

AN ACT

To amend and repeal certain sections of Title 52 of the Trust Territory Code, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. 52 TTC 2 (4), (5), (10) and (14), as set forth in
2 Public Law No. 7-71, as amended by Public Law No. IC-3, are hereby
3 further amended to read as follows:

4 "(4) 'Executive Director' means the Executive Director
5 of the Micronesian Maritime Authority.

6 (5) 'State' means any of the states of the Federated
7 States of Micronesia.

8 (10) 'Foreign Fishing Agreement' means an agreement
9 between the Authority on behalf of the Government of the
10 Federated States of Micronesia and one or more foreign commercial
11 fishing interests to permit foreign vessels to harvest fish
12 within the Extended Fishery Zone of the Federated States of
13 Micronesia. A 'foreign party' is a party to such an agreement
14 other than the Authority. To take effect within the Extended
15 Fishery Zone of the Federated States of Micronesia, such agree-
16 ment shall require the approval of the Congress of the Federated
17 States of Micronesia by resolution; PROVIDED, that such an
18 agreement involving fewer than six vessels will not require the
19 approval of the Congress of the Federated States of Micronesia;
20 and PROVIDED, FURTHER, that the Committee on Resources and
21 Development of the Congress of the Federated States of Micronesia
22 shall approve such an agreement if the Congress is not in session.

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1 (14) 'Micronesia' or 'Government of Micronesia' refers
2 to the appropriate State Government, or the Government of the
3 Federated States of Micronesia."

4 Section 2. 52 TTC 3, as set forth in Public Law No. 7-71, as
5 amended by Public Law No. IC-3, is hereby further amended to read as
6 follows:

7 "Section 3. Application of this act. The provisions of this
8 Title apply to the Federated States of Micronesia."

9 Section 3. 52 TTC 51 (2), as set forth in Public Law No. 7-71, as
10 amended by Public Law No. IC-3, is hereby further amended to read as
11 follows:

12 "(2) The baseline of an atoll or island or portion of an
13 island having a barrier reef, fringing reef, or other reef
14 system is a line following the contour of the seaward edge of
15 the reef system, which line connects those outermost elevations
16 of the reef which are above water at low tide, and which line
17 exists as marked on large scale charts officially recognized
18 by the Government of Micronesia."

19 Section 4. 52 TTC 54, as set forth in Public Law No. 7-71, as
20 amended by Public Law No. IC-3, is hereby further amended to read as
21 follows:

22 "Section 54. Extended Fishery Zone. There is hereby established
23 an Extended Fishery Zone contiguous to the Exclusive Fishery
24 Zone. The inner boundary of the Extended Fishery Zone of each
25 island or atoll is the seaward boundary of the Exclusive

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1 Fishery Zone, and the outer boundary is a line, every point
2 of which is two hundred nautical miles seaward of the nearest
3 point on the baseline as defined in Section 51 of this Title.
4 The Government of the Federated States of Micronesia shall have
5 exclusive management, conservation, and regulatory authority
6 over all living resources within the Extended Fishery Zone to
7 the full extent recognized by international law."

8 Section 5. 52 TTC 57, as set forth in Public Law No. 7-71, as
9 amended by Public Law No. IC-3, is hereby further amended to read as
10 follows:

11 "Section 57. Delimitation.

12 (1) The Government of the Federated States of Micronesia
13 and the United States Government shall cooperate in the
14 delimitation of the Micronesian Extended Fishery Zone when it
15 overlaps a zone of national jurisdiction of another nation.

16 (2) The boundary between the Extended Fishery Zone
17 established herein and the fishery zones of Palau and the
18 Marshall Islands shall be established by agreement between the
19 Government of the Federated States of Micronesia and the Govern-
20 ments of Palau and the Marshall Islands."

21 Section 6. 52 TTC 101 (1), as set forth in Public Law No. 7-71,
22 as amended by Public Law No. IC-3, is hereby further amended to read as
23 follows:

24 "(1) There is hereby established a Micronesian Maritime
25 Authority composed of four members appointed by the High

1 Commissioner; four members from the Congress of the Federated
2 States of Micronesia appointed by the Speaker of the Congress
3 of the Federated States of Micronesia; and one member appointed
4 jointly by the Speaker and the High Commissioner; PROVIDED,
5 HOWEVER, that present members of the Authority who were
6 appointed jointly by the Presiding Officers of the former
7 Congress of Micronesia, and who are also members of the Congress
8 of the Federated States of Micronesia, as well as the appointees
9 of the High Commissioner and the joint appointee of the High
10 Commissioner and the Presiding Officers of the former Congress
11 of Micronesia, shall serve until their terms of appointment
12 expire. All appointments shall be for a term of two years.
13 The term of office of each original member shall commence
14 effective the date of the first meeting of the Authority.
15 Vacancies shall be filled in the same manner as the original
16 appointment for the remainder of the term of office of the
17 vacancy. The Chairman shall be chosen by majority vote of the
18 members of the Authority. The Authority shall meet at such
19 times and places as may be designated by the Chairman or by
20 the Authority. The Authority shall adopt its own rules of
21 procedure and regulations by majority vote. Regulations adopted
22 by the Authority shall have the full force and effect of law.
23 The process for the adoption of regulations by the Authority
24 is expressly exempt from the requirements of the Administrative
25 Procedure Act set forth in Title 17 of the Trust Territory Code,

1 but the Authority nevertheless shall publish its proposed regu-
2 lations and afford the public a reasonable opportunity to present
3 its views prior to the adoption of any regulation. The Chairman
4 may promulgate interim regulations on his own authority which
5 shall be effective for a period no longer than six months
6 unless the Authority by majority vote revokes the interim
7 regulations."

8 Section 7. 52 TTC 101 (2), as set forth in Public Law No. 7-71, as
9 amended by Public Law No. IC-3, is hereby further amended to read as
10 follows:

11 "(2) The Authority shall have the following duties,
12 functions and authority:

13 (a) To adopt regulations for the conservation,
14 management, and exploitation of all living resources in the
15 Extended Fishery Zone of the Federated States of Micronesia
16 pursuant to Sections 52, 53, and 54 of this Title;

17 (b) To provide technical assistance in the delimitation
18 of the Extended Fishery Zone in accordance with
19 Section 57 of this Title;

20 (c) To negotiate and conclude foreign fishing
21 agreements in accordance with Section 152 of this Title;

22 (d) To issue foreign fishing permits in accordance
23 with procedures established by the Authority or regulations
24 promulgated pursuant to Subsection 1 and Paragraph 2 (a) of
25 this section;

1 (e) To require all foreign fishing vessels to
2 possess a permit issued by a State before fishing in the Terri-
3 torial Sea or Exclusive Fishery Zone of a State;

4 (f) To rebate according to regulation approved by the
5 Authority all or a portion of a fee collected pursuant to
6 Section 154 (7) of this Title from a joint fishing venture duly
7 organized by law, if the rebate will promote fishery develop-
8 ment;

9 (g) The Authority shall submit its budget and a
10 report regarding the expenditure of its funds to the Congress
11 each regular session for approval; and

12 (h) To perform such other duties and functions as
13 may be necessary to carry out the purposes of this Title."

14 Section 8. 52 TTC 101 (3), as set forth in Public Law No. 7-71, as
15 amended by Public Law Nos. 7-134 and IC-3, is hereby further amended to
16 read as follows:

17 "(3) The Authority shall employ a full-time Executive
18 Director possessing such qualifications as may be established
19 by the Authority. The Authority may employ such other staff as
20 it may deem necessary."

21 Section 9. 52 TTC 101 (4), as set forth in Public Law No. 7-71, as
22 amended by Public Law No. IC-3, is hereby further amended to read as
23 follows:

24 "(4) Members of the Authority, other than the member
25 appointed jointly by the Presiding Officers of the former

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1 Congress of Micronesia and the High Commissioner, or appointed
2 jointly by the Speaker of the Congress of the Federated States
3 of Micronesia and the High Commissioner, shall be compensated
4 at the rate of thirty-five dollars per day when actually on
5 the business of the Authority. The joint appointee shall be
6 compensated at a rate established by the Authority, but shall
7 not participate in the decision of the Authority determining
8 his compensation. Members of the Authority who are employees
9 of state governments or the Government of the Federated States
10 of Micronesia, or the Trust Territory of the Pacific Islands
11 shall not be entitled to receive any compensation. All members
12 of the Authority shall receive per diem and travel expenses at
13 established Trust Territory Government rates while on the
14 business of the Authority."

15 Section 10. 52 TTC 151, as set forth in Public Law No. 7-71, as
16 amended by Public Law No. IC-3, is hereby further amended to read as
17 follows:

18 "Section 151. Foreign fishing permitted. No foreign fishing
19 regulated pursuant to the provisions of this Title is permitted
20 in the Extended Fishery Zone of Micronesia except by valid and
21 applicable permit issued under authority conferred by Sections
22 101 and 154 of this Title. No foreign fishing is permitted in
23 the Territorial Sea and Exclusive Fishery Zone of a State except
24 by valid and applicable permit issued by the States.

25 Section 11. 52 TTC 152 (2), (3) and (4), as set forth in Public Law

1 No. 7-71, as amended by Public Law No. IC-3, are hereby further amended
2 to read as follows:

3 "(2) In negotiating foreign fishing agreements, the
4 Authority shall seek substantial agreement by the foreign parties
5 to the following terms and conditions:

6 (a) The foreign party and the owner or operator of
7 any fishing vessel fishing pursuant to such agreement will abide
8 by all regulations issued under authority of Sections 101 and
9 102 of this Title.

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

13 (i) Any officer authorized to enforce the pro-
14 visions of this Title shall be permitted to board and search
15 or inspect any vessel at any time and make arrests and seizures
16 provided for in Section 208 of this Title whenever such officer
17 has reasonable cause to believe, as a result of such a search
18 or inspection, that any such vessel or any person has committed
19 an act prohibited by this Title;

20 (ii) Such officer shall also be permitted to
21 examine and make notations on the permit issued pursuant to
22 Section 154 of this Title;

23 (iii) The permit issued for any such vessel
24 pursuant to Section 154 of this Title shall be prominently
25 displayed in the wheelhouse of such vessel;

1 (iv) Appropriate position-fixing and identifi-
2 cation equipment shall be installed and maintained in working
3 order on each such vessel;

4 (v) Duly authorized Micronesian observers shall
5 be permitted on board any such vessel and that the Government
6 of Micronesia shall be reimbursed for the cost of such observers;
7 and

8 (vi) Agents shall be appointed and maintained
9 within Micronesia who are authorized to receive and respond to
10 any legal process issued in Micronesia with respect to such
11 owner or operator.

12 (c) The foreign party and the owners or operators of
13 all of the fishing vessels of such party shall not, in any year,
14 exceed such party's allocation of the total allowable level of
15 foreign fishing, in the event allocations are established by
16 the Authority.

17 (d) Foreign parties will:

18 (i) Apply, pursuant to Section 154, for any
19 required permits;

20 (ii) Deliver promptly to the owner or operator
21 of the appropriate fishing vessel any permit which is issued
22 under that Section for such vessel; and

23 (iii) Abide by the requirement that no foreign
24 fishing will be permitted in the Extended Fishery Zone of
25 Micronesia after June 30, 1979 without a valid and applicable

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1 permit, and that all conditions and restrictions of the
2 permit are complied with.

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

6 (3) The total allowable level of foreign fishing, if any,
7 with respect to any fishery subject to the provisions of this
8 Title, shall be that portion of the maximum sustainable yield
9 of such fishery which will not be harvested by vessels of
10 Micronesia.

11 (4) The Micronesian Maritime Authority may determine the
12 allocation among foreign parties of the total allowable level
13 of foreign fishing which is permitted with respect to any
14 fishery subject to the provisions of this Title. In determining
15 the allocation among parties, the Authority shall take into
16 consideration:

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

19 (b) Whether such parties or their national govern-
20 ments have cooperated with the Government of Micronesia in, and
21 made substantial contributions to, fishery research and the
22 identification of fishery resources;

23 (c) Whether such parties or their national govern-
24 ments have cooperated with the Government of the Federated
25 States of Micronesia in enforcement of the provisions of this

1 Title and the regulations issued under its authority; and
2 (d) Such other matters as it may deem appropriate."

3 Section 12. 52 TTC 153, as set forth in Public Law No. 7-71, as
4 amended by Public Law No. IC-3, is hereby further amended to read as
5 follows:

6 "Section 153. International fishery agreements. An interna-
7 tional fishery agreement is an international agreement primarily
8 affecting living resources within the fishery zones of Micro-
9 nesia. Such agreements shall be negotiated and concluded in
10 cooperation between the Administering Authority and the
11 Government of the Federated States of Micronesia. Prior to the
12 conclusion of such an agreement, the United States shall obtain
13 the concurrence of the Congress of the Federated States of
14 Micronesia by resolution to its terms and provisions to the
15 extent such terms and provisions affect living resources within
16 the fishery zones of Micronesia."

17 Section 13. 52 TTC 154 (1), (3), (4), (5) and (7), as set forth
18 in Public Law No. 7-71, as amended by Public Law No. IC-3, are hereby
19 further amended to read as follows:

20 "(1) No foreign fishing vessel shall engage in fishing
21 regulated pursuant to the provisions of this act in the
22 Extended Fishery Zone of Micronesia unless such vessel has on
23 board a valid permit issued under this Section for such vessel.
24 No foreign fishing vessel shall engage in fishing in the
25 Territorial Sea or the Exclusive Fishery Zone of a State unless

1 such vessel has on board a valid permit issued by the State
2 for such vessel.

3 (3) Each foreign party entitled to permits in accordance
4 with its foreign fishing agreement shall make application on
5 forms prescribed by the Micronesian Maritime Authority specify-
6 ing inter alia:

7 (a) The name and official number or other identifi-
8 cation of each fishing vessel for which a permit is sought,
9 together with the name and address of the owner thereof;

10 (b) The tonnage, capacity, speed, processing equip-
11 ment, type and quantity of fishing gear, and such other
12 pertinent information with respect to characteristics of each
13 such vessel as the Authority may require;

14 (c) The amount of fish or tonnage of catch contemplated
15 for each such vessel during the time such permit is in force
16 and as required by the foreign fishing agreement; and

17 (d) The ocean area in which, and the season or
18 period during which, such fishing will be conducted as required
19 by the foreign fishing agreement.

20 (4) Upon receipt of an application, including an applica-
21 tion for rebate of a fee, the Executive Director may transmit
22 copies to each member of the Authority and to the Chairman of
23 the Committee on Resources and Development of the Congress of
24 the Federated States of Micronesia; or if required to do so by
25 the Chairman, the Executive Director shall transmit such copies

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1 of applications to the Committee on Resources and Development.

2 (5) The Authority shall review the application, and in
3 its discretion may solicit views from appropriate persons in
4 the states, hold public hearings where necessary and may approve
5 the application on such terms and conditions and with such
6 restrictions as the Authority deems appropriate.

7 (7) Fees and other forms of compensation for the right
8 to exploit living resources within the Extended Fishery Zone of
9 Micronesia shall be established in the agreement."

10 Section 14. 52 TTC 201 (2), as set forth in Public Law No. 7-71,
11 as amended by Public Law No. IC-3, is hereby further amended to read as
12 follows:

13 "(2) It is unlawful for any foreign fishing vessel, and
14 for the crew, owner or operator of any foreign fishing vessel,
15 to engage in fishing in the Extended Fishery Zone of Micronesia
16 unless such fishing is authorized by and conducted in accordance
17 with a valid and applicable fishing permit issued pursuant to
18 Section 154 of this Title. It is unlawful for any foreign
19 fishing vessel, and for the crew, owner or operator of any
20 foreign fishing vessel, to engage in fishing in the Territorial
21 Sea or Exclusive Fishery Zone of a State unless such fishing is
22 authorized by and conducted in accordance with a valid and
23 applicable fishing permit issued by the State."

24 Section 15. 52 TTC 203 (3), as set forth in Public Law No. 7-71, as
25 amended by Public Law No. IC-3, is hereby further amended to read as

1 follows:

2 "(3) Any offense described as a prohibited act by Section
3 201 (1) (d), (e), (f), or (h), is punishable by a fine of not
4 more than \$100,000, or imprisonment for not more than two
5 years, or both; except that if in the commission of any such
6 offense the person uses a dangerous weapon, engages in conduct
7 that causes bodily injury to any officer authorized to enforce
8 the provisions of this Title, or threatens any such officer with
9 bodily injury, the offense is punishable by a fine of not more
10 than \$250,000, or imprisonment for not more than ten years, or
11 both."

12 Section 16. 52 TTC 206, as set forth in Public Law No. 7-71, as
13 amended by Public Law No. IC-3, is hereby further amended to read as
14 follows:

15 "Section 206. Fees. Fees collected by the Authority pursuant
16 to Section 154 (7) shall be deposited in the General Fund of
17 the Congress of the Federated States of Micronesia, or its
18 successor; PROVIDED, HOWEVER, that in the case of fees collected
19 from a joint fishing venture, and if its application for a
20 fishing permit includes a request for rebate of fees which the
21 Authority accepts pending its decision to rebate the fee, such
22 fees shall be deposited in a separate trust account maintained
23 by the Authority until rebated to the joint fishing venture or
24 paid into the General Fund of the Congress of the Federated
25 States of Micronesia, or its successor, if the rebate request

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1 is denied."

2 Section 17. 52 TTC 207, as set forth in Public Law No. 7-71, as
3 amended by Public Law No. IC-3, is hereby further amended to read as
4 follows:

5 "Section 207. Jurisdiction of courts. The High Court of the
6 Trust Territory of the Pacific Islands shall have exclusive
7 jurisdiction over any case or controversy arising under this
8 Title until the establishment of the Supreme Court of the
9 Federated States of Micronesia, when the Supreme Court of the
10 Federated States of Micronesia shall have exclusive jurisdiction
11 over any case or controversy arising under this Title. The Court
12 may at any time enter restraining orders or prohibitions; issue
13 warrants, process in rem, or other processes; prescribe and
14 accept satisfactory bonds or other security; and take such other
15 actions as are in the interests of justice."

16 Section 18. 52 TTC 208 (1), as set forth in Public Law No. 7-71, as
17 amended by Public Law No. IC-3, is hereby further amended to read as
18 follows:

19 "(1) Primary responsibility for the enforcement of this
20 Title shall be assumed by the Office of the Attorney General of
21 the Trust Territory of the Pacific Islands, until the appointment
22 of the Attorney General of the Federated States of Micronesia,
23 when primary responsibility for the enforcement of this Title
24 shall be assumed by the latter official. The High Commissioner
25 and the Government of the Federated States of Micronesia may,

1 from time to time, seek enforcement assistance from the United
2 States Government."

3 Section 19. Subsection 4 of Section 6 of Public Law No. 7-71, as
4 amended by Public Law No. IC-3, is hereby further amended to read as
5 follows:

6 "(4) Notwithstanding any other provision of this Title,
7 and in recognition of the fact that it may not be possible for
8 all Foreign Fishing Agreements to be concluded and approved
9 before January 1, 1979, the Authority by resolution may permit
10 continued foreign fishing after January 1, 1979 within the
11 Extended Fishery Zone upon a determination that the appropriate
12 foreign parties intend to engage in good faith negotiations to
13 conclude Foreign Fishing Agreements at the earliest possible
14 date and upon the expressed acceptance by the parties involved
15 of the principle that the compensation provisions of such agree-
16 ments will be applied retroactive to January 1, 1979. Such
17 resolution approving continued foreign fishing may be revoked
18 by decision of the Authority at any time upon two-week notice
19 to the foreign parties."

20 Section 20. S2 TTC 155, as set forth in Public Law No. IC-3, is
21 hereby repealed in its entirety.

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1 Section 21. This act shall become law upon approval by the
2 President of the Federated States of Micronesia, or upon its becoming
3 law without such approval.

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July 31, 1979

Tosiwo Nakayama
Tosiwo Nakayama
President
Federated States of Micronesia