

AN ACT

To further amend title 24 of the Code of the Federated States of Micronesia, as amended, by amending sections 102, 401, 407, 408, 409, 501 and 503, for the purpose of providing for the implementation of regional fisheries treaties, and for other purposes.

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

1 Section 1. Section 102 of title 24 of the Code of the Federated
2 States of Micronesia is hereby amended to read as follows:

3 "Section 102. Definitions. As used in this title, unless
4 the context otherwise requires, the term:

5 (1) 'Administrator' means the director of a regional
6 fisheries agency or any other organization or person
7 authorized, pursuant to section 407 of this title, to
8 administer a regional fisheries treaty.

9 (2) 'Atoll' means a circular or oval coral reef
10 forming a geographic and ecologic unity crowned by at least
11 one island.

12 (3) 'Authority' means the Micronesian Maritime
13 Authority established by section 301 of this title.

14 (4) 'Congress' means the Congress of the Federated
15 States of Micronesia.

16 (5) 'Executive director' means the executive director
17 of the Micronesian Maritime Authority.

18 (6) 'Fish' means any living resource.

19 (7) 'Fishery' means:

20 (a) one or more stocks of fish which can be
21 treated as a unit for purposes of conservation and
22 management and which are identified on the basis of

1 geographical, scientific, technical, recreational, and
2 economic characteristics; and

3 (b) any fishing for such stocks.

4 (8) 'Fishing' means:

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

7 (b) any other activity which can reasonably be
8 expected to result in the locating, catching, taking, or
9 harvesting of fish;

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

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

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

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

22 (a) fishing;

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

1 refrigeration, transportation, or processing.

2 (10) 'Foreign fishing' means fishing by vessels:

3 (a) not registered in Micronesia; or

4 (b) not wholly owned by citizens of Micronesia; or

5 (c) not wholly controlled by citizens of

6 Micronesia; or

7 (d) of foreign registry chartered by citizens

8 of Micronesia.

9 (11) 'Foreign fishing agreement' means an agreement
10 between the Authority on behalf of the Government of the
11 Federated States of Micronesia and one or more foreign
12 commercial fishing interests to permit foreign vessels to
13 harvest fish within the extended fishery zone of the
14 Federated States of Micronesia. A 'foreign party' is a
15 party to such an agreement other than the authority.

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

18 (13) 'Living resource' means a finfish, mollusks,
19 crustaceans, and all other forms of marine animal and plant
20 life other than marine birds.

21 (14) 'Micronesia' or 'Government of Micronesia'
22 refers to the appropriate State government or the Government
23 of the Federated States of Micronesia.

24 (15) 'Operator' means any person who is in charge of,
25 directs, or controls a vessel, including the owner,

1 charterer, or the master.

2 (16) 'Pacific Island States' means the parties to the
3 South Pacific Forum Fisheries Agency Convention, 1979.

4 (17) 'Person' means any individual, corporation,
5 partnership, association, or other entity, the Government of
6 Micronesia or any of its subdivisions or any entity thereof,
7 and any foreign government, subdivision of such government,
8 or entity thereof.

9 (18) 'Reef fish' means any species of living resource
10 which predominately inhabits reef areas or internal waters.

11 (19) 'Regional fisheries treaty' means a treaty
12 between the governments of certain Pacific Island States and
13 governments, bodies or organizations of foreign States other
14 than Pacific Island States that relates to fishing in the
15 waters of the Pacific Island States and has entered into
16 force according to its terms following ratification by the
17 Congress of the Federated States of Micronesia.

18 (20) 'Regional fishing license' means a regional
19 fishing license issued to a foreign fishing vessel by an
20 Administrator pursuant to a regional fisheries treaty.

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

23 (22) 'Stock of fish' means a species, subspecies,
24 geographical grouping, or other category of fish capable of
25 management as a unit.

1 (23) 'Submerged reef' means a coral reef forming a
2 geographic and ecologic unity which is wholly submerged at
3 high tide."

4 Section 2. Section 401 of title 24 of the Code of the Federated
5 States of Micronesia is hereby amended to read as follows:

6 "Section 401. Foreign fishing permitted. No foreign fishing
7 regulated pursuant to the provisions of this title is
8 permitted in the extended fishery zone of Micronesia except
9 by valid and applicable permit issued under authority
10 conferred by this title. No foreign fishing is permitted
11 in the Territorial Sea and Exclusive Fishery Zone of a State
12 except by valid and applicable permit issued by the State."

13 Section 3. Section 407 of title 24 of the Code of the Federated
14 States of Micronesia is hereby repealed in its entirety and a new
15 section 407 is hereby enacted to read as follows:

16 "Section 407. Regional fisheries treaties, agreements,
17 and licenses.

18 (1) Notwithstanding any other provisions of this title,
19 the Government of the Federated States of Micronesia
20 may enter into agreements with other governments to provide
21 for observer programs pursuant to a regional fisheries
22 treaty or to authorize the director of a regional fisheries
23 agency or any other organization or person designated by any
24 such agreement to perform functions required by a regional
25 fisheries treaty, including but not limited to, the issuance

1 of regional fishing licenses.

2 (2) For the purpose of giving effect to any agreements
3 described in subsection (1) of this section, the Authority
4 may, pursuant to subsections 1(a) and 2(a) of section 302 of
5 this title, adopt regulations to:

6 (a) Exempt any foreign fishing vessels holding
7 valid regional fishing licenses pursuant to a regional
8 fisheries treaty from any requirements of this title which
9 are inconsistent with the terms of such treaty;

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

13 (c) Authorize observers designated pursuant to
14 an observer program agreement to enforce the provisions of
15 this title and any regional fisheries treaty on behalf of
16 the Federated States of Micronesia, and to perform such
17 duties and responsibilities as may be required by such
18 agreement."

19 Section 4. Section 408 of title 24 of the Code of the Federated
20 States of Micronesia, as amended by Public Law No. 3-10, is hereby
21 further amended to read as follows:

22 "Section 408. Fishing permits required. No foreign
23 fishing vessel shall engage in fishing regulated pursuant
24 to the provisions of this title in the extended fishery zone
25 of the Federated States of Micronesia unless such vessel has

1 on board a valid permit issued under this section and
2 sections 407 and 409 through 414 of this title for such vessel,
3 except as may be provided in any applicable foreign fishing
4 agreement or regional fisheries treaty. No foreign fishing
5 vessel shall engage in fishing in the Territorial Sea or the
6 Exclusive Fishery Zone of a State unless such vessel has on
7 board a valid permit issued by the State for such vessel."

8 Section 5. Section 409 of title 24 of the Code of the Federated
9 States of Micronesia is hereby amended to read as follows:

10 "Section 409. Foreign fishing agreement prerequisite to
11 permit. Fishing permits will only be issued in accordance
12 with a foreign fishing agreement approved pursuant to
13 section 406 of this title, or in accordance with a
14 regional fisheries treaty pursuant to section 407 of this
15 title; provided that permits issued for fishing in
16 accordance with section 414 of this chapter need not be
17 pursuant to a foreign fishing agreement or regional
18 fisheries treaty."

19 Section 6. Section 501 of title 24 of the Code of the Federated
20 States of Micronesia is hereby amended to read as follows:

21 "Section 501. Prohibited acts.

22 (1) It is unlawful for any person:

23 (a) to violate any provision of this title or of any
24 regulation or permit issued pursuant to this title;

25 (b) to use any fishing vessel to engage in fishing

1 after revocation, or during the period of suspension, of an
2 applicable permit issued pursuant to this title;

3 (c) to violate any provision of, or regulation under,
4 an applicable foreign fishing agreement entered into pursuant
5 to sections 401 through 406 of this title;

6 (d) to refuse to permit any officer authorized to
7 enforce the provisions of this title to board a fishing
8 vessel subject to such person's control for purposes of
9 conducting any search or inspection in connection with the
10 enforcement of this title or any regulation, permit, or
11 agreement referred to in paragraphs (a), (c) and (i) of
12 this subsection;

13 (e) to forcibly assault, resist, oppose, impede,
14 intimidate, or interfere with any such authorized officer in
15 the conduct of any search or inspection described in
16 paragraph (d) of this subsection;

17 (f) to resist a lawful arrest for any act prohibited
18 by this section;

19 (g) to knowingly ship, transport, offer for sale,
20 sell, purchase, import, export, or have custody, control, or
21 possession of any fish taken or retained in violation of this
22 title or any regulation, permit, or agreement referred to in
23 paragraphs (a), (c) and (i) of this subsection;

24 (h) to interfere with, delay, or prevent, by any
25 means, the apprehension or arrest of another person, knowing that

1 such person has committed any act prohibited by this section; or
2 (1) to violate any provision of, or regulation under,
3 any applicable agreement to implement a regional fisheries
4 treaty entered into pursuant to section 407 of this title.

5 (2) It is unlawful for any foreign fishing vessel, and
6 for the crew, owner, or operator of any foreign fishing
7 vessel, to engage in fishing in the extended fishery zone
8 of Micronesia unless such fishing is authorized by and
9 conducted in accordance with a valid and applicable fishing
10 permit issued pursuant to this title. It is unlawful for any
11 foreign fishing vessel, and for the crew, owner, or operator of
12 any foreign fishing vessel, to engage in fishing in the
13 Territorial Sea or Exclusive Fishery Zone of a State unless such
14 fishing is authorized by and conducted in accordance with a valid
15 and applicable fishing permit issued by the State."

16 Section 7. Section 503 of title 24 of the Code of the Federated
17 States of Micronesia, as amended by Public Law No. 3-34, is hereby
18 further amended to read as follows:

19 "Section 503. Criminal penalties.

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

22 (2) Any offense described as a prohibited act by
23 subsections (1)(a), (b), (c), (g), or (i) of section 501
24 is punishable by a fine of not more than \$250,000.

25 (3) Any offense described as a prohibited act by

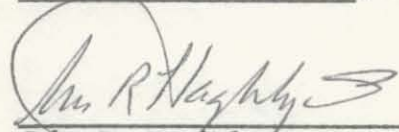
1 subsections (1)(d), (e), (f), or (h) of section 501 is
2 punishable by a fine of not more than \$400,000, or
3 imprisonment for not more than two years, or both;
4 PROVIDED that if in the commission of any such offense the
5 person uses a dangerous weapon, engages in conduct that
6 causes bodily injury to any officer authorized to enforce
7 the provisions of this title, or threatens any such officer
8 with bodily injury, the offense is punishable by a fine of
9 not more than \$1 million, or imprisonment for not more than
10 ten years, or both; and PROVIDED FURTHER that where a
11 regional fisheries treaty so requires, persons arrested
12 for violating any provisions of, or regulations under, such
13 treaty shall not be subject to imprisonment.

14 (4) Any offense described as a prohibited act by
15 subsection (2) of section 501 is punishable by a fine of not
16 more than \$400,000. Each day of continuing violation shall
17 be considered a separate offense."

18 Section 8. This act shall become law upon approval by the
19 President of the Federated States of Micronesia or upon its becoming
20 law without such approval.

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December 11th, 1987



John R. Haglelgam
President
Federated States of Micronesia

