

1 process pursuant to Title 24 (Marine Resources) of the Code of the Federated States of Micronesia
2 or any law relating to foreign fishing agreements;

3 (2) "Aquaculture" means any activity designed to cultivate or farm fish and includes
4 mariculture;

5 (3) "Authorized officer" means any person or category of persons designated as an
6 authorized officer under Section 19.502;

7 (4) "Commercial fishing" means any fishing resulting or intended to result in
8 selling or trading any fish that may be taken, caught or harvested during the fishing operation.
9 "Commercial fishing" does not include sport fishing;

10 (5) "Department" means the Department of Agriculture, Land and Fisheries;

11 (6) "Director" means the Director of Agriculture, Land and Fisheries;

12 (7) "Drift net" means a gill net or other net or arrangement of nets which is more
13 than 2.5 kilometers in length and the purpose of which is to enmesh, entrap or entangle fish;

14 (8) "Explosive" or "explosives" means a substance or a combination of
15 substances which upon rapid decomposition or combustion causes an explosion, that is, a violent
16 bursting or expansion with noise;

17 (9) "Export" means to send or remove an article of trade or commerce from the
18 State;

19 (10) "Fish" means any marine or aquatic plant or animal, including their eggs, spawn,
20 spat and juvenile stages, and any of their parts;

21 (11) "Fishery waters" means any waters over which the State has jurisdiction,
22 including the State fishery zone and inland waters;

23 (12) "Fishing" means the actual or attempted searching for, catching, taking, or
24 harvesting of fish by any method whatsoever; any other activity that could reasonably be expected
25 to support or assist in the locating, catching, taking or harvesting of fish; and any activity used in

1 preparing, processing or transporting fish;

2 (13) "Fishing gear" means any equipment, implement, or other thing that can be used
3 in the act of fishing, including, without limitation, any fishing net, rope, line, float, trap, hook, or
4 winch;

5 (14) "Fishing vessel" means any vessel used for, equipped to be used for, or of a type
6 that is normally used for fishing or assisting one or more vessels in any activity related to fishing,
7 including, without limitation, preparation, supply, storage, refrigeration, transportation, or
8 processing;

9 (15) "Foreign fishing vessel" means any fishing vessel other than a local fishing
10 vessel;

11 (16) "Inland waters" means the waters of the State landward from the State's
12 baseline, as defined by national law, including harbors, tide lands, rivers, and streams;

13 (17) "Local fishing vessel" means any fishing vessel wholly owned and controlled
14 by:

15 (a) The State Government, or any corporation established by State law and
16 wholly owned or controlled by the State Government;

17 (b) One or more natural persons who are citizens or permanent residents of
18 the State;

19 (c) Any company, society, or other association of persons incorporated or
20 established under the laws of the State;

21 (18) "Observer" means any person authorized to act as observer under Section
22 19.502 or Title 24 of the Code of the Federated States of Micronesia;

23 (19) "Operator" means any person who is in charge of or who directs or controls a
24 fishing vessel, including the master, owner, and charterer;

25 (20) "Permit" means any permit issued under this Title;

1 (21) "Person" means any natural person or business enterprise, including without
2 limitation, a corporation, partnership, cooperative, association or other entity;

3 (22) "Poison" means any substance having a deleterious property that enables it to
4 harm or destroy life, including, but not limited to, bleaches, hypochlorous acid or any of its salts,
5 plants or plant material and any other substance that is commonly recognized or scientifically
6 described as a poison or noxious substance;

7 (23) "Regulation" means any regulation adopted by the Department pursuant to this
8 Title;

9 (24) "State fishery zone" means the waters of the State extending seaward twelve
10 miles from the State's baseline as defined by national law.

11 (25) "Transshipment" means the transfer of any fish or fish products to or from any
12 fishing vessel; and

13 (26) "Vessel" means any boat, ship, canoe or other water going craft.

14 Section 19.102. State powers within the fishery waters. Within the State fishery waters,
15 the State has complete sovereign rights for all purposes, including exploring, exploiting, conserving,
16 managing, and developing living and non-living resources within the fishery waters.

17 Section 19.103. Regulations. The Department shall administer this Title. The Director
18 may adopt regulations for the management, conservation and development of the fishery waters and
19 that otherwise implement this Title. These include, without limitation, regulations that:

20 (1) Identify areas of the fishery waters for management, conservation or
21 development;

22 (2) Limit the size, number, location, or type of any species of fish taken from the
23 fishery waters;

24 (3) Prohibit specific activities related to fish and fishing;

25 (4) Prohibit the sale, possession, and transportation of any species of fish; and

1 (5) Prohibit the use of specific fishing methods, gear, or types of vessels.

2 Section 19.104. Department consultation and approval required. Any person planning any
3 development or activity that may affect the environmental quality of the fishery waters shall inform
4 and consult with the Director before initiating the development or activity. The Director may
5 require that an Environmental Impact Assessment or other investigation be carried out by that
6 person or any other authority provided in State law or appointed by the Director. The person
7 proposing the development or other activity shall pay for the Environmental Impact Assessment or
8 other investigation. Before initiating the development or activity, the person proposing the
9 development or activity shall submit to the Director a copy of any plan for the development or
10 activity, along with a copy of the completed Environmental Impact Assessment, if one has been
11 completed or required. The Director has the right to submit his comments before any final decision
12 is made by any State government authority, such as the Development Review Commission,
13 concerning any development or activity that may affect the environmental quality of the fishery
14 waters.

15 Chapter 2. Permits

16 Section 19.201. Permits required. A State permit is required, and must be maintained on
17 board, for the following:

- 18 (1) Fishing from a foreign fishing vessel in the State fishery zone, unless the
19 fishing is authorized under section 117 of Title 24 of the Code of the Federated States; and
20 (2) Transshipment.

21 Section 19.202. Other activities for which permits may be required.

22 (1) The Director may require and issue permits for the following activities in or
23 associated with the fishery waters:

- 24 (a) Fishing not covered by Section 19.201;
25 (b) The import and export of fish or other marine resources;

1 (c) Aquaculture; or

2 (d) Marine research.

3 (2) By regulation, the Director may exempt from permitting requirements any
4 persons or fishing vessels for activities described in Subsection (1) above. The Director shall
5 exempt any person engaging in subsistence fishing.

6 Section 19.203. Issuance of permits and written agreements for foreign fishing vessels.

7 (1) By regulation, the Director shall establish procedures and requirements for the
8 issuance of permits to foreign fishing vessels, as well as the terms and conditions of permits.

9 (2) A permit may not be issued unless the permittee has entered into an agreement
10 with the State that complies with this Title.

11 (3) The Department may negotiate and conclude agreements with foreign
12 governments, associations or companies in accordance with this Title for fishing in the State fishery
13 zone or carrying out any activity related to fishing in the State. These agreements must include
14 terms and requirements no less stringent than those required by national law. The agreements are
15 valid and enforceable when signed by the Governor.

16 (4) The Governor may authorize the National Government to negotiate and
17 execute an agreement on the State's behalf for foreign fishing in the State fishery zone.

18 Section 19.204. Permit requirements for all permits. The Director, or his designee, shall
19 issue all permits in accordance with this Title. Permits may be issued upon receipt of a
20 completed application in the appropriate form and payment of the required fee. The Director shall
21 attach to any permit any terms and conditions prescribed by the regulations and may attach any
22 additional terms and conditions as are appropriate. A permittee shall hold a permit in its original,
23 complete and correct form. Regulations establishing requirements for a permit must prescribe, at
24 least, the following:

25 (1) A form and procedures to apply for a permit;

1 (2) A condition that the permittee consents to being stopped and boarded;

2 (3) A condition that the permittee consents to inspections, searches, and seizures
3 without reasonable cause of any vessel, vehicle, aircraft, nonresidential premises, fishing gear, fish,
4 or fish products used in connection with any activity regulated by this Title;

5 (4) A condition that the permittee exhibit his permit on request of an authorized
6 officer or observer;

7 (5) Any other conditions that may or must be attached to a permit;

8 (6) Criteria for renewal, refusal, suspension or cancellation;

9 (7) Fees, royalties, and other forms of payment;

10 (8) The period of validity;

11 (9) Requirements for transfer;

12 (10) The right to appeal from a decision to refuse, suspend or cancel a permit; and

13 (11) Offenses, fines and penalties for failure to comply with conditions attached to a
14 permit.

15 Section 19.205. Additional permit information. The Director may require the following
16 information to be attached to the application for any permit under this Title:

17 (1) A description of the proposed site, fish species, cultivation and harvesting
18 methods;

19 (2) An Environmental Impact Assessment; and

20 (3) Any other reasonable information requested in the discretion of the Director.

21 Section 19.206. Observation of laws. No permit issued under this Title relieves any person
22 of any requirement imposed by any law of the State or the Federated States of Micronesia.

23 Chapter 3. Registration, & Required Equipment

24 Section 19.301. Registration of fishermen and fishing vessels. The Department may, by
25 regulation, require that all fishermen or any class of fishermen, or all vessels or any class of

1 vessels within the State be registered with the Department. If registration is required by regulation,
2 the Director shall maintain a written register of fishermen and/or fishing vessels registered.

3 Section 19.302. Marking of fishing vessels and gear.

4 (1) The Department may adopt regulations requiring fishing vessels to display
5 registration letters and numbers and other markings.

6 (2) All submerged stationary fishing gear or surface drifting gear must bear
7 conspicuous surface marks using brightly colored buoys, flags or floating poles and night lighted
8 markers. All surface marks must be visible in clear weather at a distance of at least one nautical
9 mile. For nets, the markers must be placed at 50-foot intervals along the full length of the net.

10 Section 19.303. Vessel safety provisions. No person shall operate a vessel in the State
11 fishery zone extending seaward from one mile beyond any reef without the following equipment
12 aboard:

- 13 (1) Reasonable amounts of food and water;
- 14 (2) An operable flare gun and flares, or a mirror;
- 15 (3) A sea anchor or drogue;
- 16 (4) Emergency rowing equipment;
- 17 (5) Life Jackets or other reasonable floating devices sufficient for all
18 passengers; and
- 19 (6) 50 meters of line.

20 Section 19.304. Fishing Gear Requirements. All fishing gear aboard a commercial fishing
21 vessel in the fishery waters must be stowed so that it is not readily available for use, except where
22 permitted under this Title.

23 Chapter 4. Prohibited Acts

24 Section 19.401. Compliance with Title. No person shall violate this Title, regulations
25 adopted pursuant to this Title, written fishing agreements, or any requirements or conditions of a

1 permit issued pursuant to this Title.

2 Section 19.402. Inland water fishing. No person shall engage in commercial fishing from
3 a foreign fishing vessel in inland waters.

4 Section 19.403. Fishing without a permit. No person shall fish from a foreign fishing
5 vessel in the State fishery zone without a valid State permit for that vessel on board.

6 Section 19.404. Transshipment without a permit. No person shall engage in any
7 transshipment without a valid State permit for that activity on board.

8 Section 19.405. Permits required. No person shall perform any act for which a permit is
9 required pursuant to Section 19.202, without a valid State permit in his possession.

10 Section 19.406. Fishing by non-citizen foreign fishing crew or officers. No non-citizen
11 crew member or officer of a foreign fishing vessel, while disembarked from that vessel, shall fish
12 for any purpose other than personal consumption without the Director's prior written permission.

13 Section 19.407. Development or activity without approval. No person planning any
14 development or activity that may affect the environmental quality of the fishery waters shall violate
15 Section 19.104 or any requirements established by the Director pursuant to that Section.

16 Section 19.408. Violation of fishery waters. No person shall use a vessel to enter or
17 remain within the fishery waters in violation of this Title or any other law.

18 Section 19.409. Contamination of fishery waters. No person shall directly or indirectly
19 contaminate the fishery waters, including, without limitation:

20 (1) Discharging non-biodegradable trash or debris, poison, oil, petroleum, solvents,
21 metals, sewage or other noxious substances; or

22 (2) Taking any action likely to damage or degrade the quality of the fishery waters
23 or fish.

24 Section 19.410. Protection of reefs. No person shall damage a reef by dredging, mining,
25 removing coral or rocks, running a vessel aground or by any other means.

1 Section 19.411. Drift nets. No person shall use a drift net in the fishery waters, or
2 transport or process any fish caught by use of a drift net.

3 Section 19.412. Nets in navigation channels. No person shall set nets in the fishery waters
4 in channels used for navigation.

5 Section 19.413. Prohibited methods of fishing.

6 (1) No person shall use or attempt to use any poison, explosive, electric charge
7 device or other substance to kill, take, stun, immobilize or in any way render fish more easily
8 caught.

9 (2) No person shall possess or control any poison, explosive, electric charge device
10 or other substance with the intent to use it to kill, take, stun, immobilize or in any way
11 render fish more easily caught.

12 Section 19.414. Export or import of live fish. No person shall export or import any live
13 fish or viable fish eggs without the Director's prior written permission.

14 Section 19.415. Prohibition of trade in fish, fish products or other marine resources. No
15 person shall knowingly buy, sell, knowingly possess or otherwise trade in fish, fish products, or
16 other marine resources obtained in violation of this Title.

17 Section 19.416. Export of fish. No person shall export any fish or fish product caught in
18 the fishery waters without the Director's prior written permission, unless:

19 (1) The terms and conditions of a permit or a fishing agreement with the State allow
20 export; or

21 (2) The export is for personal consumption by immediate family members.

22 Section 19.417. Protection of species. The Director may preserve and develop the
23 resources of any fish species.

24 (1) The Director may adopt regulations regarding the management of any species,
25 including, without limitation, the time, place, and method of harvesting, a permit system, and

1 minimum and maximum size or other restrictions to ensure responsible and environmentally sound
2 harvesting.

3 (2) In addition to any prohibitions in regulations adopted under subsection (1), the
4 following activities are prohibited:

5 (a) Taking or killing a turtle whose shell is less than twenty-seven inches
6 when measured over the top of the carapace shell lengthwise;

7 (b) Taking turtle eggs or killing a turtle while it is on shore;

8 (c) Taking or killing a turtle of any size from the first day of June to the
9 thirty-first day of August or from the first day of December to the thirty-first day of January
10 inclusive;

11 (d) Taking or killing a Pinctada margaritifera (black-lip mother-of-pearl
12 oyster) from the first day of August to the thirty-first day of December inclusive;

13 (e) Taking or killing a Pinctada margaritifera whose shell is less than six
14 inches in minimum diameter, measured along the largest dimension across the outside of the shell;

15 (f) Harvesting trochus (tukasungai) except as officially authorized by
16 Section 11.1101;

17 (g) Taking or killing a lobster less than one pound in weight or less than
18 three inches in carapace length, or taking or killing a female lobster with eggs;

19 (h) Taking or killing a Mangrove crab whose shell is less than 6 inches in
20 length, measured along the largest dimension across the outside of the shell;

21 (i) Taking or killing a Mangrove Crab from the first day of August to the
22 thirty-first day of December inclusive; and **(No longer in effect; Amended by KSL 7-176)**

23 (j) Exporting a Mangrove Crab outside of the State. **(Same as (i) above)**

24 Section 19.418. Reckless or negligent operation.

25 (1) No person shall operate a motor driven vessel recklessly or with gross, willful

1 or wanton disregard for the lives and safety of the public.

2 (2) No person shall operate a motor driven vessel negligently in such a manner as
3 to constitute a substantial deviation from the standard of care a reasonable person would exercise
4 without due regard for the rights and safety of others.

5 Section 19.419. Operating a vessel under the influence. No person shall operate a motor
6 driven vessel while under the influence of alcoholic drink, a controlled substance or any other
7 intoxicating substance.

8 Section 19.420. Nets, traps, ponds, enclosures and storage devices. No person shall
9 remove a fish from a net, trap, pond, enclosure or storage device that belongs to another
10 person without that person's permission. No person shall knowingly destroy, damage or impair
11 the functioning of any net, trap, pond, enclosure or storage device that belongs to another person.

12 Section 19.421. Protection of mooring buoys, floats, trays, other devices. No person shall
13 tamper with, take, destroy or otherwise interfere with any mooring buoy, float, tray or other device
14 installed or placed in the fishery waters under the authority of the Department.

15 Section 19.422. Fishing operational requirements. All fishing vessels must have fully
16 operational holding tanks or must use shore-based facilities to process their catch.

17 Section 19.423. Use of unmarked gear. No person shall use submerged stationary fishing
18 gear or surface drifting gear in violation of Section 19.302(2).

19 Section 19.424. Required safety provisions. No person shall operate a vessel without the
20 safety provisions required under Section 19.303.

21 Section 19.425. Fishing gear requirements. No person shall stow fishing gear aboard a
22 commercial fishing vessel in violation of Section 19.304.

23 Section 19.426. Storage of fish. No person shall store or otherwise keep any fish taken in
24 violation of this Title.

25 Section 19.427. Interfering with enforcement. No person shall:

1 (1) Fail to comply with the lawful instructions or directions of an authorized officer
2 or observer;

3 (2) Obstruct or resist an authorized officer or observer in the exercise of any
4 provision of this Title, including, without limitation, preventing him from boarding or searching a
5 vessel, vehicle or aircraft or preventing him from inspecting fishing gear, equipment, records, fish or
6 fish products;

7 (3) Assault, threaten, or use abusive language or behavior toward an authorized
8 officer or observer in the execution of his duties; or

9 (4) Resist lawful arrest for any violation of this Title.

10 Section 19.428. Information and documentation. Every person shall give true, complete,
11 and correct information or documentation for the issuance of a permit or registration as required
12 under this Title. Any change in circumstances that renders any information or documentation false,
13 incomplete or misleading must be provided to the Director immediately.

14 Section 19.429. Destruction of evidence. No person shall destroy, abandon, or conceal any
15 fish, fishing gear, net or other fish appliance, electric shock device, explosive, poison or any other
16 thing or document knowing that it is about to be produced in evidence in any trial, inquiry, or
17 investigation authorized by law, with the intent to prevent it from being produced.

18 Chapter 5. Monitoring, Control and Surveillance

19 Section 19.501. Primary responsibility for enforcement. The Department has primary
20 responsibility for enforcing this Title, except that the Attorney General's office is responsible for
21 the review and final determination of any potential legal actions.

22 Section 19.502. Appointment of authorized officers and observers. The Director may
23 appoint, in writing, any person or category of persons as authorized officers to ensure compliance
24 with this Title. Any police officer is deemed to be an authorized officer for purposes of this Title.
25 The Director may appoint any person as an observer for compliance, monitoring and any other

1 function. Any authorized officer or observer appointed pursuant to Title 24 of the Code of the
2 Federated States is deemed to be an authorized officer or observer with respect to foreign fishing
3 vessels or activities in the fishery waters.

4 Section 19.503. Powers of authorized officers and observers.

5 (1) For the purposes of enforcing this Title, any authorized officer or observer may:

6 (a) Require any person engaged in fishing to show his permit, fishing
7 gear and catch;

8 (b) Stop, board and search any vessel he reasonably expects is a fishing
9 vessel in the fishery waters;

10 (c) Stay on board any fishing vessel within the fishery waters;

11 (d) Examine or inquire of any person aboard about the fishing gear, fish,
12 cargo, catch, contents of holds and storage spaces, voyage and activities of the vessel;

13 (e) Inspect and search the vessel, vehicle, aircraft, nonresidential premises,
14 fishing gear, fish, catch, cargo, content of holds and storage spaces, or other evidence of activities
15 subject to this Title;

16 (f) Request and receive a reasonable fish sample from any person in
17 possession or control of fish or fish products;

18 (g) Require any person aboard a fishing vessel to inform him of the
19 vessel's name, call sign and country of registration and the names of the master, owner, charterer
20 and all crew members;

21 (h) Require the agent of any foreign fishing vessel holding a permit to fish
22 issued under Title 24 of the Code of the Federated States, where the agent is based within the State,
23 to inform him of the name, call sign and country of registration of any vessel that he represents and
24 the name of the operator, officer, or crew members, or other information reasonably required;

1 (i) Seize any vessel, vehicle, aircraft, fishing gear, equipment, stores, catch,
2 cargo, fish, fish products, log books, charts, other documents or other items used in the commission
3 of an offense, subject to procedures and requirements of Title 14, Chapter 12 of the State Code;

4 (j) Arrest any person where there is probable cause to believe he has
5 committed a criminal offense in violation of this Title;

6 (k) Execute any warrant or other process issued by any court of competent
7 jurisdiction relating to this Title; and

8 (l) Exercise any other lawful authority.

9 Section 19.504. Hot pursuit. An authorized officer may, following hot pursuit in
10 accordance with international law commenced within the fishery waters, stop, board and search any
11 fishing vessel outside the fishery waters that he has probable cause to believe has been used in the
12 commission of an offense in the fishery waters. The authorized officer may bring the fishing vessel
13 and all persons and things on board within the fishery waters.

14 Section 19.505. Immunity of authorized officers or observers. An authorized officer or
15 observer who acts pursuant to this Title may not be found civilly or criminally liable for those
16 actions or omissions to act, unless taken in bad faith.

17 Section 19.506. Duty of confidentiality. The Director shall require an authorized officer or
18 observer to swear an oath of confidentiality.

19 Chapter 6. Administrative Enforcement Proceedings

20 Section 19.601. Report of violation; approval for administrative enforcement. The Director
21 shall report all violations of this Title to the Attorney General. In appropriate cases approved by the
22 Attorney General, the Director may enforce this Title through administrative proceedings as
23 provided in this Chapter.

24 Section 19.602. Notice of administrative hearing; rights; regulation. The Director shall

1 notify the alleged violator of the date of the adjudicatory administrative hearing at least 10 days
2 before the hearing unless the alleged violator waives this notice period. The alleged violator has the
3 right to appear, be heard, produce evidence and be represented by counsel. The Director may adopt
4 regulations regarding the conduct of these proceedings.

5 Section 19.603. Summary administrative enforcement proceedings. If the person alleged to
6 have committed the offense admits, in writing, to committing the violation(s) and consents to the
7 summary proceedings, the Director may impose an administrative penalty as set out in regulations.
8 In addition to payment of an administrative penalty, the Director may require payment of an agreed-
9 upon fair market value of any fish caught. The Director may void the decision to proceed with
10 summary administrative enforcement proceedings if the full amount of the penalty, including the
11 value of any fish caught, is not paid within 30 days after notification of the penalty assessment.
12 Any person who submits to the summary administrative proceedings shall not fish in fishery waters
13 until the administrative penalty is paid in full.

14 Chapter 7. Civil Remedies

15 Section 19.701. General enforcement. The Attorney General shall prosecute violations of
16 this Title unless he determines that administrative enforcement proceedings satisfy the interests of
17 justice. The Attorney General may take action to stop any violation of this Title, including seeking
18 injunctions and restraining orders. Any prosecution not handled administratively may be pursued
19 under the criminal laws of Title 13 and/or the civil penalties and forfeiture provisions of this Title.

20 Section 19.702. Civil penalties.

21 (1) Any person who is found in a civil proceeding to have committed an act
22 prohibited by this Title is liable to the State for a civil penalty. Civil penalties and fines may be
23 imposed in addition to any criminal punishment imposed pursuant to Title 13.

24 (2) The amount of the civil penalty may not exceed \$1,000,000 for each violation of
25 this Title. Each day of a continuing violation constitutes a separate offense for which a separate

1 penalty may be imposed.

2 (3) In determining the amount of a civil penalty, the court shall consider:

3 (a) The nature, circumstances, extent, and gravity of the acts;

4 (b) The violator's degree of culpability and any history of prior offenses;

5 and

6 (c) Any other matter that justice requires.

7 (4) The Attorney General may initiate all proceedings under this Title and recover
8 the amount assessed as a civil penalty.

9 (5) The proceeds of civil penalties must be deposited into the General Fund.

10 Section 19.703. Liability for loss or damage. In addition to imposition of a fine or
11 imprisonment for violation of this Title, the Court may also determine and impose a damage award
12 for any loss or damage caused by the act(s) underlying the violation. The damage award may be
13 recovered in the same manner as a fine.

14 Section 19.704. Revocation of permit. In addition to other penalties, the Court may order
15 the revocation or suspension of any permit issued under this Title and may prohibit holding any
16 such permit for up to 5 years.

17 Section 19.705. Liability of operator. In any proceedings under this Title, the operator of a
18 fishing vessel is liable for the acts or omissions of any crew member under his direction or
19 supervision.

20 Section 19.706. Civil liability of officers of companies. Each officer of a partnership,
21 corporation, firm, company, or any other business enterprise engaged in activities governed by this
22 Title is personally liable for any violation of this Title by any member or employee of that business
23 enterprise. It is an affirmative defense to liability under this section that the officer used due
24 diligence to secure compliance with the Title or that the violation or offense was committed without
25 that officer's knowledge, consent, collusion or collaboration.

1 Section 19.707. Presumptions. The presumptions set forth in this Section establish prima
2 facie evidence of the subject matter of the presumption and constitute sufficient proof of any
3 element of an offense to which the presumption is material unless the Court, or the Director in an
4 administrative proceeding, finds that the presumption is rebutted by competent evidence.

5 (1) Any fish found on board any fishing vessel used in the commission of an
6 offense under this Title is presumed to have been caught or taken in the commission of that offense.

7 (2) Any entry in or on any log, chart or other document required to be maintained
8 or used to record the activities of a fishing vessel is presumed to be that of the operator of that
9 vessel.

10 Section 19.708. Burden of proof. Where, in any proceeding under this Title, a person has
11 been alleged to have committed an offense involving an act for which a permit is required, the
12 burden is on that person to prove that at the relevant time the requisite permit was held.

13 Section 19.709. Remittance to informant. If a person has given material information
14 leading to a conviction or determination of liability, he is entitled to receive 1% of the fine collected.

15 Chapter 8. Forfeiture of Property

16 Section 19.801. Forfeitures.

17 (1) Any fishing vessel involved in the commission of any act prohibited by this
18 Title, along with its fishing gear, furniture, appurtenances, stores, or cargo used, is subject to
19 forfeiture to the State.

20 (2) Any fish taken or retained, in any manner, in connection with, or as a result of,
21 the commission of any act prohibited by this Title is subject to forfeiture to the State.

22 (3) An action for forfeiture pursuant to Subsection (1) or (2) is a civil proceeding.

23 Section 19.802. Jurisdiction. The Kosrae State Court has jurisdiction to order the

24 forfeiture and seizure of anything subject to forfeiture under Section 19.801 upon determining that
25 the forfeiture and seizure is reasonably related to the offense. The Attorney General may initiate an

1 action for forfeiture on behalf of the State. If the court enters judgment for the State in a civil
2 forfeiture proceeding, the Attorney General shall seize any property or other interest
3 declared forfeited to the State that has not previously been seized pursuant to this Title.

4 Section 19.803. Temporary disposition of property. Pending completion of the civil
5 forfeiture proceeding, the seized items remain in the State's custody awaiting disposition pursuant
6 to law. At the court's discretion, the seized items may be discharged upon deposit with the court of
7 a satisfactory bond or other security at least equal to the fair market value of the seized property.
8 The bond or other security must be conditional upon delivery of the property to the appropriate
9 court upon order, without any impairment of its value, or paying the monetary value of the property
10 upon order of the court. Judgment must be recoverable on the bond or other security against the
11 principal and any sureties if any condition is breached, as determined by the court.

12 Section 19.804. Disposition of forfeited property. The State may sell the forfeited items.
13 The proceeds of any sale must be deposited in the General Fund. In lieu of the sale of forfeited
14 items, the Director may determine that the items be retained for use by, or at the direction of, the
15 State.

16 Section 19.805. Disposition of perishable articles. The Director may sell any fish, fish
17 products, or other perishable articles seized pursuant to this Title. If he made all reasonable efforts
18 to sell them but was unable to do so, or where they are unfit to be sold, the Director may dispose of
19 them as he determines appropriate. The proceeds of any such sale must be deposited with the court
20 pending disposition of any legal action or forfeiture proceeding under this Title.

21 Section 19.806. Disposition of seized goods where no civil forfeiture order has been
22 obtained. The State shall hold any item seized under this Title, but not ordered forfeited in any legal
23 proceeding, until all fines, orders for costs and damages and penalties imposed under this

24 Title have been paid. If the fines, costs, damages and penalties are not paid within the time allowed
25 by law, the State shall sell the seized items and return to the owner any balance of the proceeds, after

1 deducting all fines, damages, penalties, and costs, including costs of storage and sale. If a balance
2 remains owing to the State, the owner of the forfeited items remains liable for that balance.

3 Section 19.807. Unlawful removal of item in State custody. No person shall remove,
4 without proper authorization, any property seized by the State under this Title. Where any item
5 held or forfeited under this Title has been unlawfully removed from the State’s custody, it is subject
6 to seizure at any time.

7 Section 19.808. Liability of the State for property in custody. The State is not liable for
8 any loss, damage or deterioration in the condition of any property in its custody pursuant to this
9 Title. The court may order the State to compensate the owner for any proven loss and for costs if it
10 determines that:

11 (1) A seizure made under this Title was made without reasonable grounds; and

12 (2) As a result of that seizure, the owner or other persons entitled to the property
13 has suffered unreasonable loss.”

14 Section 5. Amendment. Kosrae State Code, Title 5, Section 5.202, Subsection (6), is
15 amended to read as follows:

16 “(6) The Department of Agriculture, Land and Fisheries:

17 (a) assists private parties in the development of agriculture and forestry in
18 an ecologically sound manner;

19 (b) fosters commercial production of agricultural produce;

20 (c) surveys and monitors the use of public lands maintaining a written
21 roster of all parcels of public land;

22 (d) preserves and regulates the use of objects and places of historical and

23 cultural value;

24 (e) maintains surveillance of the marine space and enforces Title 19;

1 (f) fosters and protects commercial production of marine resources and sea
2 produce;

3 (g) negotiates Government leases, easements, and contracts, and designates
4 for homesteading purposes public land in accordance with Chapter 5 of Title 11 of this Code;

5 (h) manages, conserves and develops marine resources in accordance with
6 Title 19; and

7 (i) identifies and establishes marine reserves, areas of natural and scientific
8 interest, and protects marine and aquatic habitats and environments.”

9 Section 6. Amendment. Kosrae State Code Title 13, Section 13.519, is amended to read as
10 follows:

11 “Section 13.519. Violating State fishery waters. Violating State fishery waters is
12 entering or remaining within State fishery waters without proper authorization in violation of
13 Section 19.408 or in violation of a lawful order. This section does not apply to ships entering for
14 stress of weather or force majeure.

15 Violating State fishery waters is a category one misdemeanor.”

16 Section 7. Amendment. Kosrae State Code Title 13, Section 13.523, is amended to read as
17 follows:

18 “Section 13.523. Unauthorized procuring of aquatic life. Unauthorized procuring
19 of aquatic life is any of the following:

20 (1) Any violation of Section 19.417;

21 (2) Any violation of Section 19.413;

22 (3) Any violation of Section 19.411;

23 (4) Procuring fish or other aquatic life from midnight Saturday to midnight

1 (5) Engaging in the commercial harvesting, commercial processing, or
2 commercial exportation of sea cucumbers without a permit, in violation of any permit conditions, or
3 in violation of regulations(s) drafted pursuant to Section 11.1102; or

4 (6) Possessing more than five (5) sea cucumbers without a permit, in
5 violation of any permit conditions, or in violation of regulations drafted pursuant to Section
6 11.1102.

7 Unauthorized procuring of aquatic life is a category one misdemeanor.”

8 Section 8. Amendment. Kosrae State Code Title 13, Section 13.524, is amended to read as
9 follows:

10 “Section 13.524. Endangering a species. Endangering a species is taking,
11 possessing, exporting or engaging in any commercial activity concerning any endangered species of
12 plant or animal, as such are identified by regulations published pursuant to Title 19 or Section
13 11.1601.

14 Endangering a species is a category one misdemeanor.”

15 Section 9. Amendment. Kosrae State Code Title 13, Chapter 5, is amended by adding
16 Sections 13.542 to 13.553 to read as follows:

17 “Section 13.542. Marine resource violation. Marine resource violation is
18 committing any act in violation of Section 19.401.

19 Marine resource violation is a category one misdemeanor.

20 Section 13.543. Unauthorized foreign fishing. Unauthorized foreign fishing is fishing in
21 violation of Section 19.402 or Section 19.403.

22 Unauthorized foreign fishing is a category three felony.

23 Section 13.544. Unauthorized fishing. Unauthorized fishing is fishing in violation of
24 Section 19.404, Section 19.405, or Section 19.406.

1 Section 13.545. Unauthorized development or activity in the State fishery waters.
2 Unauthorized development or activity in the State fishery waters is any act in violation of Section
3 19.407.

4 Unauthorized development or activity in the State fishery waters is a category one
5 misdemeanor.

6 Section 13.546. Unauthorized destruction to marine environment. Unauthorized
7 destruction to marine environment is any act in violation of Section 19.409 or Section 19.410.

8 Unauthorized destruction to marine environment is a category three felony.

9 Section 13.547. Placement of fishing nets in navigational channels. Placement of fishing nets in
10 navigational channels is any act in violation of Section 19.412.

11 Placement of fishing nets in navigational channels is a category one misdemeanor.

12 Section 13.548. Unauthorized import or export of marine resources. Unauthorized import
13 or export of marine resources is any act in violation of Section 19.414, Section 19.415, or Section
14 19.416.

15 Unauthorized import or export of marine resources is a category one misdemeanor.

16 Section 13.549. Reckless operation of a motor driven vessel. Reckless operation of a
17 motor driven vessel is any act in violation of Section 19.418(1).

18 Reckless operation of a motor driven vessel is a category one misdemeanor.

19 Section 13.550. Negligent operation of a motor driven vessel. Negligent operation of a
20 motor driven vessel is any act in violation of Section 19.418(2).

21 Negligent operation of a motor driven vessel is a category three misdemeanor.

22 Section 13.551. Operating a motor driven vessel under the influence. Operating a motor
23 driven vessel under the influence is any act in violation of Section 19.419.

24 Operating a motor driven vessel under the influence is a category one misdemeanor.

1 Section 13.552. Tampering with marine devices. Tampering with marine devices is any act
2 in violation of Section 19.420 or Section 19.421.

3 Tampering with marine devices is a category one misdemeanor.

4 Section 13.553. Unauthorized fishing gear or equipment. Unauthorized fishing gear or
5 equipment is any act in violation of Section 19.422, Section 19.423, Section 19.424, Section 19.425,
6 or Section 19.426.

7 Unauthorized fishing gear or equipment is a category three misdemeanor.”

8 Section 10. Amendment. Kosrae State Code, Title 13, Chapter 6, is amended by adding
9 Sections 13.629 to 13.631 to read as follows:

10 “Section 13.629. Interfering with authorized officers or observers. Interfering with
11 authorized officers or observers is any act in violation of Section 19.427.

12 Interfering with authorized officers or observers is a category one misdemeanor.

13 Section 13.630. Failing to provide information and documentation. Failing to provide
14 information and documentation is any act in violation of Section 19.428.

15 Failing to provide information and documentation is a category one misdemeanor.

16 Section 13.631. Destruction of evidence. Destruction of evidence is any act in violation of
17 Section 19.429.

18 Destruction of evidence is a category one misdemeanor.”

19 Section 11. Repeal. Kosrae State Code Title 14, Chapter 13, Section 14.1303 and Section
20 14.1304, are repealed.

21 Section 12. Effective date. This act takes effect upon its approval by the Governor or upon
22 its becoming law without such approval.

23 PASSED BY THE SEVENTH KOSRAE STATE LEGISLATURE ON THE 26TH DAY OF
24 APRIL, 2000.

25

Hiteo S. Shrew
Speaker, 7th Kosrae State Legislature

Attested by: _____
Chief Clerk

Rensley A. Sigrah
Governor, State of Kosrae

Date: _____