Yap.

The bulk of the national fisheries legislation is in Title 24 of the FSM Code. The statement of purpose at the commencement of the Title emphasises that FSM has only limited land-based resources and that “the sea provides the primary means for the development of economic viability which is necessary to provide the foundation for political stability”. The two principal national fisheries

FSM (ii)

bodies established by the Code are the Micronesia Maritime Authority and the National Fisheries Corporation. The Authority is the regulatory and management body while the Corporation is charged with promoting the development of pelagic fisheries and related industries. Representatives are appointed by each of the four States to both bodies.

The Authority may determine the total allowable level of fishing with respect to any stock of fish having regard to a number of factors including conservation, management and development measures contained in management plans. Allocations of the level so determined are first made to domestic fishing vessels and then to domestic-based vessels. The balance is then distributed to foreign fishing vessels. The factors which are to be taken into account by the Authority in the allocation of the allowable fishing level between foreign parties include historical participation, compliance with the relevant laws treaties and agreements and the contribution made to the conservation, management and development of FSM fisheries. Permits are not issued to foreign fishing vessels unless there is a foreign fishing agreement. These agreements also determine the fees which will be payable.

The separate category of domestic-based fishing covers fishing by foreign vessels which are based in FSM. A permit may only be issued to such vessels if there is a domestic-based fishing agreement. Both domestic-based and foreign fishing agreements may only take effect on the approval of the Congress of the Federated States of Micronesia.

Licensing Requirements

The type of permit, and the factors that must be taken into account in the issue of a permit, vary according to the status of the vessel. Domestic, domestic-based and foreign fishing each require a different form of permit. A permit is also required for scientific research, training, commercial pilot fishing and foreign recreational fishing. Commercial pilot fishing is for the purpose of testing the commercial viability of new fishing methods, developing new stocks of fish and fishing in previously unexploited areas.

The Code also makes provision for the Authority to enter agreements or arrangements pursuant to a treaty which would permit a regional organisation or other body to carry out functions such as the issue of regional fishing licences. The Authority can adopt regulations to exempt holders of regional licences from the requirements of any inconsistent domestic laws. These provisions enable FSM to give effect to regional licences issued by the Administrator under the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America. It may also issue permits on behalf of a State if authorised under the appropriate State law.

Conservation

Chapter 23 of the Code deals with marine species preservation. It prohibits the catching of marine life through the use of explosives, poisons, chemicals or other substances, or the use of those substances with the intent to kill marine life. There are also limitations, in the form of seasonal closures and size restrictions, on the taking of turtles, sponges, black-lip mother-of-pearl oyster shell and trochus. The taking of marine mammals for commercial purposes or by commercial fishing parties is prohibited. They may, however, be taken for traditional purposes. The Code also establishes the Environment Protection Board which may make regulations in relation to the pollution of the waters of FSM.

Regional and International Agreements relating to Fisheries

FSM is a member of the Forum Fisheries Agency and the South Pacific Commission. It acceded to the 1982 Convention on the Law of the Sea on 29 April 1991 and it is a party to both the Convention

FSM (iii)

for the Prohibition of Fishing with Long Driftnets in the South Pacific Region and the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America. It is a party to the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Concern and is a signatory to the Arrangement for the Management of the Western Pacific Purse Seine Fishery and the FSM Arrangement, which is a subregional arrangement amongst Parties to the Nauru Agreement to encourage foreign operations to relocate or base their vessels within the Parties to the Arrangement. It signed and ratified the Niue Treaty on Co-operation in Fisheries Surveillance and Law Enforcement in the South Pacific Region on 9 July 1992 and 3 December 1993 respectively, the Palau Arrangement on 28 October 1992 and 12 April 1995 respectively, and the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks on 4 December 1995 and 23 May 1997 respectively.

**Acts and Subsidiary Legislation of the Federated States of Micronesia
Reproduced in this Compendium**

Note: Unless otherwise stated, copies of the following laws are located in the 1982 Edition of the *Code of the Federated States of Micronesia* and the 1987 Supplement to that Edition.

Page

CONSTITUTION

FSM 1

Constitution of the Federated States of Micronesia (Preamble; Article I, Sections 1 and 2; and Article IX, Section 2(b), (h) and (m)).

PUBLIC LAWS

Code of the Federated States of Micronesia

FSM 15

Title 18 - Territory, Economic Zones, and Ports of Entry

Chapter 1 Territorial Boundaries and Economic Zones

Unofficial consolidation 1992

Am. Public Law 5-112

Title 23 - Resource Conservation

Chapter 1 Marine - Species Preservation

Title 24 - Marine Resources

Unofficial consolidation 1992

Chapter 1 General Provisions

Chapter 2 Domestic Fishing

Chapter 3 Management Authority

Chapter 4 Foreign Fishing

Chapter 5 Violations and Penalties

Chapter 6 State Entities for the Development of Marine Resources

Chapter 7 National Fisheries Corporation

Am. Public Law 6-11

Am. Public Law 6-37

Am. Public Law 7-22.

Interim Research and Training Vessel Licensing Regulations (27 July 1989)

Reefers and Fuel Tankers Licensing Regulations (5 February 1990)

Domestic Fishing and Local Fishing Vessel Licensing Regulations (15 February 1991)

Preamble

WE, THE PEOPLE OF MICRONESIA, exercising our inherent sovereignty, do hereby establish this Constitution of the Federated States of Micronesia.

With this Constitution, we affirm our common wish to live together in peace and harmony, to preserve the heritage of the past, and to protect the promise of the future.

To make one nation of many islands, we respect the diversity of our cultures. Our differences enrich us. The seas bring us together, they do not separate us. Our islands sustain us, our island nation enlarges us and makes us stronger.

Our ancestors, who made their homes on these islands, displaced no other people. We, who remain, wish no other home than this. Having known war, we hope for peace. Having been divided, we wish unity. Having, been ruled, we seek freedom.

Micronesia began in the days when man explored seas in rafts and canoes. The Micronesian nation is born in an age when men voyage among stars; our world itself is an island. We extend to all nations what we seek from each: peace, friendship, cooperation, and love in our common humanity. With this Constitution we, who have been the wards of other nations, become the proud guardian of our own islands, now and forever.

ARTICLE I**Territory of Micronesia**

Section 1. The territory of the Federated States of Micronesia is comprised of the Districts of the Micronesian archipelago that ratify this Constitution. Unless limited by international treaty obligations assumed by the Federated States of Micronesia, or by its own act, the waters connecting the islands of the archipelago are internal waters regardless of dimensions, and jurisdiction extends to a marine space of 300 miles measured outward from appropriate baselines, the seabed, subsoil, water column, insular or continental shelves, airspace over land and water, and any other territory or waters belonging to Micronesia by historic right, custom, or legal title.

Section 2. Each state is comprised of the islands of each District as defined by laws in effect immediately prior to the effective date of this Constitution. A marine boundary between adjacent states is determined by law applying the principle of equidistance. State boundaries may be changed by Congress with the consent of the state legislatures involved.

FSM 2

CONSTITUTION

Section 3. Territory may be added to the Federated States of Micronesia upon approval of Congress, and by vote of the inhabitants of the area, if any, and by vote of the people of the Federated States of Micronesia. If the territory is to become part of an existing state, approval of the state legislature is required.

Section 4. New states may be formed and admitted by law, subject to the same rights, duties, and obligations as provided for in this Constitution.

ARTICLE II

Supremacy

Section 1. This Constitution is the expression of the sovereignty of the people and is the supreme law of the Federated States of Micronesia. An act of the Government in conflict with this Constitution is invalid to the extent of conflict.

ARTICLE III

Citizenship

Section 1. A person who is a citizen of the Trust Territory immediately prior to the effective date of this Constitution and a domiciliary of a District ratifying this Constitution is a citizen and national of the Federated States of Micronesia.

Section 2. A person born of parents one or both of whom are citizens of the Federated States of Micronesia is a citizen and national of the Federated States by birth.

Section 3. A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia.

Section 4. A citizen of the Trust Territory who becomes a national of the United States of America under the terms of the Covenant to Establish a Commonwealth of the Northern Mariana Islands may become a citizen and national of the Federated States of Micronesia by applying to a court of

ARTICLE VII

Levels of Government

Section 1. The three levels of government in the Federated States of Micronesia are national, state, and local. A state is not required to establish a new local government where none exists on the effective date of this Constitution.

Section 2. A state shall have a democratic constitution.

ARTICLE VIII

Powers of Government

Section 1. A power expressly delegated to the national government, or a power of such an indisputably national character as to be beyond the power of a state to control, is a national power.

Section 2. A power not expressly delegated to the national government or prohibited to the states is a state power.

Section 3. State and local governments are prohibited from imposing taxes which restrict interstate commerce.

ARTICLE IX

Legislative

Section 1. The legislative power of the national government is vested in the Congress of the Federated States of Micronesia.

Section 2. The following powers are expressly delegated to Congress:

- (a) to provide for the national defence;
- (b) to ratify treaties;
- (c) to regulate immigration, emigration, naturalization, and citizenship;
- (d) to impose taxes, duties, and tariffs based on imports;
- (e) to impose taxes on income;
- (f) to issue and regulate currency;
- (g) to regulate banking, foreign and interstate commerce, insurance, the issuance and use of commercial paper and securities, bankruptcy and insolvency, and patents and copyrights;

CONSTITUTION

(h) to regulate navigation and shipping except within lagoons, lakes, and rivers:

- (i) to establish usury limits on major loans;
- (j) to provide for a national postal system;
- (k) to acquire and govern new territory;
- (l) to govern the area set aside as the national capital;
- (m) to regulate the ownership, exploration, and exploitation of natural resources within the marine space of the Federated States of Micronesia beyond 12 miles from island baselines;
- (n) to establish and regulate a national public service system;
- (o) to impeach and remove the President, Vice President, and justices of the Supreme Court;
- (p) to define major crimes and prescribe penalties, having due regard for local custom and tradition; and
- (q) to override a Presidential veto by not less than a 3/4 vote of all the state delegations, each delegation casting one vote.

Section 3. The following powers may be exercised concurrently by Congress and the states:

- (a) to appropriate public funds;
- (b) to borrow money on the public credit;
- (c) to promote education and health; and
- (d) to establish systems of social security and public welfare.

Section 4. A treaty is ratified by vote of 3/3 of the members of Congress, except that a treaty delegating major powers of government of the Federated States of Micronesia to another government shall also require majority approval by the legislatures of 2/3 of the states.

Section 5. National taxes shall be imposed uniformly. Not less than 50% of the revenues shall be paid into the treasury of the state where collected.

Section 6. Net revenue derived from ocean floor mineral resources exploited under Section 2(m) shall be divided equally between the national government and the appropriate state government.

Section 7. The President, Vice President, or a justice of the Supreme Court may be removed from office for treason, bribery, or conduct involving corruption in office by a 2/3 vote of the members of Congress. When the President or Vice President is removed, the Supreme Court shall review the decision. When a justice of the Supreme Court is removed, the decision shall be reviewed by a special tribunal composed of one

Title 18 of the Code of the Federated States of Micronesia

Territory, Economic Zones, and Ports of Entry

Chapters:

- 1. Territorial Boundaries and Economic Zones (101-108)**
- 2. Ports of Entry (201-210)**
- 3. Regulation of Foreign Vessels (311-335)**

FSM 6

Title 18

Title 18

CHAPTER 1

Territorial Boundaries and Economic Zones

Sections:

- 101 Baseline system defined.
- 102 Territorial Sea and internal waters.
- 103 Territorial Sea and internal waters - Sovereignty.
- 104 Exclusive economic zone - Defined.
- 105 Exclusive economic zone - Regulation.
- 106 Submerged reefs.
- 107 Regulations.
- 108 Definitions.

Section 101. Baseline system defined. 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:

- (1) 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 Government of the Federated States of Micronesia.
- (2) 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 Government of the Federated States of Micronesia

Section 102. Territorial Sea and internal waters - defined.

- (1) There is hereby established a Territorial Sea of twelve nautical miles breadth. The inner boundary of the Territorial Sea of each island or atoll is the baseline as defined in section 101 of this title. The outer boundary is a line, every point of which is twelve nautical miles seaward of the nearest point of the baseline.
- (2) Waters landward of the baseline, including the lagoons of atolls or islands, are internal waters.

Section 103. Territorial Sea and internal waters - sovereignty. The sovereignty of

Title 18

the Federated States of Micronesia extends to its internal waters and Territorial Sea, including sovereign rights over the living and non-living resources in the Territorial Sea and internal waters and in the airspace above the Territorial Sea and internal waters as well as its bed and subsoil.

Section 104. Exclusive economic zone – Defined. There is hereby established an exclusive economic zone contiguous to the Territorial Sea. The inner boundary of the exclusive economic 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 two hundred nautical miles seaward of the nearest point on the baseline as defined in section 101 of this title.

Section 105. Exclusive economic zone - Regulation. Within the exclusive economic zone, the National Government of the Federated States of Micronesia shall have:

- (1) Sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone;
- (2) Jurisdiction with regard to the establishment and use of artificial islands, installations, and structures; marine scientific research; and the protection and preservation of the marine environment; and
- (3) Other rights and duties provided for in international law.

Section 106. Submerged reefs. Traditionally recognized fishing rights in submerged reef areas wherever located within the fishery zones of Micronesia shall be preserved and respected.

Section 107. Regulations. The President of the Federated States of Micronesia may issue such regulations as are necessary to establish the boundaries of internal waters, the Territorial Sea, and the exclusive economic zone.

Section 108. Definitions. As used in this chapter:

- (1) ‘Atoll’ means a naturally formed reef system which has one or more islands situated on the reef system, including Ngulu, Ulithi, Sorol, Eauripik, Woleai, Faraulep, Ifalik, Olaimarao, Elato, Lamotrek, West Fayu, Puluwat, Pulap, Pulusuk, Namonuito, Kuop, Monowin, Murilo, Losap, Namoluk, Satawan, Etal, Lukunor, Minto Reef, Oroluk, Nukuoro, Kapingamarangi, Pakin, Ant, Sapwuafik, Mwoakiloa, and Pingelap.

FSM 8

Title 18

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

Title 23

Resource Conservation

Chapters:

- 1 Marine-Species Preservation (§§5 101-115)**
- 2 (Reserved)**
- 3 Endangered Species Act (§§ 301-317).**

CHAPTER 1

Marine-Species Preservation

Sections:

- § 101. Use of explosives, poisons, chemicals, etc., prohibited.
- § 102. Exceptions to prohibition-Permit.
- § 103. Exceptions to prohibition-Local materials.
- § 104. Use of explosives, poisons, chemicals, etc.—Penalty.
- § 105. Limitations on taking of turtles.
- § 106. Control of sponges.
- § 107. Control of *pinctada margaritifera* (black-lip mother-of-pearl oyster shell).
- § 108. Trochus-Definition.
- § 109. Harvesting restricted.
- § 110. Trochus-Designation of season.
- § 111. Trochus harvesting by citizens only.
- § 112. Trochus harvesting-Size limits.
- § 113. Trochus harvesting-Omission of season.
- § 114. Removal and replanting of trochus beds.
- § 115. General penalties.

§ 101. Use of explosives, poisons, chemicals, etc., prohibited.

(1) Except as provided in section 102 of this chapter, no person shall knowingly catch any fish or other marine life by means of explosives, poisons, chemicals, or other substances which kill fish or marine life, nor shall any person knowingly possess or sell any fish or any other marine life caught by means of explosives, poisons, chemicals, or other substances which kill fish or marine life.

(2) Except as provided in section 102 of this chapter, no person shall knowingly place or cause to be placed, in any waters of the Trust Territory, explosives, poisons, chemicals, or other substances with the intent to kill fish or other marine life.

(3) The terms “poisons,” “chemicals,” or “substances” include but are not limited to hypochlorous acid or any of its salts, including bleaches commonly sold under various trade names, such as Clorox and Purex, and bleaching powders, preparations containing rotenone, tephrosin, or plant material from *Barrington asiatica*, *coculus ferrandianus*, *hura crepitans*, *piscidia erythrina*, *tephrosia purpurea*, and *wikstremia*. (Code)

1966 § 780: Code 1970 45 TTC 1; PL 4C-35 § 1; Code 1980 45 TTC 1(1))

Editor's Note: Subsections of this section have been rearranged.

§ 102. Exceptions to prohibition - Permit. - The provisions of section 101 of this chapter shall not apply where the district administrator:

(1) has granted written permission to use the means prohibited in section 101 of this chapter:

(2) has determined that the:

(a) purpose of obtaining the fish or other marine life is to avoid the waste or loss of such fish or marine life; and

(b) consumption or sale of fish or other marine life caught by any means the use of which is prohibited in section 101 of this chapter is not harmful or hazardous to health and human life. (Code 1966 § 780: Code 1970 45 TTC 1; PL 4C-35 § 2; Code 1980 45 TTC 1(2))

§ 103. Exceptions to prohibition - Local materials. - Nothing in sections 101 or 102 of this chapter shall be construed to prevent any person from catching any fish or other marine life by the use of local roots, nuts, or plants which have the effect of stupefying but which do not kill fish or other marine life. (Code 1966 § 780: Code 1970 45 TTC 1; PL 4C-35 § 3; Code 1980 45 TTC 1(3))

§ 104. Use of explosives, poisons, chemicals, etc. - Penalty. - Any person who violates any of the provisions of section 101 of this chapter shall, upon conviction thereof, be fined not less than \$100 or more than \$2,000, or imprisoned for not less than six months, or more than two years, or both. (Code 1966 § 780: Code 1970 45 TTC 1; PL 4C-35 § 4; Code 1980 45 TTC 1(4))

§ 105. Limitations on taking of turtles.

(1) No hawksbill turtles or, sea turtles shall be taken or intentionally killed white on shore, nor shall their eggs be taken.

(2) No hawksbill turtle shall be taken or killed except whose shell is at least twenty-seven inches when measured over the top of the carapace shell lengthwise; no green turtle shall be taken or killed except whose shell is at least thirty-four inches when measured over the top of the carapace shell lengthwise.

(3) No sea turtle of any size shall be taken or killed from the first day of June to the thirty-first day of August inclusive, nor from the first day of December to the thirty-first day of January inclusive.

Ch. 1 **MARINE SPECIES** §§ 106-110

(4) Notwithstanding any provisions of this section to the contrary, taking of sea turtles and their eggs shall be allowed for scientific purposes when specifically authorized by the High Commissioner. (Code 1966 § 781; Code 1970 45 TTC 2; PL 4C-57 §§ 1-3; Code 1980 45 TTC 2)

§ 106. Control of sponges. - No sponges artificially planted or cultivated shall be taken or molested, except by permission of the High Commissioner. (Code 1966 § 782; Code 1970 45 TTC 3; Code 1980 45 TTC 3)

§ 107. Control of *pinctada margaritifera* (black-lip mother-of-pearl oyster shell). - No *pinctada margaritifera* commonly known as black-lip mother-of-pearl oyster shell, shall be taken from the first day of August to the thirty-first day of December inclusive; provided, that no such shell may be taken at any time which is less than six inches in minimum diameter, measured along the longest dimension across the outside of the shell; and provided further, that such shells, of any size, may be taken at any time for scientific purposes when specifically authorized by the High Commissioner. (Code 1966 § 783; Code 1970 45 TTC 4; PL 4C-57 § 4; Code 1980 45 TTC 4; PL IC-19 § 1)

§ 108. Trochus - Definition. - For the purpose of this chapter, the term trochus shall be considered trochus niloticus. The names of trochus maximus, tectus niloticus. and tectus maximus shall be considered names synonymous with trochus niloticus. (Code 1966 § 770 (part); Code 1970 45 TTC 51(2); Code 1980 45 TTC 51(2))

§109. Harvesting restricted. - The harvesting of or in any way intentionally interfering with the growth of trochus in the waters of the Trust Territory is prohibited except as provided in this chapter. (Code 1966 § 770 (part); Code 1970 45 TTC 51(1); Code 1980 45 TTC 51(1))

§ 110. Trochus - Designation of season.

(1) Each district administrator may, with the advice and consent of the High Commissioner, designate and vary from year to year, an open season or seasons during May through September, inclusive, for such period of time as deemed advisable for the harvesting of trochus in his district, and may designate certain reefs or sections thereof that shall be closed for the harvesting of trochus, notwithstanding the fact that the season is open. The open season may vary in different areas or islands within each district.

(2) Public notice shall be given in each district of the dates designated for the harvesting of trochus, and the reefs that have been declared closed, if any, by posting in writing in the predominant native language of that local-government area and filing a copy of each designation with the local clerk of courts. (Code 1966 § 771(a); Code 1970 45 TTC 52(1); Code 1980 45 TTC 52(1))

§ 111. Trochus harvesting by citizens only. - During an open season, any citizen of the Trust Territory may dive for and harvest trochus in the district to which the season applies, within those areas in which he has the right to fish under established local custom. (Code 1966 § 771(b) (part); Code 1970 45 TTC 52(2) (part); PL 5-65 § 1 (part); Code 1980 45 TTC 52(2) (part))

§ 112. Trochus harvesting - Size limits. - No trochus shall be taken whose shell is less than three inches in diameter at the base. (Code 1966 § 771(b) (part); Code 1970 45 TTC 52(2) (part); PL 5-65 § 1 (part); Code 1980 45 TTC 52(2) (part))

§ 113. Trochus harvesting - Omission of season.

(1) Each district administrator may, if it is deemed expedient, and with the advice and consent of the High Commissioner, prohibit the harvesting of trochus during any given calendar year or years.

(2) Public notice shall be given of the prohibition in the same manner as the aforesaid notice designating the dates for the harvesting of trochus in section 110 of this chapter. (Code 1966 § 771(c); Code 1970 45 TTC 52(3); Code 1980 45 TTC 52(3))

§ 114. Removal and replanting of trochus beds.

(1) If a district administrator determines that underwater operations which will interfere with an existing trochus bed are in the public interest, he may issue a written permit for the removal and replanting of such bed at the expense of the person or persons desiring to conduct the underwater operations.

(2) Each district administrator may at any time authorize the removal and transportation of trochus for the purpose of introduction to other reefs, islands, or atolls. (Code 1966 § 773; Code 1970 45 TTC 53; Code 1980 45 TTC 53)

§ 115. General penalties. - A person violating any of the provisions of this title for which a different penalty is not

otherwise provided shall upon conviction thereof be imprisoned for a period not exceeding six months, or fined not more than \$100, or both. (Code 1966 § 774, 784; Code 1970 45 TTC 5; PL 4C-35 § 6; Code 1980 45 TTC 5)

CHAPTER 2**(RESERVED)****CHAPTER 3****Endangered Species Act**

Sections:

- § 301. Short title.
- § 302. Findings.
- § 303. Policy.
- § 304. Administration of chapter.
- § 305. Definitions.
- § 306. Prohibited acts.
- § 307. Exception-Scientific uses.
- § 308. Exception-Public nuisances; Public safety.
- § 309. Exception-Controlled farming.
- § 310. Exception-Subsistence uses.
- § 311. Exception-Innocent possession.
- § 312. Exception-Prior possession.
- § 313. Regulations.
- § 314. Importation of endangered species.
- § 315. Importation of exotic plants and animals.
- § 316. Confiscation of plants, equipment, etc., for violations.
- § 317. Penalties for violation of chapter.

§ 301. Short title. - This chapter is known and may be cited as the "Trust Territory Endangered Species Act of 1975." (PL 6-55 § 1; Code 1980 45 TTC 101)

§ 302. Findings. - The Congress of Micronesia has determined that certain species of plants and animals are threatened with or in danger of becoming extinct in the Trust Territory. (PL 6-55 § 2; Code 1980 45 TTC 102)

§ 303. Policy. - The indigenous plants and animals of the Trust Territory are of aesthetic, ecological, historical,

Title 24 of the Code of the Federated States of Micronesia

Marine Resources

Chapters:

- 1. General Provisions (101-119)**
- 2. Domestic Fishing (201-202)**
- 3. Management Authority (301-306)**
- 4. Foreign Fishing (401-408)**
- 5. Violations and Penalties (501-516)**
- 6. State Entities for Development of Marine Resources (601-607)**
- 7. National Fisheries Corporation (701-724)**

FSM 16

Title 24

CHAPTER 1

General Provisions

Sections:

- 101 Statement of purpose.
- 102 Definitions.
- 103 Fishing permits required - Commercial
- 104 Fishing permits required - Non-commercial
- 105 Stowage of fishing gear.
- 106 Authority to enter into regional, bilateral, and multilateral fisheries agreements.
- 107 Authority to enter into domestic-based and foreign fishing agreements.
- 108 Allowable levels of fishing.
- 109 Application for permit - Contents.
- 110 Application for permit - Review.
- 111 Application for permit - Issuance and denial.
- 112 Suspension, revocation, or imposition of restrictions on a permit.
- 113 Fees for scientific research, training, commercial pilot and foreign recreational fishing permits.
- 114 Rebate of fees.
- 115 Division of fees received as goods and services.
- 116 Reporting requirements.
- 117 Authority to issue State permits.
- 118 Authority to appoint observers.
- 119 Application of other laws.
- 120 Severability

Section 101. Statement of purpose. The resources of the sea around the Federated States of Micronesia are a finite but renewable part of the physical heritage of our people. As the Federated States of Micronesia has only limited land-based resources, the sea provides the primary means for the development of economic viability which is necessary to provide the foundation for political stability. The resources of the sea must be managed, conserved, and developed for the benefit of the people living today and for the generations of citizens to come. For this reason the harvesting of this resource, both domestic and foreign, must be monitored, and when necessary, controlled. The purpose of this title is to promote conservation, management, and development of the marine resources of the Federated States of Micronesia, generate the maximum benefit for the Nation from foreign fishing, and to promote the development of a domestic fishing industry.

Section 102. Definitions. As used in this title the term:

- (1) 'Administrator' means the director of a regional fisheries agency or any other organization or person authorized, pursuant to section 106 of this title, to administer a regional fisheries treaty.
- (2) 'Applicable laws' means those laws affecting marine resources from time to time identified by the 'Authority by regulation.
- (3) 'Atoll' means a naturally formed coral reef system which has one or more islands situated on the reef system, including Ngulu, Ulithi, Sorol, Eauripik, Woleai, Faraulep, Ifalik, Olaimarao, Elate, Lamotrek, West Fayu, Puluwat, Pulap, Pulusuk, Namonuito, Kuop, Nomowin, Murilo, Losap, Namoluk, Satawam, Etal, Lukunor, Minto Reef, Oroluk, Nukuoro, Kapingamarangi, Pakin, Ant, Sapwuahfik, Mwoakiloa and Pinglelap.
- (4) 'Authority' means the Micronesian Maritime Authority established by section 301 of this title.
- (5) 'Authorized observer' means any person authorized in writing by the Authority to act as an observer on foreign fishing vessels, including any observer authorized pursuant to a regional fisheries treaty to be an authorized observer for purposes of this title.
- (6) 'Authorized officer' means any officer of the Division of Security and Investigation of the Government of the Federated States of Micronesia or any other person authorized in writing by the AttorneyGeneral to be an authorized officer for the purposes of this title.
- (7) 'Based in the Federated States of Micronesia' means using land-based facilities in the Federated States of Micronesia to support fishing, including location of the home port of a vessel in the Federated States of Micronesia, selling all fish for processing within the Federated States of Micronesia, transshipping all fish harvested within the exclusive economic zone, and basing operations in the Federated States of Micronesia while operating in the exclusive economic zone.
- (8) 'Commercial pilot fishing' means any fishing for the purpose of testing the commercial viability of:
 - (a) New fishing methods;
 - (b) Developing new stocks of fish; or
 - (c) Fishing in previously unexploited areas.
- (9) 'Court' means the Supreme Court of the Federated States of

Title 24

Micronesia.

(10) 'Domestic-based fishing' means any fishing by foreign fishing vessels based in the Federated States of Micronesia, but not including commercial pilot fishing.

(11) 'Domestic-based fishing agreements' means an agreement between the Government of the Federated States of Micronesia and one or more persons to permit domestic-based fishing within the exclusive economic zone.

(12) 'Domestic-based party' means a party to a domestic-based fishing agreement other than the Government of the Federated States of Micronesia or a State.

(13) 'Domestic fishing' means any fishing by local fishing vessels longer than twenty-seven feet in overall length, but not including commercial pilot fishing.

(14) 'Exclusive economic zone' means the exclusive economic zone defined in the title 18 of the Code of the Federated States of Micronesia.

(15) 'Executive director' means the executive director of the Micronesian Maritime Authority.

(16) 'Fish' means any living marine resource.

(17) 'Fish aggregation device' means any man-made or partly man-made floating device, whether anchored or not, intended for the purpose of aggregating fish, and includes any floating object on a device which has been placed to facilitate its location.

(18) 'Fishery' means any fishing for stocks of fish.

(19) 'Fishery waters' means the exclusive economic zone, the Territorial Sea, and internal waters as described in Title 18 of the Code of the Federated States of Micronesia, and any other waters within the jurisdiction of the Federated States of Micronesia.

(20) 'Fishing' means:

(a) the actual or attempted searching for, catching, taking, or harvesting of fish;

(b) any other activity which can reasonably be expected to

FSM 19

Title 24

result in the locating, catching, taking, or harvesting of fish;

(c) the placing, searching for, or recovery of fish aggregating devices or associated electronic equipment such as radio beacons;

(d) aircraft use relating to the activities described in this subsection, except for flights in emergencies involving the health or safety of crew members of the safety of a vessel;

(e) transshipping fish to or from any vessel;

(f) storing, processing or transporting fish harvested within the fishery waters;

(g) refueling or supplying fishing vessels; or

(h) any operations at sea in support of or in preparation for any activity described in this subsection.

(21) 'Fishing gear' means any equipment, implement or other thing that can be used in act of fishing, including any fishing net, rope, line, float, trap, hook, winch, boat carried on board a fishing vessel, aircraft or helicopter.

(22) 'Fishing vessel' means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type that is normally used for:

(a) fishing;

(b) aiding or assisting one or more vessels at sea in the performance of any activity related to fishing, including, but not limited to preparation, supply, storage, refrigeration, transportation, or processing.

(23) 'Foreign fishing' means any fishing not defined as domestic fishing or domestic-based fishing, but not including commercial pilot fishing or fishing from a local fishing vessel less than or equal to twenty-seven feet in overall length.

(24) 'Foreign fishing agreement' means an agreement between the Authority on behalf of the Government of the Federated States of Micronesia and one or more foreign fishing interests to permit foreign vessels to harvest fish within the exclusive economic zone.

FSM 20

Title 24

- (25) 'Foreign fishing vessel' means any fishing vessel not defined as a local fishing vessel.
- (26) 'Foreign party' means a party to a foreign fishing agreement other than the Authority, the Government of the Federated States of Micronesia or a State government.
- (27) 'Foreign recreational fishing' means fishing by a foreign fishing vessel for recreational or sport purposes.
- (28) 'Island' means a naturally formed area of land surrounded by water, which is above water at high tide.
- (29) 'Living marine resource' means all forms of marine animal and plant life other than marine birds and includes finfish, molluscs and crustaceans.
- (30) 'Local fishing vessel' means any fishing vessel wholly owned and operated by one or more:
- (a) The Government of the Federated States of Micronesia, any State government of any subdivision thereof;
 - (b) Citizen of the Federated States of Micronesia;
 - (c) Corporation or cooperative established under the laws of the Federated States of Micronesia or of any State which is wholly owned and controlled by one or more of the persons described in paragraphs (a) and (b) of this subsection;
 - (d) Any combination of persons described in paragraphs (a) through (c) of this subsection;
- (31) 'Operator' means any person who is in charge of, directs, or controls a vessel, including the owner, character, or the master.
- (32) 'Pacific Island States' means the parties to the South Pacific Forum Fisheries Agency Convention, 1979.
- (33) 'Permit' means the document authorizing fishing within all or part of the exclusive economic zone issued pursuant to section 111 of this title or pursuant to a treaty, or any agreement or arrangement entered into pursuant to section 106 of this title.
- (34) 'Person' means any individual, corporation, partnership,

Title 24

association, or other entity, the Government of the Federated States of Micronesia or any of the States, or any political subdivision thereof, and any foreign government, subdivision of such government, or entity thereof.

(35) 'Regional fisheries treaty' means a treaty between the governments of certain Pacific Island States and government, bodies or organizations of foreign states other than Pacific Island States that relates to fishing in the waters of the Pacific Island States that has entered into force according to its terms, and has been ratified by the Congress of the Federated States of Micronesia.

(36) 'Regional fishing license' means a regional fishing license issued to a foreign fishing vessel pursuant to a regional fisheries treaty.

(37) 'State' means any of the States of the Federated States of Micronesia.

(38) 'Stock of fish' means a species, subspecies, or other category of fish identified on the basis of geographical, scientific, technical, recreational, and economic characteristics which can be treated as a unit for purposes of conservation and management."

Section 103. Fishing permits required - Commercial. No domestic, domestic - based, commercial pilot, or foreign fishing is permitted in the exclusive economic zone except:

- (1) By a valid and applicable permit issued under authority conferred by this title; or
- (2) By a regional or multilateral license issued pursuant to a treaty or agreement entered into under the authority provided in section 106 of this chapter.

Section 104. Fishing permits required - Non-commercial. No scientific research, training, or foreign recreational fishing is permitted in the exclusive economic zone except by a valid and applicable permit issued by the Authority on such reasonable terms and conditions as it shall require.

Section 105. Stowage of fishing gear. All fishing gear aboard a fishing vessel in the exclusive economic zone shall be stowed in such a manner that it is not readily available for use in fishing, except when such fishing vessel is in an area in which it is authorized to fish in accordance with this title.

Section 106. Authority to enter into regional, bilateral, and multilateral fisheries agreements.

FSM 22

Title 24

(1) Notwithstanding any other provisions of this title, the Authority may enter into agreements or arrangements, pursuant to a regional, bilateral, or multilateral fisheries treaty, agreement or arrangement with other governments to provide for:

(a) Authorization of a person, body or organization to perform functions required by such a treaty, agreement or arrangement, including but not limited to, the issuance of regional fishing licenses; and

(b) An observer program.

(2) For the purpose of giving effect to a regional, bilateral, or multilateral fisheries treaty, agreement or arrangement, the Authority may adopt regulations to:

(a) Exempt any foreign fishing vessel holding a valid regional, multilateral, or bilateral fishing license issued pursuant to a regional, bilateral, or multilateral fisheries treaty, agreement, or arrangement from any requirements of this title which are inconsistent with the terms of such treaty, agreement or arrangement;

(b) Prescribe the conditions to be observed by operators of foreign fishing vessels exempted under paragraph (a) of this subsection; and

(c) Authorize observers designated and pursuant to an observer program entered into pursuant to subsection (1)(b) of this section to:

(i) Enforce the provisions of this title and any regional fisheries treaty, agreement or arrangement on behalf of the Federated States of Micronesia; and

(ii) Perform such duties and responsibilities as may be required by such agreement.

(3) With respect to any observer program entered into pursuant to subsection (1)(b) of this section, standing in the Supreme Court of the Federated States of Micronesia shall be afforded to any authorized observer or the Federated States of Micronesia to bring action against any person or fishing vessel for any act or offence that is actionable under the law of the Federated States of Micronesia or is a violation.

Title 24

Section 107. Authority to enter into domestic-based and foreign fishing agreements. The Authority is authorized to negotiate and enter into such domestic-based and foreign fishing agreements as may be required to implement this title. Such agreements may, at the Authority's discretion, include a provision to rebate fees under such circumstances as are consistent with this title and the Authority deems appropriate.

Section 108. Allowable levels of fishing.

(1) The Authority may determine the total allowable level of fishing with respect to any stock of fish subject to the provisions of this title, and shall set such level in accordance with requirements of optimum sustainable yield as determined by:

(a) The scientific evidence available, including statistical and other information concerning such stocks of fish; and

(b) Conservation, management and development measures contained in management plans relating to such stocks of fish.

(2) Allocations of the total allowable level of fishing with respect to any stock of fish shall be made first to domestic fishing vessels seeking permits, then to domestic-based fishing vessels, with any remaining allowable level of fishing allocated to foreign fishing vessels.

(3) Allocations issued pursuant to this title may include restrictions as to vessel type, gear type, seasons of operations, areas in which the fishing can take place, or any other restriction relevant to conservation, management, and development.

Section 109. Application for permit - Contents.

(1) Each party entitled to apply for a permit under this title shall make application on prescribed forms specifying:

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

(b) The tonnage, capacity, processing equipment, and such other pertinent information with respect to characteristics of each such vessel as the Authority may require;

Title 24

- (c) The country of registration of the vessel; and
- (d) If applicable, the foreign fishing agreement or domestic-based fishing agreement under which such permit is sought.

(2) The Authority may require, by regulation, such additional information for permit applications by foreign parties or domestic-based parties as is necessary to implement and enforce the provisions of this title.

Section 110. Application for permit - Review. The Authority, or such person as it may designate by regulation, shall review each application submitted pursuant to section 109, and may, in its discretion, solicit views from appropriate persons in the States and hold public hearings where necessary.

Section 111. Application for permit - Issuance and denial.

(1) The Authority shall notify the applicant of the decision to issue or deny a permit within 30 days of the date of receipt of the application. If no such notification is given within 30 days, the request for a permit is deemed granted.

(2) The Authority may approve the application on such terms and conditions and with such restrictions as it deems appropriate.

(3) A permit may be denied:

(a) Where the application is not in accordance with the requirements of this title;

(b) Where the application is made in respect of a foreign fishing vessel, and such vessel does not have good standing on the Regional Register of Foreign Fishing Vessels maintained by the South Pacific Forum Fisheries Agency;

(c) Where the owner or charterer is the subject of proceedings under the bankruptcy laws of any jurisdiction and reasonable financial assurances have not been provided;

(d) Where there has been a failure to satisfy a judgment or other determination for breach of this title or an agreement entered into pursuant to this title by the operator of the vessel in respect to which application for a permit has been made, until such time as the judgment or other determination is satisfied;

Title 24

- (e) Where an operator of the vessel has contravened, or the vessel has been used for contravention of a fishing agreement, or has committed an offence against the laws of the Federated States of Micronesia; or
 - (f) Where the Authority determines that the issuance of a permit would not be in the best interests of the Federated States of Micronesia.
- (4) A permit shall be denied:
- (a) Where the Authority determines that the permit would authorize foreign fishing or domestic-based fishing on, over, or within one nautical mile of the edge of a coral reef that is wholly submerged at mean high tide within the exclusive economic zone; or
 - (b) Where the Authority determines that the permit would authorize fishing on, over, or within one nautical mile of the edge of a coral reef that is wholly submerged at mean high tide within the exclusive economic zone, and that subsection (a) of this section does not apply to the permit application; and
 - (i) The Authority has submitted a copy of the application to the State, to the customary inhabitants of which, the authority to control the fishing over such-reef has been traditionally ascribed. The Authority shall have the power to prescribe by regulation the ascription of such reefs to each of the States. For the purposes of this subsection (b), the State shall mean the Governor thereof, and the councils of traditional leaders established by law having the constitutional authority to affect the enactment of State legislation; and
 - (ii) Within 30 days of such submission, the State, or any constituent part thereof, has communicated in writing to the Authority its objection to the issuance of the permit with respect to the reef or reefs traditionally ascribed to its customary inhabitants.
 - (c) Where the Authority determines that the permit would authorize fishing with or by means of the use of .drift net or gill net or other substantially similar method of catching fish.
- (5) If the Authority denies an application submitted, by an applicant, the Authority shall notify such applicant of the disapproval and the reasons therefore. The applicant may then submit a revised application taking into

Title 24

consideration the reasons for disapproval.

Section 112. Suspension, revocation, or imposition of restrictions on a permit. If any fishing vessel for which a permit has been issued pursuant to section 111 has been used in the commission of any act prohibited by this title or other applicable law, an applicable domestic-based or foreign fisheries agreement or any permit issued in accordance with this title, or if any civil penalty or criminal fine imposed under this title has not been paid within 30 days, the Authority shall:

- (1) Revoke such permit with or without prejudice to the right of any party involved to be issued a permit for such vessel in any subsequent year;
- (2) Suspend such permit for the period of time deemed appropriate; or
- (3) Impose additional conditions and restrictions on any permit issued pursuant to this title.

Section 113. Fees for scientific research, training, commercial pilot, and foreign recreational fishing permits. Fees for scientific research, training, commercial pilot, and foreign recreational fishing shall be established pursuant to regulations issued by the Authority.

Section 114. Rebate of fees. The Authority may accept all or a portion of the fee paid under a domestic-based or foreign fishing agreement pending rebate pursuant to the agreement. That portion of a fee that is subject to rebate shall be held in a separate trust account maintained by the Secretary of Finance until rebated to the foreign or domestic-based fishing venture or paid into the General Fund, or its successor, pursuant to the terms of the agreement.

Section 115. Division of fees received as goods and services. In the case of fees paid as goods and services rather than money, the Authority shall submit a proposed division of such goods or services to the Congress of the Federated States of Micronesia for its approval by resolution while in session, and by the Committee on Ways and Means of the Congress of the Federated States of Micronesia between sessions. If the Congress does not approve a division of such goods and services within 60 days of the submission of a proposed division of such fees by the Authority, the proposed division shall be deemed approved.

Section 116. Reporting requirements.

- (1) The master of each foreign fishing vessel issued a permit or which is permitted to fish pursuant to a treaty or any agreement or arrangement

Title 24

referred to in section 106 shall at all times while the vessel is in the fishery waters, cause to be maintained in the English language a fishing log in a form supplied or approved by the Authority, and shall enter the following information relating to the activities of the vessel on a daily basis:

- (a) The gear type used;
 - (b) The noon position of the vessel and, where applicable, the set location and time;
 - (c) The species of fish taken and the quantity of each species by weight or number as may be specified in the form;
 - (d) The species of fish returned from the vessel to the sea, the quantity of each species by weight or number as may be specified in the form, and the reasons for discard; and
 - (e) Such other information as the Authority may prescribe by regulation or as may be required by an applicable treaty, agreement, or arrangement.
- (2) The original log form described in subsection (1) shall be sent to the Authority by registered airmail within 30 days of entry of the vessel into port at the completion of the relevant trip, or as provided in the applicable treaty, agreement, or arrangement.
- (3) The owner or operator of a local fishing vessel longer than twenty-seven feet in overall length shall maintain a fishing log in a prescribed form issued by the Authority, in which he shall enter the following information relating to the activities of the vessel on each fishing day:

- (a) The type of gear used;
- (b) Time and location where such fishing activities have taken place;
- (c) Species of fish taken and quantity of each species by weight and number as may be specified in a form issued by the Authority; and
- (d) Such other information as the Authority may require in a specified form.

Title 24

(4) The owner or operator referred to in subsection (3) shall send by registered mail or deliver such fishing logs to the Authority within 7 days of the end of each calendar month's activities, or within 7 days of entry of the vessel into port at the completion of a trip lasting longer than 14 days.

(5) The Authority, by regulation, may prescribe such other reporting requirements as may be required for the conservation and management of marine resources and to enforce the provisions of this title.

Section 117. Authority to issue State permits. If authorized by appropriate State law, the Authority may issue permits for fishing in the Territorial Sea or internal waters in accordance with State law. Any fees collected for fishing within the Territorial Sea or internal waters shall be transferred to the State for which the permit was granted.

Section 118. Authority to appoint observers. Pursuant to regulations issued by the Authority, the executive director may appoint, in writing, any person to be an authorized observer.

Section 119. Application of Other Laws. No permit issued under this title shall relieve any fishing vessel or its operator or crew of any obligation or requirements imposed by other laws, including those concerning navigation, customs, immigration, or health, unless so indicated in those laws.

Section 120. Severability. If any provision of this title or amendments or additions thereto, or the application thereof to any person, thing or circumstances is held invalid, the invalidity does not affect the provisions or application of this title or the amendments or additions that can be given effect without the invalid provisions or application, and to this end the provisions of this title and the amendments or additions thereto are severable.

Title 24

CHAPTER II

Domestic Fishing

Sections:

- 201 Registration fee for domestic fishing permits.
- 202 Allocation of allowable fishing between domestic fishing vessels

Section 201. Registration fee for domestic fishing permits. A registration fee of up to \$25 may be charged for a domestic fishing permit.

Section 202. Allocation of allowable fishing between domestic fishing vessels. The Authority may allocate that portion of the optimum sustainable yield allocated to domestic fishing vessels among domestic fishing vessels, if unrestricted fishing by domestic fishing vessels would otherwise result in a catch level exceeding the optimum sustainable yield. In determining the allocation, the Authority shall take into consideration:

- (1) The extent to which each vessel or operator of such vessel has historically fished in a particular area;
- (2) The extent to which each vessel or operator of such vessel is advancing the development of a fishing industry in the Federated States of Micronesia;
- (3) The extent to which each vessel or operator of such vessel has historically fished for a particular regulated species;
- (4) The extent to which each vessel or operator of such vessel submits information for the conservation, management, and development of stocks of fish;
- (5) The extent to which each vessel or operator of such vessel has traditional rights to fishing in an area; and
- (6) Such other factors as the Authority deems appropriate.

CHAPTER III

Management Authority

Sections:

301	Micronesian Maritime Authority Established
302	Authority; Regulations
303	Duties and functions
304	Executive Director
305	Compensation
306	Annual Report

Section 301. Micronesian Maritime Authority - Established.

(1) There is established a Micronesian Maritime Authority composed of five members appointed as follows:

(a) One representative of each State appointed by the President of the Federated States of Micronesia, in consultation with the Governor and Congressional Delegation of the affected State; PROVIDED, however, that no such representative shall also serve as a member of the Board of Directors of the National Fisheries Corporation of the Federated States of Micronesia, or any subsidiary or affiliate thereof, during the term of his membership on the Authority; and

(b) One at-large member appointed by the President of the Federated States of Micronesia.

(2) All appointments shall be for a term of two years. The term of office of each original member shall commence effective from the date of the first meeting of the Authority after the effective date of this act. Upon the expiration of the terms of an appointed member, his rights and powers of membership shall lapse and the executive director shall declare the vacancy and notify the President of the Federated States of Micronesia in writing of such vacancy. Vacancies occurring before the expiration of a member's term shall be filled in the same manner ,as the original appointment for the remainder of the term of office of the vacancy.

(3) The chairman shall be chosen by the majority vote of the members of the Authority. The Authority shall meet at such time and places as may be designated by the chairman or by the Authority. The Authority shall adopt its own rules of procedure and regulations by majority vote.

Section 302. Authority; Regulations.

- (1) The Authority shall have the following authority:
 - (a) to adopt regulations for the conservation, management, and exploitation of fish in the exclusive economic zone;
 - (b) to conclude foreign and domestic-based fishing agreements in accordance with sections 401 and 406 of this title;
 - (c) to issue domestic, domestic-based, and foreign fishing permits in accordance with procedures prescribed by the Authority or regulations promulgated pursuant to subsection (1)(a) and (2) of this section; and
 - (d) to participate in the planning and execution of programs relating to fisheries, or fishing in the exclusive economic zone in which a State government or the government of the Federated States of Micronesia, or any agency or subdivision thereof, has proprietary interest, direct or indirect, by way of stock ownership, partnership, joint venture, or otherwise.
- (2) Regulations adopted by the Authority shall have the full force and effect of law.

Section 303. Duties and functions. In addition to the authority granted in the preceding section, the Authority shall have the following duties and functions:

- (1) to provide technical assistance in the delimitation of the exclusive economic zone in accordance with section 107 of title 18;
- (2) to negotiate domestic-based and foreign fishing agreements in accordance with sections 404 and 406 of this title;
- (3) to issue permits for fishing in the Territorial Sea or internal waters of a State as authorized pursuant to section 117;
- (4) to submit its budget and report regarding the expenditure of its funds to the Congress each regular session for review; and
- (5) to perform such other duties and functions as may be necessary to carry out the purpose of this title.

Section 304. Executive director. The Authority shall employ a full-time executive director possessing such qualifications as may be established by the Authority.

The Authority may employ such other staff as it may deem necessary.

Section 305. Compensation.

(1) Members of the Authority who are neither employees nor officials of the Government of the Federated States of Micronesia or any State government shall be compensated at the rate of thirty-five dollars per day when actually on the business of the Authority.

(2) All members of the Authority, including members who are employees or officials of the Government of the Federated States of Micronesia or of any State government shall receive per diem and travel expenses at established Federated States of Micronesia rates while on the business of the Authority.

(3) The executive director shall receive a remuneration for his services, the amount of which shall be fixed by the Authority in consonance with the pertinent provisions of the current annual budget of the Government of the Federated States of Micronesia. The executive director shall serve at the pleasure of the Authority and shall be exempt from the provisions of the National Public Service System Act, section 111 et seq. of title 52 of this Code.

Section 306. Annual Report. The chairman of the Authority shall report on its activities to the President of the Federated States of Micronesia, the Speaker of the Congress of the Federated States of Micronesia, and each State Governor by December 1 of each year, which report shall contain a detailed accounting of the expenditure of funds of the Authority, the number of permits and licenses issued, the fees, forfeitures, and fines collected, estimates of the effect of the current level of fishing on the stock of fish in the exclusive economic zone, and such other information regarding the implementation of this title in the preceding fiscal year as the Authority may determine.

Title 24

CHAPTER IV

Foreign Fishing

Sections:

- 401 Foreign fishing agreements - Required.
- 402 Fees for foreign fishing permits.
- 403 Allocation of allowable fishing among foreign fishing vessels.
- 404 Foreign fishing agreements - Terms.
- 405 Approval of foreign and domestic-based fishing agreements.
- 406 Domestic-based fishing agreements.
- 407 Allocation of allowable fishing between domestic-based fishing vessels.
- 408 Agreements affecting state waters

Section 401. Foreign fishing agreements - Required. No foreign fishing vessel shall be issued a permit to fish in the exclusive economic zone without having entered into a foreign fishing agreement.

Section 402. Fees for foreign fishing permits. Fees and other forms of compensation for the right to exploit marine resources within the exclusive economic zone by foreign fishing vessels shall be established in foreign fishing agreements entered into pursuant to sections 401, 404 and 405 of this title.

Section 403. Allocation of allowable fishing among foreign fishing vessels.

- (1) The Authority may determine the allocation among foreign parties of the total allowable level of foreign fishing which is permitted with respect to any stock of fish subject to the provisions of this title.
- (2) In determining the allocation among parties, the Authority shall take into consideration:
 - (a) the extent to which vessels of such parties have historically fished the particular regulated species;
 - (b) the extent to which vessels of such parties have complied with the laws of the Federated States of Micronesia and any relevant treaties, agreements, or arrangements;
 - (c) whether such parties or their national governments have cooperated with the Federated States of Micronesia in, and made substantial contributions to, the conservation, management and

Title 24

development of fisheries, fishery research and the identification of marine resources;

(d) whether such parties or their national governments have cooperated with the Federated States of Micronesia in enforcement of the provisions of this title and the regulations issued under its authority, including flag state enforcement and provision of information required for the conservation and management of stocks of fish; and

(e) such other matters as it may deem appropriate.

Section 404. Foreign fishing agreement - Terms. All foreign fishing agreements shall have the following minimum terms:

(1) The foreign party and the owner or operator of any fishing vessel shall acknowledge the exclusive fishery management authority of the Federated States of Micronesia within the exclusive economic zone;

(2) The foreign party or the owner or operator of any fishing vessel fishing, as appropriate, pursuant to such agreement shall:

(a) comply with the requirements of this title, all regulations issued pursuant to this title and all other applicable laws and regulations;

(b) permit any officer authorized to enforce the provisions of this title to board and search or inspect any vessel at any time and make arrests and seizures provided for in section 508 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 title;

(c) permit such officer to examine and make notations on any permit issued pursuant to sections 109 through 111 of this title, or other documentation required under any applicable foreign fishing agreement;

(d) allow and assist any authorized officer to enforce the provisions of this title, regulations made thereunder and any other applicable laws and regulations;

(e) immediately comply with every instruction given by an authorized officer, facilitate safe boarding, and facilitate the inspection of the vessel, gear, equipment, records, fish and fish products;

FSM 35

Title 24

- (f) allow and assist authorized observers to board the vessel for scientific, monitoring, compliance and other functions, and -have full access to, and the use of facilities and equipment on board the vessel which the authorized observer may determine is necessary to carry out his duties; have full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish; remove samples; have full access to the vessel's records, including its logs and documentation for the purpose of inspection and copying; and gather any other information relating to fisheries in the exclusive economic zone;
 - (g) not assault, obstruct, resist, delay, refuse boarding to, intimidate, or interfere with an authorized officer or authorized observer in the performance of his duties;
 - (h) display any permit or permit number issued for any such vessel pursuant to sections 109 through 111 of this title or any documentation required to be displayed under foreign fishing agreements in the wheelhouse of such vessel;
 - (i) ensure that appropriate position-fixing and identification equipment shall be installed and maintained in working order on each vessel;
 - (j) ensure that the vessel is marked in accordance with regulations issued by the Authority while within the exclusive economic zone;
 - (k) require that the National Government of the Federated States of Micronesia shall be reimbursed for the cost of authorized observers;
 - (l) appoint and maintain an agent within the Federated States of Micronesia who is authorized to receive and respond to any legal process issued in the Federated States of Micronesia with respect to such owner or operator of such vessel; and
 - (m) not, in any year, exceed such party's allocation of the total allowable level of foreign fishing, in the event allocations are established in accordance with this title.
- (3)** Foreign parties will:
- (a) apply, pursuant to section 109 of this title, for any required permits;

Title 24

(b) deliver promptly to the owner or operator of the appropriate fishing vessel any permit which is issued under that section for such vessel; and

(c) abide by the requirement that no foreign fishing will be permitted in the exclusive economic zone without a valid and applicable permit, except as provided by foreign fishing agreements concluded pursuant to this chapter, and that all conditions and restrictions of the permit, or any applicable foreign fishing agreement, are complied with.

Section 405. Approval of foreign and domestic-based fishing agreements.

(1) To take effect within the exclusive economic zone, a foreign fishing agreement or domestic-based fishing agreement shall require the approval of the Congress of the Federated States of Micronesia by resolution.

(2) The Committee on Resources and Development of the Congress of the Federated States of Micronesia shall approve such agreement if the Congress is not session.

(3) An agreement involving fewer than ten vessels does not require the approval of the Congress of the Federated States of Micronesia.

Section 406. Domestic-based fishing agreements. No domestic-based fishing vessels shall be issued a permit to fish in the exclusive economic zone without having entered into a domestic-based fishing agreement. Such fishing agreement shall have the same minimum terms required of foreign fishing agreements by section 404 of this title.

Section 407. Allocation of allowable fishing between domestic-based fishing vessels. The portion of the optimum sustainable yield allocated to domestic-based fishing shall be divided by the Authority among domestic-based fishing vessels, if necessary. In determining the allocation amongst domestic-based fishing vessels, the Authority shall take into consideration:

(1) The extent to which each vessel or operator of such vessel has historically fished for a particular regulated species;

(2) The extent to which each vessel or operator contributes to the economic growth of the Nation;

(3) The extent to which each vessel or operator of such vessel has provided information necessary for the conservation and management of stocks of fish; and

Title 24

- (4) Such other provisions as the Authority deems appropriate.

Section 408. Agreements affecting state waters. After the effective date of the Constitution of the Federated States of Micronesia, the provisions of this chapter are not applicable in the internal waters, Territorial Sea, and exclusive fishery zone of any state which does not approve the appropriate foreign fishing agreement or agreements.

CHAPTER V

Violations and Penalties

Sections:

- 501 Prohibited acts.
- 502 Civil penalties.
- 503 Criminal penalties.
- 504 Forfeitures - Liability.
- 505 Forfeitures - Jurisdiction.
- 506 Forfeitures - Seizures.
- 507 Forfeitures - Disposition of property.
- 508 Forfeitures - Temporary disposition of property; security.
- 509 Forfeitures - Disposition of perishable articles.
- 510 Revenues from fines and forfeitures.
- 511 Jurisdiction of Courts.
- 512 Enforcement responsibility.
- 513 Enforcement authority.
- 514 Enforcement of regulations and permits.
- 515 Presumption of location of fishing.
- 516 Immunities.

Section 501. Prohibited acts

- (1) It is unlawful for any person:
 - (a) to violate any provisions of this title or of any regulation or permit issued pursuant to this title;
 - (b) to engage in fishing after revocation, or during the period of suspension, of an applicable permit issued pursuant to this title;
 - (c) to violate any provision of, or regulation under, an applicable domestic-based or foreign fishing agreement entered into pursuant to sections 401 and 404 through 406 of this title or any term or condition of any permit issued in accordance with this title and any regulations made under this title;
 - (d) to violate any provision of any applicable foreign fishing treaty, agreement or arrangement of the terms of any regional fishing license recognized in accordance with this title;

FSM 39

Title 24

- (e) to refuse to permit any authorized officer to board a fishing vessel for purposes of conducting any search or inspection in connection with the enforcement of this title or any regulation, permit, or foreign or domestic-based fishing agreement or any applicable fishing treaty, agreement or arrangement;
- (f) to assault, obstruct, resist, delay, refuse boarding to, intimidate, or interfere with any authorized officer or authorized observer in performance of his duties, including in the conduct of any search or inspection described in paragraph(e) of this subsection; and for the purposes of this subparagraph, any person who refuses to allow any authorized officer or observer, or any person acting under his order or in his aid, to exercise any of the powers conferred on an authorized officer or observer by this title or any regulations made under this title shall be deemed to be obstructing that officer, observer, or person;
- (g) to fail to comply with the lawful requirements of any authorized officer or observer;
- (h) to furnish to any authorized officer any particulars which, to his knowledge, are false or misleading in any respect;
- (i) being on board any vessel being pursued or about to be boarded by any authorized officer, to throw overboard or destroy any fish, fishing gear, explosive, poison, or other noxious substance to avoid seizure of such fish, fishing gear, explosive, poison, or other noxious substance or thing or to avoid the detection of any offence under this title or the regulations made under this title;
- (j) to resist a lawful arrest for any act prohibited by this section;
- (k) to provide information required to be recorded, notified or communicated pursuant to any requirement of the provisions of this title or the regulations, knowing or having reasonable cause to believe that it is false, incomplete or misleading;
- (l) 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 title or any regional fishing treaty, regulation, permit, foreign or domestic-based fishing agreement or any applicable law;
- (m) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such person has

Title 24

committed any act prohibited by this section;

(n) to violate any provision of, or regulation under, any applicable agreement to implement a regional fisheries treaty, or any other treaty, agreement or arrangement having effect in the Federated States of Micronesia, entered into pursuant to section 106 of this title; or

(o) to use any foreign fishing vessel for fishing within a two-mile radius of any fish aggregating device of the Government, a citizen, or any other body established under the laws of the Federated States of Micronesia.

(2) It is unlawful for any fishing vessel, and for the crew, owner, or operator of any fishing vessel, to engage in fishing in the exclusive economic zone authorized by and conducted in accordance with or without a valid and applicable fishing permit issued pursuant to this title, where such permit is required by sections 103 and 104 of this title, and unless such fishing is permitted pursuant to section 106.

Section 502. Civil Penalties.

(1) Any person who is found by the Supreme Court of the Federated States of Micronesia in a civil proceeding to have committed an act prohibited by section 501 of this chapter shall be liable to the Federated States of Micronesia for a civil penalty.

(2) The amount of the civil penalty shall not exceed \$5,000,000 for each violation, except as otherwise provided herein. Each day of a continuing violation shall constitute a separate offence. The Supreme Court of the Federated States of Micronesia may impose a penalty in excess of \$5,000,000 provided, in its review of the factors set forth in subsection (3), the Supreme Court finds that the defendant has committed a gross violation.

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

(4) The Attorney General of the Federated States of Micronesia is authorized to initiate all proceedings under this section and to recover the amount assessed as a civil penalty.

(5) The proceeds of civil penalties shall be deposited into the General

Fund of the Federated States of Micronesia. Fifty percent of these proceeds from civil penalties shall then be distributed to the State affected.

Section 503. Criminal penalties.

(1) A person is guilty of an offence if he commits any act prohibited by section 501 of this chapter.

(2) Any offence described as a prohibited act by subsections (1)(a), (b), (c), (d), (h), (k), (l), (n), or (o) of section 501 is punishable by a fine of not less than \$500,000.

(3) Any offence described as a prohibited act by subsections (1)(e), (f), (g), (i), (j), or (m) of section 501 is punishable by a fine of not less than \$800,000, or imprisonment for not more than two years, or both; PROVIDED that if in the commission of any such offence the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this title, or threatens any such officer with bodily injury, the offence is punishable by a fine of not less than \$1 million, or imprisonment for not more than ten years, or both; and PROVIDED FURTHER that where a regional fisheries treaty 30 requires, persons arrested for violating any provisions of, or regulations under, such treaty shall not be subject to imprisonment.

(4) Any offence described as a prohibited act by subsection (2) of section 501 is punishable by a fine of not less than \$800,000. Each day of continuing violation shall be considered a separate offence.

Section 504. Forfeiture - Liability.

(1) Any fishing vessel involved in the commission of any act prohibited by section 501 of this chapter shall, along with its fishing gear, furniture, appurtenances, stores, or cargo used, be forfeited to the Federated States of Micronesia.

(2) Any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 501 of this chapter shall be forfeited to the Federated States of Micronesia upon the commission of the act giving rise to forfeiture under this section.

(3) Any action for forfeiture pursuant to subsections (1) or (2) of this section shall be a civil proceeding.

Section 505. Forfeitures - Jurisdiction. The Supreme Court of the Federated States of Micronesia shall have jurisdiction, upon application by the Attorney

Title 24

General or the executive director on behalf of the Federated States of Micronesia, to order any forfeiture under section 504 of this chapter.

Section 506. Forfeitures - Seizures. If a judgment is entered for the Federated States of Micronesia in a civil forfeiture proceeding under sections 504 through 509 of this chapter, the Attorney General shall seize any property or other interest declared forfeited to the Federated States of Micronesia, which has not previously been seized pursuant to this title.

Section 507. Forfeitures - Disposition of property. The forfeited vessel, gear, furniture, appurtenances, stores, cargo, and fish may be sold and the proceeds deposited into the General Fund of the Federated States of Micronesia and distributed in accordance with section 510 of this title.

Section 508. Forfeitures - Temporary disposition of property; security.

- (1) 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.
- (2) Such bond or other security shall be conditioned upon such person delivering 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.
- (3) Judgment 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.

Section 509. Forfeitures - Disposition of perishable articles.

- (1) Any fish, fish products, or other perishable articles seized or taken pursuant to this title 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.
- (2) For purposes of this title, it shall be a rebuttable presumption that:
 - (a) All fish found on board a fishing vessel which is seized or taken in connection with an act prohibited by section 501 of this chapter were taken or retained in violation of this title; and
 - (b) All fish found on board a transiting fishing vessel which

Title 24

has been used in the commission of an offence in the exclusive economic zone, shall be deemed to have been caught in the exclusive economic zone.

Section 510. Revenues from fines and forfeitures. All fines and the proceeds of sale of all forfeitures collected pursuant to the provisions of this title shall be deposited into the General Fund of the Federated States of Micronesia. Fifty percent of these revenues from fines and forfeitures shall then be distributed to the State affected.

Section 511. Jurisdiction of Courts. (1) The Supreme Court of the Federated States of Micronesia shall have exclusive jurisdiction over any case or controversy arising under this title.

(2) 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.

Section 512. Enforcement responsibility. The office of the Attorney General of the Federated States of Micronesia has primary responsibility for the enforcement of this title, and may authorize other entities, officials or persons to perform enforcement functions.

Section 513. Enforcement authority.

(1) For the purpose of ascertaining whether there is or has been any contravention of the provisions of this title or any regulations passed thereunder, any authorized officer may:

(a) Upon the issuance of a warrant, at all reasonable hours, enter any fish processing establishment and any premises other than premises used exclusively as a dwelling-house;

(b) Stop, board and search:

(i) Any foreign or domestic-based fishing vessel within the fishery waters, or

(ii) Any domestic fishing vessel, inside or outside the fishery waters;

(c) Stop and search any vessel or vehicle transporting, or reasonably suspected of transporting, fish or fish products;

Title 24

- (d) Make such examination and inquiry as may appear necessary to him concerning any premises, fish processing establishment, vessel or vehicle in relation to which any of the powers conferred by this section have been, or may be exercised and take samples of any fish, or fish products, found therein;
 - (e) Require any person to produce his permit or his authority if it appears to the authorized officer that such person is doing any act for which a permit or other authority is required under this title and take copies of any such license or other authority;
 - (f) Require any person to produce any logbook, record or other document required to be held by him under this title or any regulations made under this title and take copies of such logbook, record or other document.
- (2) Where he has reasonable cause to believe that an offence against the provisions of this title or any regulations made under this title has been committed, any authorized officer may, with or without a warrant or other process:
- (a) Following hot pursuit in accordance with international law and commenced within the fishery waters, stop, board and search inside or outside the fishery waters any fishing vessel which he believes has been used in the commission of that offence within the fishery waters or in relation to which he believes such offence has been committed and bring such vessel and all persons and things on board within the fishery waters;
 - (b) Within the fishery waters:
 - (i) Arrest any person if he has reasonable cause to believe that such person has committed an offence prohibited by this title or any regulations issued under this title;
 - (ii) Seize any fishing vessel used or employed in, or when it reasonably appears to have been used or employed in, the violation of any provision of this title or any regulations issued under this title;
 - (iii) Seize any fishing gear, furniture, appurtenances, stores, cargo, and fish in or on a fishing vessel seized pursuant to this section; and
 - (iv) Seize any fish which he reasonably believes to have been taken or fish products produced in violation of any provision of this title or

FSM 45

Title 24

any regulations issued under this title.

(3) Any authorized officer may execute any warrant or other process issued by any court of competent jurisdiction.

(4) Where following the commission of an offence under this title by a foreign fishing vessel, that vessel is pursued beyond the limits of the fishery waters, the powers conferred on authorized officers under this section shall be exercisable beyond the limits of the fishery waters in accordance with international law.

(5) Any authorized officer may exercise any other lawful authority for the enforcement of this title and any regulations issued under this title.

Section 514. Enforcement of regulations and permits. For purposes of this chapter the terms “provisions of this title” and “violation of any provisions of this title” includes the provisions of any regulation or permit issued pursuant to this title.

Section 515. Presumption of location of fishing. Where, in any legal proceedings instituted under this title or any regulations issued under this title, the place in which an event is alleged to have taken place is in issue, the place stated in a copy of the relevant entry in the logbook or other official record of an enforcement vessel or aircraft as being the place in which the event took place shall be presumed to be the place in which the event took place, unless the contrary is proved.

Section 516. Immunities. No action shall lie against the Authority, any authorized officer or observer, or any other person appointed pursuant to this title in respect of anything done or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this title or regulations issued under this title.

CHAPTER 6

State Entities for Development of Marine Resources

Sections:

- § 601. State entities authorized.
- § 602. Powers of State entities.
- § 603. Financial assistance authorization.

§ 601. State entities authorized. - Each State government is authorized to establish by law an entity to promote, develop, and support commercial utilization of living marine resources within its jurisdiction. The entity shall be composed of representatives of State parties with a significant interest in the development of living marine resources. (PL 5-21 § 10 (1); Code 1970 45 TTC 160 (1); PL 7-111 § (part); Code 1980 45 TTC 162 (part); PL 1-26 § 1 (part); PL 2-31 § 1 (part))

§ 602. Powers of State entities. - The entity shall be provided by law with the power and authority to carry out the purpose stated above. which powers may include but need not be limited to the following:

- (1) to provide guidance to the State government in establishing marine resources development policy;
- (2) to make regulations concerning the exploitation of living marine resources as permitted by law;
- (3) to serve as a conduit for public funds to establish and operate facilities required for commercial fisheries development, to conduct pilot fishing operations, and to participate in large scale commercial fishing and related activities which are not suitable for investment by the private sector.

(4) to establish and support programs to promote, support, and guide fishing cooperative associations;

(5) to formulate a comprehensive five-year marine resources development plan to be submitted for review and approval by the Congress as a condition precedent to a State entity's eligibility for funds authorized under section 605 of this chapter. (PL 5-21 § 10 (3); Code 1970 45 TTC 160 (3); PL 7-111 § 1 (part); Code 1980 45 TTC 162 (part); PL 1-26 § 1 (part); PL 2-31§ 1 (part))

§ 605. Financial assistance authorization.

(1) The sum of \$1,000,000 or so much thereof as may be necessary, is hereby authorized to be appropriated from the General Fund of the Federated States of Micronesia for each fiscal year 1982 through 1985 to be made available to State entities created pursuant to section 601 of this chapter.

(2) During the four-year period of this authorization, any State entity whose marine resources development plan has been approved pursuant to section 601 of this chapter shall be eligible for a sum not to exceed \$250,000 annually; provided however, that the State legislature concerned shall first put up matching funds on a one to two basis; and provided further, that no funds made available under this section shall be used to defray administrative expenses of the State entities. (PL 7-111 §4; Code 1980 45 TTC 165; PL 1-26 § 4; PL 2-31§ 2

CHAPTER 7

National Fisheries Corporation

Sections:

- § 701. Short title.
- § 702. Purpose.
- § 703. Establishment of Corporation.
- § 704. Charter.
- § 705. Principal and branch offices.
- § 706. Corporation authority.
- § 707. Corporate powers.
- § 708. Board of Directors.
- § 709. Composition of the Board.
- § 710. Organizational meeting.
- § 711. Terms of office of Board members.
- § 712. Corporate bylaws.
- § 713. Officers of the Board.
- § 714. Board meetings.

- § 715. Quorum of the Board.
- § 716. Minutes of Board meetings.
- § 717. Compensation of Board members.
- § 718. Employees of the Corporation.
- § 719. Budget preparation.
- § 720. Budget request.
- § 721. Records and reporting
- § 722. Audit.
- § 723. Corporate debts and obligations.
- § 724. Tax exemption.

§ 701. Short title. This chapter may be cited as the “Federated States of Micronesia National fisheries Corporation Act of 1983.” (PL 3-14 § 1)

§702. Purpose. The purpose of this chapter is to establish a public corporation to promote the development of pelagic fisheries and related industries within the extended fishery zone as defined under 18 F.S.M.C. 104, for the benefit of the people of the Federated States of Micronesia. (PL 3-14 § 2; PL 3-25 § 1)

§ 703. Establishment of Corporation. The National Fisheries Corporation of the Federated States of Micronesia hereinafter referred to as the “Corporation” is hereby established as a public corporation under the laws of the Federated States of Micronesia. (PL 3-14 § 3)

§ 704. Charter.

(1) The charter of the Corporation shall be as prescribed in this section and sections 705,706 and 707 of this chapter.

(2) The existence of the Corporation shall be perpetual. (PL 3-14 § 4)

§ 705 Principal and branch offices.

(1) The principal office of the Corporation shall be located within the territory of the Federated States of Micronesia at a place to be designated by the Board of Directors of the Corporation.

(2) There may be such subordinate or branch offices in such place or places as the Board of Directors of the Corporation may deem necessary. (PL 3-14 § 5)

§ 706. Corporation authority.

(1) Subject to any existing limitation or limitations hereafter enacted. the Corporation, through its officers and agents, is authorized to

engage in all commercial activities which will further the development of the fishing and fisheries industry in the Federated States of Micronesia.

(2) The Corporation's authority shall include, but not be limited to the following:

(a) to enter into joint venture, partnership, and other agreements related to the fishing and fisheries industry with other persons including, but not limited to, foreign persons and governments;

(b) to otherwise engage or participate as owner, partner, shareholder, or other interest holder in commercial ventures related to the fishing and fisheries industry;

(c) to manage or operate commercial projects, enterprises, and ventures related to the fishing and fisheries industry;

(d) to secure both from within and from without the Federated States of Micronesia financial resources to achieve the purpose of this act and the Corporation's charter;

(e) to provide technical assistance and services for project identification, project formulation, and pre-investment studies relating to the fishing and fisheries industry;

(f) to foster economic activities and to cooperate with other institutions within and without the Federated States of Micronesia in supporting activities for fishing and fisheries development;

(g) to promote the training of Micronesian citizens in matter related to the fishing and fisheries industry; and

(h) to invest in the expansion and improvement of the fishing and fisheries industry in the Federated States of Micronesia. (PL 3-14 § 6)

§ 707. Corporate powers. In addition to the authority granted under section 706 of this chapter, the Corporation shall possess and exercise all powers normally exercised by a corporation, including, but not limited to the following:

(1) to adopt, alter, and use a corporate seal;

(2) to adopt, amend, and repeal its bylaws governing the conduct of its business and the exercise of its authority provided that such bylaws shall be consistent with the laws of the Federated States of Micronesia;

(3) to sue and be sued in its corporate name;

(4) to acquire in any lawful manner, real, personal, or mixed property, either tangible or intangible, and to hold, maintain, use, and operate such property, and to sell, lease, or otherwise dispose of such property;

(5) to acquire in any mode and take over the whole or any part of the business, property, goodwill, and liabilities of any other corporation or corporations, including debts, liabilities and obligations incurred prior to the time of acquisition;

(6) to take and otherwise acquire and hold shares, stocks, mortgages, bonds, obligations, securities, and investments of all kinds, foreign and domestic, and to sell or otherwise alienate the same;

(7) to form or assist in forming any company for the purpose of carrying on any business which the corporation is authorized to carry on, or any, other business which may enhance the fishing and fisheries industry;

(8) to issue corporate bonds from time to time for sale to the general public, or to other financial institutions, or Government agencies, upon such terms and under such conditions as the Board of Directors deems necessary and appropriate;

(9) to make contracts and incur liabilities to borrow money, and to secure any or all of its obligations by mortgage or pledge of any or all of its property, franchises, or income;

(10) to lend money for its corporate purposes, and to invest or reinvest its funds;

(11) to conduct its business, carry on its operations, have offices, and to exercise the powers granted herein in any State or territory of the Federated States of Micronesia or in any foreign country;

(12) to permit the Corporation to be registered or recognized in any country, state, or place outside of the Federated States of Micronesia, and to comply with any condition necessary or expedient in order to enable the Corporation to carry on business in any such country, state, or place, and to establish local companies or branch offices within the jurisdiction of the Federated States of Micronesia;

(13) to act as agent for or of any other person or entity;

(14) to appoint, subject to other provisions of this chapter and other applicable laws, such officers and agents as the business of the Corporation requires; and

(15) to have and to exercise all powers necessary and proper to effectuate the purposes of this chapter and the Corporation's charter. (PL 3-14 § 7)

§ 708. Board of Directors. –The affairs of the Corporation shall be managed and its corporate powers exercised by a Board of Directors, hereinafter referred to as the “Board.” (PL 3-14 § 8)

§ 709. Composition of the Board. – The Board shall be composed of the following:

T. 24

§ 709

- (1) one member appointed by the President of the Federated States of Micronesia;
- (2) one member appointed by each of the Governors of the States of the Federated States of Micronesia;
- (3) the Executive Director of the Micronesian Maritime Authority; and
- (4) the Secretary of the Department of Resources and Development, who shall serve as an ex officio member and who shall have no power to vote except in the event of tie. (PL 3-14 § 9)

§ 710. Organisational meeting. - The first; organisational meeting of the Board shall be held not later than forty-five days after all of the appointments of the members of the Board have become effective. (PL 3-14 § 10)

§ 711. Terms of office of Board members. - Those members of the Board appointed pursuant to subsections (3) and (4) of section 709 of this chapter shall serve on the Board for the duration, of their appointments to their respective agencies. Those members serving on the Board pursuant to subsections (1) and (2) of section 709 of this chapter shall serve on the Board at the pleasure of the appointing officials and may be changed from time to time at the election of the officials. A Board member may be removed for cause by a two-thirds majority vote of the members. (PL 3-14 § 11)

§ 712. Corporate by-laws.- The Board may, by majority vote of its entire membership, adopt, amend, or repeal bylaws of the Corporation which shall provide for the management of the business of the Corporation, the organisation, meetings, and procedures of the Board, the duties of the officers and employees of the Corporation, and the preparation and submission of required reports. Bylaws may not be adopted, amended, or repealed except after one week of written notice to each director. (PL 3-14 § 12)

§ 713. Officers of the Board. - The Board shall elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The chairman shall ordinarily preside at the Board meetings. The vice chairman shall preside at the Board meetings in the absence of the chairman. The bylaws shall provide for determination of the presiding officer in the absence of these officers. (PL 3-14 § 13)

§ 714. Board meetings. - The regular meetings of the Board shall be held at such times and places as shall be provided in the corporate bylaws. Special meetings shall be called by the chairman on his own initiative, or by petition of one-third of the entire membership of the Board. (PL 3-14 § 14)

§ 715. Quorum of the Board. - A majority of the entire membership of the Board shall constitute a quorum. An affirmative vote of a majority of the members present shall be required to transact the Board's business. A majority of the entire membership of the Board shall be required to adopt, amend, or repeal the bylaws. Unless otherwise provided in the corporate bylaws or in this chapter the Robert's Rules of Parliamentary Procedure shall be used as the rules of procedure governing the Board's proceedings. (PL 3-14 § 15)

§ 716. Minutes of Board meetings. - The secretary-treasurer, or his designee, as may be provided in the bylaws, shall keep full and accurate minutes of all meetings. (PL 3 - 14 § 16)

§ 717. Compensation of Board members. - Those members of the Board who are Government employees, both State and National, shall receive no compensation at all. Compensation of members of the Board who are not Government employees shall be established by the Board. All members of the Board shall be entitled to per diem at established Federated States of Micronesia rates when traveling on the Corporation's business. For the purpose of this section, "Government employees" includes, but is not limited to, employees of those Government agencies or entities created and funded by National or State laws. (PL 3-14 § 17)

§ 718. Employees of the Corporation.

(1) The Corporation may employ a full-time executive director, who shall be appointed by a majority vote of the entire membership of the Board. The compensation, terms, and conditions of employment shall be determined by the Board. The executive director shall be accountable and answerable to the Board for the daily operation of the Corporation.

(2) The executive director may hire, subject to the approval of the Board, such supporting staff as he deems necessary and proper to effect the purpose of this chapter. The employees of the Corporation shall be exempt from the provisions of the Federated States of Micronesia National Public Service System Act.

(3) No member of the Board may at the same time serve as an employee of the Corporation. (PL 3- 14 § 18)

§ 719. Budget preparation. -The Board shall prepare in advance of each fiscal year an annual budget for the Corporation, taking into consideration anticipated capital, anticipated revenue, and operational expenditure. The Corporation shall use the same fiscal year as that of the National Government of the Federated States of Micronesia. The budget shall indicate the operational, capital, and maintenance requirements of the Corporation that will be met with the anticipated revenues of the Corporation and such essential requirements as cannot be met without an increase in the rate of revenues or outside financial assistance. (PL 3-14 § 19; PL 3-25 § 2)

§ 720. Budget request. - The Corporation may seek appropriations from the Congress of the Federated States of Micronesia and from other lawful sources within or without the Federated States of Micronesia, in such amount and under such terms and conditions as it deems necessary and proper for the development of the fishing and fisheries industry. (PL 3- 14 § 20)

§ 721. Records and reporting. - The Board shall keep accurate records of the Corporation's business transactions. Such records shall include, but not be limited to, accounting of all income and expenditure, and assets, both tangible and intangible and liabilities of the Corporation. The Board shall make a monthly report of the Corporation's activities at the end of every month. That monthly report shall include, inter alia, a monthly financial report. The Corporation, through its Board, shall make a quarterly report to the President of the Federated States of Micronesia and to the Speaker of the Congress of the Federated States of Micronesia. The quarterly report shall include, inter alia a quarterly financial statement. (PL 3-14 § 21; PL 3-25 § 3)

§ 722. Audit. - The Board shall have the books of account audited by the National Public Auditor no less frequently than annually. (PL 3-14 § 12)

§ 723. Corporate debts and obligations. – Unless otherwise expressly provided by law, the National Government shall not be liable or responsible for any debts incurred by or obligations imposed upon the Corporation. (PL 3-14 § 23)

§ 724. Tax exemption. - The Corporation shall exist and operate solely for the benefit of the public and shall be exempt from any taxes or assessments on any of its property, operations, or activities. Nothing in this

section exempts employees and independent contractors of the Corporation from tax liability for income received from the Corporation. The tax-exempt status shall not be available insofar as the Corporation associates itself in a joint venture with a foreign corporation or association. (PL 3-14 § 24)

**MICRONESIAN MARITIME AUTHORITY
INTERIM RESEARCH AND TRAINING VESSEL LICENSING REGULATIONS**

1. GENERAL PROVISIONS

1.1. Statement of Purpose. These interim regulations provide for procedures by which owners or operators of certain research or training vessels may apply for and be issued permits to operate in the Exclusive Economic Zone of the Federated States of Micronesia.

1.2. Authority and Scope. These interim regulations are promulgated pursuant to Section 302(1)(a) and 302(2)(b) of Title 24 of the Code of the Federated States of Micronesia, as amended by Public Law No. 3-10. These interim regulations are intended to standardize the methods by which research or training vessels are granted permits to operate within the Exclusive Economic Zone of the Federated States of Micronesia. These interim regulations apply to research or training vessels which are:

- (a) not registered in the Federated States of Micronesia; or
- (b) not wholly owned by citizens of the Federated States of Micronesia; or
- (c) not wholly controlled by citizens of the Federated States of Micronesia; or
- (d) of foreign registry chartered by citizens of the Federated States of Micronesia.

These interim regulations have the force and effect of law.

1.3. Authority of the Micronesian Maritime Authority. Submission of an application and subsequent granting of a Research and Training Permit shall constitute acknowledgment on behalf of the applicant that he accepts the authority of the Micronesian Maritime Authority to administer laws, rules and regulations over marine resources within the Exclusive Economic Zone of the Federated States of Micronesia.

2. DEFINITION

2.1. "Research or Training Vessel" means any vessel, boat, ship or other craft which has as its main purpose the training of personnel for eventual employment in the fisheries professions or which conducts scientific studies, investigations or inquiries into the status of stocks, life history or any other biological aspect of living marine resources, and which usually catches fish by commercial or non-commercial methods for the furthering of any of these activities.

2.2. "Authority" means the Micronesian Maritime Authority as established by 24 F.S.M.C. 301, as amended by Public Law 3-10.

2.3. "Executive Director" means the Executive Director of the Micronesian Maritime Authority.

2.4. "Fish" means any living marine resource.

2.5. "Fishing means:

- (a) the actual or attempted catching, taking, or harvesting of fish;
- (b) any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or
- (c) any operations at sea in support of or in preparation for any activity described in Subparagraphs (a) and (b) above.

2.6. "Income budgeted" means a vessel which sells any part of its catch to defray operating expenses in any manner whatsoever.

2.7. "Not budgeted" means a vessel which does not sell any part of its catch for any purpose whatsoever.

3. PERMIT REQUIRED

3.1. No research or training vessel shall engage in fishing in the Exclusive Economic Zone of the Federated States of Micronesia unless such vessel has been issued a valid permit to these interim regulations. No research or training vessel shall engage in the Territorial Sea of a state of the Federated States of Micronesia unless such vessel has been issued a valid permit issued by the appropriate state for such vessel.

4. PROCEDURES FOR APPLYING FOR A RESEARCH AND TRAINING PERMIT

4.1. Applications for Research and Training Permits may be obtained from:

The Executive Director
Micronesian Maritime Authority
Post Office Box PS 122
Palikir, Pohnpei
Eastern Caroline Islands
Federated States of Micronesia, 96941

Applications may also be requested by telex from the Executive Director, at Telex number 6812 MMA FSM in Pohnpei. Applications may also be requested by facsimile at telefax number (619) 320-2383.

4.2. The application shall be accompanied by a certified true copy of the Certificate of Ownership of the vessel, issued from the relevant national authority of the vessel's country of registry.

4.3. The application shall contain a space where the applicant must indicate if the vessel is income budgeted or not.

- (a) If the vessel is not income budgeted, a signed statement to that effect from the owner, operator or relevant national authority must accompany the application.
- (b) It will be assumed that the applicant vessel is income budgeted unless a statement in compliance with Subparagraph 4.3.(a) above is appended to the application.

5. ISSUANCE OF PERMITS

5.1. Applications shall be promptly reviewed by the Executive Director and a permit issued or denied in accordance with these regulations.

5.2. If review of the application by the Executive Director shows it deficient in any manner, he shall notify the applicant as soon as practical and give the applicant an opportunity to submit any missing or incorrect information or otherwise make amendments to the application.

5.3. If review of the application by the Executive Director shows that the applicant or the vessel are not qualified to receive a Research and Training permit, the Executive Director shall notify the applicant as soon as practical stating the reason or reasons for such disqualification.

- (a) If the applicant feels that he is still qualified to receive a permit, he may appeal the decision of the Executive Director in writing. Such an appeal shall be sent to the Chairman of the Micronesian Maritime Authority at the address noted in paragraph 4.1. above. The decision of the Chairman in determining the suitability of the applicant or vessel for a Research and Training permit shall be final.

6. PAYMENT OF FEES

6.1. The issuance of the permit shall be contingent upon the following terms and conditions:

- (a) Vessels engaged in scientific research and scientific training.
 - (i) this type of vessel normally carries out only sampling of fish species and amount of the catch is negligible, and no fee is charged.
 - (ii) the results of scientific research and/or the cruise report shall be made available to the Government of FSM.

FSM 58

- (iii) on the request of MMA, scientific observer(s) and/or trainee(s) shall be boarded and accommodated, provided that:
 - (a) the number of scientific observer(s) and/or trainee(s) shall be not more than two (2) at one time, due to the limitation of space accommodations.
 - (b) Location(s) of boarding and leaving of scientific observer(s) and/or trainee(s) shall be the most convenient location(s) scheduled in the cruise program of the vessel, and the costs of transportation from/to such locations(s) shall be met by Government of FSM.
 - (c) The insurance for scientific observer(s) and/or trainee(s) on board, such as life insurance, medical insurance, injury insurance, shall be met by the Government of FSM.
 - (d) The owner or operator of the vessel shall not be liable for any accident or injury caused to the scientific observer(s) or trainee(s) as the result of the scientific observer(s) or trainee(s) negligence or force majeure.
 - (e) Normal accommodation, food and medical care shall be provided at the cost of the owner or operator of the vessel, and working clothes and equipments required for the observation or training shall be available on board.
- (2) Vessels engaged in fisheries research and training
 - (i) A catch report shall be completed and submitted to the Authority in the same format as used for commercial fishing vessels of the same gear type. The summary of the research and training carried in the 200-mile Exclusive Economic Zone, including analysis and conclusion of the activities if any, shall also be presented in English to the Government of FSM.
 - (ii) Fee levels
 - (a) The permit fees, when no scientific observer(s) or trainee(s) of FSM is/are accommodated, are as follows:

L/L type: USD 900.00 / vessel / trip

P/L type: USD 900.00 / vessel / trip

P/S type: USD 2,100.00 / vessel / trip

The above fee levels are 25% of the average fee levels of commercial fishing vessels of the same gear types in the latest 3 calendar years. The ratio(%) shall be fixed until necessary alteration, but the average fee levels of commercial fishing vessels of the same gear types in the latest 3 calendar years shall be revised every year.

FSM 59

(b) The permit fees, when scientific observer(s) and/or trainee(s) of FSM is/are accommodated, are as follows:

L/L type: USD	600.00 / vessel / trip
P/L types USD	500.00 / vessel I trip
P/S type: USD	1,300.00 / vessel / trip

The above fee levels are 15% of the average fee levels of commercial fishing vessels of the same gear types in the latest 3 calendar years. The fees shall be revised in the same manner as prescribed in item a) above.

(iii) Upon request of the MMA, scientific observer(s) and/or trainee(s) shall be boarded and accommodated, provided that:

- (a) The number of scientific observer(s) and/or trainee(s) shall be not more than 2 at one time, due to the limitation of spare accommodations.
 - (b) Locations(s) of boarding and leaving of scientific observer(s) and/or trainee(s) shall be the most convenient locations(s) scheduled in the cruise program of the vessel, and the costs of transportation from/to such location(s) shall be met by Government of FSM.
 - (c) The insurance for scientific observer(s) and/or trainee(s) on board, such as life insurance, medical insurance, injury insurance, shall be met by the Government of FSM.
 - (d) The owner or operator of the vessel shall not be liable for any accident or injury caused to the scientific observer(s) or trainee(s) as the result of the scientific observer(s) or trainee(s) negligence or force majeure
 - (e) Normal accommodation, food and medical care shall be provided at the cost of the owner or operator of the vessel, and working clothes and equipments required for the observation or training shall be available on board.
- (3) Vessels engaged in commercial pilot operations.

(i) A catch report shall be completed and submitted in the same format as used for commercial fishing vessels of the same gear type. The summary of the commercial pilot operations carried out in the 200-mile Exclusive Economic Zone, including analysis and conclusion of the activities work if any, shall also be presented in English to the Government of FSM.

(ii) Fee levels

FSM 60

(a) The permit fees, when no scientific observer(s) and/or trainee(s) of FSM is/are accommodated, are as follows:

L/L type : USD 2,200.00 / vessel / trip
P/L type : USD 2,200.00 / vessel / trip
P/L type : USD 7,500.09r/ vessel / trip

The above fee levels are 60% of the average fee levels of commercial fishing vessels of the same gear types in the latest 3 calendar years in case of L/L and P/L types, and 90% in case of P/S type. The ratio(%) shall be fixed until necessary alteration but the average fee levels of commercial fishing vessels of the same gear type in the latest 3 calendar years shall be revised every year.

(b) The permit fees, when scientific observer(s) and /or trainee(s) of FSM is/are accommodated, are as follows:

L/L type : USD 1,800.00 / vessel / trip
P/L type : USD 1,800.00 / vessel / trip
P/S type : USD 6,700.00 / vessel / trip

The above fee levels are 50% of the average fee levels of commercial fishing vessels of the same gear types in the latest 3 calendar years in case of L/L and P/L types, and 800/6 in case of P/S type. The fees shall be revised in the same manner as prescribed in item (a) above.

(iii) Upon request of MMA, scientific observer(s) and/or trainee(s) shall be boarded and accommodated, provided that:

(a) The number of scientific observer(s) and/or trainee(s) shall be not more than 2 at one time in case of L/L and P/L types, and 1 in case of P/S types, due to the limitation of spare accommodations.

(b) Location(s) of boarding and leaving of scientific observer(s) and/or trainee(s) shall be the most convenient location(s) scheduled in the cruise program of the vessel in case of L/L type. In the case of P/L and P/S type vessels which do not enter into any port during the trips, it -shall be a suitable port in Japan and the costs of transportation from/to such location(s) shall be met by Government of FSM.

(c) The insurance for scientific observer(s) and/or trainee(s) on board, such as life insurance, medical insurance, injury insurance, shall be met by the Government of FSM.

(d) The owner or operator of the vessel shall not be liable for any accident or injury caused to the scientific observer(s) or trainee(s) as the result of the scientific observer(s) or trainee(s) negligence or force majeure.

FSM 61

- (e) Normal accommodation, food and medical care shall be provided at the cost of the owner or operator of the vessel, and working clothes and equipments required for the observation or training shall be available on board.
- (4) Vessels engaged in other fishing activities for the purpose of Research and Training.
 - (i) The same terms and conditions with the exception of fee level should be applied as above.
 - (ii) The Permit Fee shall be determined by the Executive Director on a case by case basis with consultation with the Chairman.
 - (iii) In determining such fee, consideration should include:
 - (a) Value of expected catch for the research period;
 - (b) Benefit of Research information to the FSM; and
 - (c) Other related benefit to the FSM from such research activity.

7. DURATION OF PERMITS

7.1. The duration of the permit shall be for each trip in the FSM 200 mile Exclusive Economic Zone.

7.2. Permits may be extended in extraordinary circumstances. In such extraordinary circumstances, request for an extension shall be made to the Executive Director at the address noted in paragraph 4.1. above stating the reason or reasons why such an extension is requested. The Authority may pro-rate the fees for the extension period.

7.3. The Authority may renew an existing permit or grant a subsequent permit upon completion of the requirements of Paragraph 8.2. below, or upon receipt of notice that such requirements are being complied with and an estimated date of their completion and transmission to the Authority is provided by the Permittee. Any such renewed or subsequent permit issued shall be subject to the payment of fees as determined by the Authority.

8. PERMIT REQUIREMENTS

8.1. The Permittee shall abide by all applicable laws, rules and regulations of the Federated States of Micronesia including, but not limited to, Title 18 and 24 of the Code of the Federated States of Micronesia. The Authority shall provide the Permittee copies of such laws, rules and regulations upon request, and provide adequate notice of any amendments made to such applicable laws, rules and regulations after the issuance of the permit.

8.2. The Permittee shall submit a complete trip report, in the English language, to the Authority. Such trip report shall consist of the following:

- (a) the MMA regional standard log book form for commercial vessels of a similar type utilizing the same methods and fishing gear or any other forms that may be prescribed by the MMA;
- (b) the cruise report of the trip as compiled by the chief scientist, operator, or other person in charge during the course of the voyage; and
- (c) a statement as to the general nature of the research or training and an explanation as to how this particular cruise fits into the overall research or training goals of the institution operating the vessel.

8.3. The Permittee shall allow duly authorized observers on board the vessel for all or a portion of the trip or trips undertaken during the duration of the permit. The placement of such observers shall be done through consultation with the Authority. Normal food and accommodation equal to that provided officers of the vessel will be provided for observers while on the vessel.

8.4. The Permittee shall comply with such other permit requirements as may be determined by the Executive Director of the Authority. Such other requirements shall be set forth on the permit. The Permittee shall be adequately notified by the Authority of any additions or changes to these permit requirements.

9. CANCELLATION OR SUSPENSION OF PERMIT

9.1. Upon failure to comply with Title 18 or 24 of the Code of the Federated States of Micronesia or any rules or regulations issued thereunder, or any permit requirements, the Executive Director may cancel or suspend the permit. When taking such action, the Executive Director shall notify the applicant of the reasons for this action. The Permittee shall be given a reasonable opportunity to appeal the cancellation. Such an appeal shall be sent to the Chairman of the Micronesian Maritime Authority at the address noted in paragraph 4.1. above. The decision of the Chairman shall be final. The permittee shall promptly dispatch to the Authority any such cancelled permit.

10. ENTRY INTO FORCE

10.1. These Regulations shall enter into force upon the signature of the Chairman of the Micronesian Maritime Authority and shall remain in force for six (6) months after the date of such signature.

11. ADOPTION OF REGULATIONS

11 .I. Pursuant to the authority vested in me by Sections 302(1)(a) and 302(2)(b) of Title 24 of the Code of the Federated States of Micronesia, as amended by Public Law No. 3-10, these Interim Research and Training Vessel Licensing Regulations are hereby adopted and shall take effect immediately.

Date: (July 27, 1989)

(Signed)
Andon L. Amaraich'
Chairman
Micronesia Maritime Authority

The provisions of these Interim Research and Training Vessel Licensing Regulations have been reviewed by the Office of the Attorney General and are found to be in proper legal form.

Office of The Attorney General

Date: (7/26/89)

(Signed)
Attorney General

MICRONESIAN MARITIME AUTHORITY
REEFERS AND FUEL TANKERS LICENSING REGULATIONS

1. AL PROVISIONS

1.1 Statement of Purpose. These regulations provide for procedures by which owners or operators of certain Reefers and Fuel Tanker vessels may apply for and be issued permits to operate in the Exclusive Economic Zone of the Federated States of Micronesia.

1.2 Authority and Scope. These regulations are promulgated pursuant to Section 02(1)(a) of the Code of the Federated States of Micronesia, as amended by Public Law No. 3-10. These regulations are intended to standardize the methods by which Reefers and Fuel Tanker vessels are granted permits to operate within the Exclusive Economic Zone of the Federated States of Micronesia.

Pursuant to Section 302(2)(b) of Title 24 of the Code of the Federated States of Micronesia, these regulations have the force and effect of law.

1.3 Authority of the Micronesian Maritime Authority. Submission of an application and subsequent granting of a Reefer or Fuel Tanker's Permit shall constitute acknowledgment on behalf of the applicant that he accepts the exclusive jurisdiction of the Micronesian Maritime Authority over marine resources within the Exclusive Economic Zone of the Federated States of Micronesia.

2. DEFINITIONS

2.1. "Authority" means the Micronesian Maritime Authority as established by 24 F.S.M.C. 301, as amended by Public Law 3-10.

2.2 "Executive Director" means the Executive Director of the Micronesian Maritime Authority.

2.3. "Fish" means any living resource.

2.4. "Fishing" means:

- (a) the actual or attempted searching for, catching, taking, or harvesting of fish;
- (b) any Other activity which can reasonably be expected: to result in the locating, catching, taking or harvesting of fish;
- (c) the placing, searching for, or recovery of fish aggregating devices or associated electronic equipment such as radio beacons;
- (d) aircraft use relating to the activities described in this subsection, except for flights in emergencies involving the health or safety of crew members or the safety of a vessel;
- (e) transshipping fish to or from any vessel;
- (f) storing, processing or transporting fish harvested within the fishery waters
- (g) refuelling or supplying fishing vessels; or
- (h) any operations at sea in support of or in preparation for any activity described in this subsection

2.5. "Fishing Vessels" means any vessel boat, ship, or other craft which is used for, equipped to be used for, or of a type that is normally used for:

- (a) Fishing:
- (b) Aiding or assisting one or more vessels at sea in the performance of activity related to fishing, including, but not limited to preparation, supply, refuelling storage, refrigeration, transportation, or processing.

2.6 "Fuel Tanker Vessel" means any vessel, boat, ship or other craft which has its main purpose of supply fuel diesel, oil and other provisions to other licensed foreign fishing vessels operating in the FSM 200 mile Exclusive Economic Zone.

2.7. "Reefer Vessel" means any vessel, boat, ship or other craft which has as its main purpose of collecting fish from other fishing vessels operating in the 200 mile Exclusive Economic Zone of FSM and which usually carries fish or having the carrying capacity of over 800 metric tons of fish.

3. PERMIT REQUIRED

3.1 No Reefer or Fuel Tanker vessel shall engage in fishing in the Exclusive Economic Zone of the Federated States of Micronesia unless such vessel has been issued a valid permit pursuant to the regulations. No Reefer or Fuel Tanker vessel shall engage in fishing in the Territorial Sea of a state of the Federated States of Micronesia unless such vessel has been issued a valid permit.

4. PROCEDURES FOR APPLYING FOR REEFER AND FUEL TANKER PERMITS

4.1. Applications for Reefer and Fuel Tanker Permits may be obtained from:

The Executive Director
Micronesian Maritime Authority
Post Office Box PS122
Palikir Section, Pohnpei
Eastern Caroline Islands
Federated States of Micronesia, 96941

Applications may also be requested by telex from the Executive Director, at Telex number 6812 MAFSM in Pohnpei. Applications may also be requested by facsimile at tele-fax number (619) 320-2383. No application be requested by telephone

4.2. The application shall be accompanied by a certified true copy of the Certificate of Ownership of the vessel, issued from the relevant national authority of the vessel's country of registry.

5. ISSUANCE OF PERMITS

5.1. Applications shall be promptly reviewed by the Executive Director and a permit issued or denied in accordance with these regulations.

5.2. If review of the application by the Executive Director shows it deficient in any manner, he shall notify the applicant as soon as practical and give the applicant an opportunity to submit any missing or incorrect information or otherwise make amendments to the application.

FSM69

5.3. If review of the application by the Executive Director shows that the applicant or the vessel is not qualified to receive a Reefer or Fuel Tanker Permit, the Executive Director shall notify the applicant as soon as practical stating the reason or reasons for such disqualification

- (a) If the applicant feels that he is still qualified to receive a permit, he may appeal the decision of the Executive Director in writing. Such an appeal shall be sent to the Micronesian Maritime Authority at the address noted in paragraph 4.1 above. The decision of the Authority in determining the suitability of the applicant or vessel for a Large Fish Carrier or Fuel Tanker permit shall be final.

6. PAYMENT OF FEES

6.1. Reefer or Fuel Tanker shall be required to pay a Registration fee of USD 250.00 per vessel.

7. DURATION OF PERMITS

7.1. The duration of the permit shall be determined by the Executive Director after consultation with the Applicant.

7.2. Permits may be extended in extraordinary circumstances. In such extraordinary circumstances, request for an extension shall be made to the Executive Director at the address noted in paragraph 4.1 above stating the reason or reasons why such an extension is requested.

7.3 The Authority may renew an existing permit or grant a subsequent permit upon completion of the requirements of Paragraph 8.2 below, or upon receipt of notice the such requirements are being complied with and an estimated date of their completion. Any such renewed or subsequent permit issued shall be subject to approval of the Authority.

8. PERMIT REQUIREMENTS

8.1. The Permittee shall abide by all applicable laws, rules and regulations of the Federated States of Micronesia including, but not limited to, Title 18 and 24 of the code of the Federated States of Micronesia. The Authority shall provide the Permittee copies of such laws, rules and regulations upon request, and provide adequate notice of any amendments made to such applicable laws, rules and regulations after the issuance of the permit.

8.2. The Permittee shall submit a complete trip report, in the English language, to the Authority. Such trip report shall consist of the following:

- (a) The MMA standard log book form for Reefer Vessel
- (b) No Report is required from Fuel Tanker

8.3. The Permittee shall allow duly authorised observers on board the vessel for all or a portion of the trip or trips undertaken during the duration of the permit. The placement of such observers shall be done through consultation with the Authority. Normal food and accommodation equal to that provided officers of the vessel will be provided for observers while on the vessel.

8.4 The Permittee shall comply with such other permit requirements as may be determined by the Executive Director of the Authority. Such other requirements shall be set forth on the permit. The Permittee shall be adequately notified by the Authority of any additions or changes to these permit requirements.

8.5 The Permittee shall transship or refuel other fishing vessel at designated ports set by the Authority

9. CANCELLATION OR SUSPENSION OF PERMIT

9.1. Upon failure to comply with Title 18 or 24 of the Code of the Federated States of Micronesia or any rules or regulations issued thereunder, or any permit requirement, the Executive Director may cancel or suspend the permit. When taking such action the Executive Director shall notify the applicant of the reasons for this action. The Permittee shall be given a reasonable opportunity to appeal the cancellation. Such an appeal be sent to the Micronesian Maritime Authority at the address noted paragraph 4.1 above. The decision of the Authority shall be final. The permittee shall promptly dispatch to the Authority any such cancelled permit.

10. ENTRY INTO FORCE

10.1 These Regulations shall enter into force upon the signature of the Chairman of the Micronesian Maritime Authority.

11. ADOPTION OF REGULATIONS

11.1. Pursuant to the authority vested with the Authority by sections 302(1)(a) and 302(2)(b) of Title 24 of the Code of the Federated States of Micronesia, as amended by the Public Law No. 6—11, these Reefer and Fuel Tanker Vessels Licensing Regulations are hereby adopted and shall take effect immediately.

Date: _____

Andon Amaraich
Chairman,
Micronesian Maritime Authority

The provisions of these Interim Reefer and Fuel Tanker Vessel Licensing Regulations have been reviewed by the Office of the Attorney-General and are found to be in proper legal form.

Office of the Attorney

Date: _____

By: _____

**Micronesian Maritime Authority
Domestic Fishing and Local Fishing Vessel
Licensing Regulations**

1. GENERAL PROVISIONS

1.1. Statement of Purpose. These regulations are promulgated to provide standard procedures by which owners or operators of local fishing vessels may apply for or register and be issued permits to operate in the Exclusive Economic Zone of the Federated States of Micronesia and provide catch data for management and conservation purposes.

1.2. Authority and Scope. These regulations are promulgated pursuant to section 302(1)(a) and 302(1)(c) of Title 24 of the Code of the Federated States of Micronesia, as amended by Public Law No. 6-11. These regulations are intended to standardize the methods by which local fishing vessels are granted permits to operate in the Exclusive Economic Zone of the Federated States of Micronesia and data are provided. These regulations apply to local fishing vessels as defined in paragraph 2.10 of these regulations.

These regulations have the force and effect of law.

1.3. Jurisdiction of the Micronesian Maritime Authority. Submission of an application/registration and subsequent granting of a domestic fishing permit shall constitute acknowledgement on behalf of the applicant that he/she accepts the jurisdiction of the Micronesian Maritime Authority over marine resources within the Exclusive Economic Zone of the Federated States of Micronesia.

2. DEFINITION

2.1. “Authority” means the Micronesian Maritime Authority as established by 24 F.S.M.C. 301, as amended by Public Law 6-11.

2.2. “Domestic Fishing” means any fishing by local fishing vessels longer than twenty seven (27) feet in overall length, but not including commercial pilot fishing.

2.3. “Executive Director” means the executive director of the Micronesian Maritime Authority.

2.4. “Exclusive Economic Zone” means the exclusive economic zone defined in the title 18 of the Code of the Federated States of Micronesia.

2.5. “Fish” means any living marine resource.

2.6. “Fishery” means any fishing for stock of fish.

2.7. “Fishing ” means:

- (a) the actual or attempted searching for, catching, taking, or harvesting of fish;
- (b) any other activity which can reasonably be expected to result in the
- (c) locating, catching, or harvesting of fish;
- (d) the placing, searching for, or recovery of fish aggregating devices or associated electronic equipment such as radio beacons;
- (e) aircraft use relating to the activities described in this subsection, except for flights in emergencies involving the health or safety of crew members or the safety of a vessel;
- (f) transshipping fish to or from any vessel;
- (g) storing, processing or transporting fish harvested within the fishery waters; refuelling or supplying fishing vessels; or
- (h) any operations at sea in support of or in preparation for any activity described in this subsection.

2.8. “Fishing vessel” means any vessel, boat, ship or other craft which is used for, equipped to be used for, or of a type that is normally used for fishing.

2.9. “Living Marine Resource” means all forms of marine animal and plant life other than marine birds and includes, fin-fish, molluscs, and crustaceans.

2.10. “Local Fishing Vessel” means any fishing vessel wholly owned and operated by one or more of the following:

- (a) the Government of the Federated States of Micronesia, or any State Government or any subdivision thereof;
- (b) Citizen(s) of the Federated States of Micronesia;
- (c) Corporation or co-operative established under the laws of the Federated States of Micronesia or of any State which is wholly owned and controlled by one or more of the persons described in paragraphs (a) and (b) of this subsection;
- (d) any combination of persons described in paragraphs (a) through (c) of this subsection.

2.11. “Operator” means any person who is in charge of, directs, or controls a vessel, including the owner, charterer, or the master.

2.12. “Person” means any individual, corporation, partnership, association, or other entity, the Government of the Federated States of Micronesia or any of the States, or any political subdivision thereof, and any foreign government, subdivision of such government, or entity thereof.

3. PERMIT REQUIRED

No domestic fishing is permitted in the exclusive economic zone of the Federated States of Micronesia unless the local fishing vessel involved has been issued a valid permit pursuant to these regulations.

4. PROCEDURES FOR APPLYING FOR A DOMESTIC FISHING PERMIT

4.1. Application/Registration for Domestic Fishing Permits may be obtained from:

The Executive Director
Micronesia Maritime Authority
P. O. Box PS 122
Palikir, Pohnpei Federated States of Micronesia 96941

Applications may also be requested from the Executive Director by telex at Telex Number (729) 6812 MMA FM or by fax at Fax Number (691) 320-2383 MMA. No applications by telephone shall be permitted.

4.2. The application shall be accompanied by a certified true copy of the certificate of ownership of the vessel issued from the relevant authority for ship's registry or certified documents of ownership by purchase.

5. ISSUANCE OF PERMITS

5.1. Applications shall be promptly reviewed by the Executive Director and a permit issued or denied in accordance with these regulations.

5.2. If review of the application by the Executive Director shows it deficient in any manner, he shall notify the applicant as soon as practical and give the applicant an opportunity to cure the deficiencies.

5.3. If review of the application by the Executive Director shows that the applicant or the vessel is not qualified to receive a Domestic Fishing permit, the Executive Director shall notify the applicant as soon as practical stating the reason for such disqualification.

(a) If the applicant believes that he is still qualified to receive a permit, he may appeal the decision of the Executive Director in writing. Such an appeal shall be sent to the Authority in care of the chairman at the address noted in paragraph 4.1. above. The decision of the Authority in determining the suitability of the applicant or vessel for a Domestic Fishing permit shall be final.

6. PAYMENT OF REGISTRATION FEE

6.1. The issuance of the permit shall be contingent upon the payment of a registration fee of U.S. \$25.00. This \$25.00 registration fee shall be paid annually upon registration of a vessel.

6.2. The registration fee shall be made payable to the General Fund Account of the Federated States of Micronesia. To alleviate time difficulties where necessary the Authority may issue the permit number upon notification that payment process have been initiated by the applicant. Prior to the receipt of the permit, the number issued by the Authority shall be sufficient evidence of

said permit. Failure to submit payment within 14 days of notification by the Authority of the fee may result in the cancellation of the permit number.

7. DURATION OF PERMITS

7.1. The permit shall be valid for a one year period commencing January 15 unless revoke or suspended by the Authority. New entrants into the fishery may register any time during the year and are still subject to the full registration fee in section 6.1. of these regulations. All permits shall expire every year on January 15th.

7.2. The Authority may renew an existing permit or grant a new permit upon completion of the requirements of Paragraph 8.2. below, or upon receipt of notice that such requirements are being complied with and an estimated date of their completion and transmission to the Authority is provided by the Permittee. Any such renewed or subsequent permit issued shall be subject to the payment of the registration fee in Section 6.1.

8. PERMIT REQUIREMENT

8.1. The Permittee shall comply with all applicable laws, rules and regulations of the Federated States of Micronesia including, but not limited to, Title 18 and 24 of the Code of the Federated States of Micronesia. The Authority shall provide the Permittee copies of such laws, rules and regulations upon initial issuance of permit, and provide adequate notice of any amendments made to such applicable laws, rules and regulations after the issuance of the permit.

8.2. The Permittee shall submit a complete trip report log in the prescribed form in English language, to the Authority by registered mail or deliver such fishing log to the Authority within seven (7) days of entry of the vessel into port at the completion of a trip. Such log shall consist of the appropriate MMA regional standard log book form for commercial vessels.

8.3. The Permittee shall allow duly authorized observers on board the vessel on any trip undertaken during the duration of the permit. The placement of such observers shall be done through consultation with the Authority. Normal food and accommodation equal to that provided officers of the vessel will be provided for observers while on the vessel.

8.4. The Permittee shall comply with such other permit requirements as may be determined by the Executive Director of the Authority. Such other requirements shall be set forth on the permit. The Permittee shall be adequately notified by the Authority of any additions or changes to these permit requirements.

9. CANCELLATION OR SUSPENSION OF PERMIT

9.1. Upon failure to comply with Title 18 or 24 of the Code of the Federated States of Micronesia or any rules or regulations issued thereunder, or any permit requirement, the Executive Director may cancel or suspend the permit. When

taking such action, the Executive Director shall notify the applicant of the reasons for this action. The Permittee shall be given a reasonable opportunity to appeal the cancellation. Such an appeal shall be sent to the Chairman of the Micronesian Maritime Authority at the address noted in paragraph 4.1. above. The decision of the Authority shall be final. The Permittee shall promptly dispatch to the Authority any such cancelled permit.

10. ENTRY INTO FORCE

10.1. The Regulations shall enter into force upon the signature of the Chairman of the Micronesian Maritime Authority and shall remain in force unless amended after the date of such signature.

11. ADOPTION OF REGULATION

11 .I. Pursuant to the authority vested in me by Sections 302(1)(a) and 302(2)(b) of Title 24 of the Code of the Federated States of Micronesia, as amended by Public Law No. 6-1 1, these Domestic Fishing Licensing Regulations are hereby adopted and shall take effect immediately.

Date: (2/1 8/91)

(Signed)

Andon L. Amaraich
Chairman
Micronesian Maritime Authority

The provisions of these Domestic Fishing Licensing Regulations have been reviewed by the office of the Attorney General and are found to be in proper legal form.

Office of the Attorney General

Date: 2/1 5/91

(Signed)
Camillo Noket
Attorney-General