

A BILL FOR AN ACT

To amend sections 301, 302, 303, 305, 306, 403, 406, 408, and 410 of title 24 of the Code of the Federated States of Micronesia to change the size, composition, and authority of the Micronesian Maritime Authority, and for other purposes.

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

1 Section 1. Section 301 of title 24 of the Code of the Federated
2 States of Micronesia is hereby amended to read as follows:

3 "Section 301. Micronesian Maritime Authority--Established.

4 (1) There is hereby established a Micronesian Maritime
5 Authority composed of ~~four members appointed by the High~~
6 ~~Commissioner!~~ seven members with four members from the
7 Congress of the Federated States of Micronesia appointed by
8 the Speaker of the Congress of the Federated States of Micro-
9 nesia; ~~and one at-large member appointed jointly by the Speaker~~
10 ~~and the High Commissioner!~~ by the President of the Federated
11 States of Micronesia in consultation with the Speaker, and the
12 remaining two members being the Secretary of External Affairs,
13 or his designee, and the Secretary of Resources and Development,
14 or his designee; provided, however, that present members of the
15 Authority ~~who were appointed jointly by the Presiding Officers~~
16 ~~of the former Congress of Micronesia! and who are also Members~~
17 ~~of the Congress of the Federated States of Micronesia, as well~~
18 ~~as the appointees of the High Commissioner and the joint~~
19 ~~appointee of the High Commissioner and the Presiding Officers~~
20 ~~of the former Congress of Micronesia!~~ shall serve until their
21 terms of appointment expire.

22 (2) All appointments shall be for a term of two years.
23 The term of office of each original member shall commence
24 effective the date of the first meeting of the Authority.
25 Vacancies shall be filled in the same manner as the original

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1 appointment for the remainder of the term of office of the
2 vacancy.

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

8 Section 2. Section 302 of title 24 of the Code of the Federated
9 States of Micronesia is hereby amended to read as follows:

10 "Section 302. Authority; Regulations.

11 (1) The Authority shall have the following authority:

12 (a) to adopt regulations for the conservation,
13 management, and exploitation of all living resources in the
14 extended fishery zone of the Federated States of Micronesia
15 pursuant to sections 52, 53, and 54 of this title;

16 (b) to conclude foreign fishing agreements in
17 accordance with section 152 of this title;

18 (c) to issue foreign fishing permits in accordance
19 with procedures established by the Authority or regulations
20 promulgated pursuant to subsection 1 and paragraph 2(a) of this
21 section;

22 (d) to rebate according to regulation approved by
23 the Authority all or a portion of a fee collected pursuant to
24 section 154(7) of this title from a joint fishing venture duly
25 organized by law, if the rebate will promote fishery development;

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1 and
 2 (e) to participate in the planning and execution
 3 of programs relating to fisheries, or fishing in the extended
 4 fishery zone in which any agency of the Micronesian Government
 5 has a proprietary interest, direct or indirect, by way of stock
 6 ownership, partnership, joint venture, or otherwise.

7 (12) Regulations adopted by the Authority shall have the
 8 full force and effect of law.

9 (2a) The process for the adoption of regulations by
 10 the Authority is expressly exempt from the requirements of the
 11 Administrative Procedure Act set forth in title 17 of this code,
 12 but the Authority nevertheless shall publish its proposed regu-
 13 lations and afford the public a reasonable opportunity to pre-
 14 sent its views prior to the adoption of any regulation.

15 (2b) The chairman may promulgate interim regulations
 16 on his own authority which shall be effective for a period no
 17 longer than six months unless the Authority by majority vote
 18 revokes the interim regulations."

19 Section 3. Section 303 of title 24 of the Code of the Federated States
 20 of Micronesia is hereby amended to read as follows:

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

24 (1) to adopt regulations for the conservation, management,
 25 and exploitation of all living resources in the extended fishery

1 zone of the Federated States of Micronesia pursuant to sect-
2 tions 102, 103 and 104 of title 18;
3 (21) to provide technical assistance in the delimita-
4 tion of the extended fishery zone in accordance with section
5 107 of title 18;
6 (22) to negotiate and conclude foreign fishing agree-
7 ments in accordance with sections 402 through 404 of this
8 title;
9 (23) to issue foreign fishing permits in accordance with
10 procedures established by the Authority or regulations pro-
11 mulgated pursuant to section 302 and subsection (1) of this
12 section;
13 (24) to require all foreign fishing vessels to possess
14 a permit issued by a State before fishing in the Territorial
15 Sea or exclusive fishery zone of a State;
16 (25) to rebate according to regulation approved by the
17 Authority all or a portion of a fee collected pursuant to
18 section 403 of this title from a joint fishing venture duly
19 organized by law, if the rebate will promote fishery develop-
20 ment;
21 (26) to the Authority shall submit its budget and a
22 report regarding the expenditure of its funds to the Congress
23 each regular session for approval; and
24 (27) to perform such other duties and functions as may
25 be necessary to carry out the purposes of this title."

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1 Section 4. Section 305 of title 24 of the Code of the Federated
2 States of Micronesia is hereby amended to read as follows:

3 "Section 305. Compensation.

4 (1) Members of the Authority, other than the at-large
5 member *appointed jointly by the Presiding Officers of the*
6 *former Congress of Micronesia and the High Commissioner, or*
7 *appointed jointly by the Speaker of the Congress of the*
8 *Federated States of Micronesia and the High Commissioner,*
9 shall be compensated at the rate of thirty-five dollars per
10 day when actually on the business of the Authority.

11 (2) The *joint* at-large appointee shall be compensated
12 at a rate established by the Authority, but shall not partici-
13 pate in the decision of the Authority determining his compen-
14 sation.

15 (3) Despite anything to the contrary contained in this
16 section, Members of the Authority who are employees of
17 State governments or the Government of the Federated States of
18 Micronesia or the Trust Territory of the Pacific Islands shall
19 not be entitled to receive any compensation.

20 (4) All members of the Authority, including members
21 described in subsections (2) and (3) of this section, shall
22 receive per diem and travel expenses at established ~~Trust~~
23 ~~Territory Government~~ Federated States of Micronesia rates
24 while on the business of the Authority."

25 Section 5. Section 306 of title 24 of the Code of the Federated

1 States of Micronesia is hereby amended to read as follows:

2 "Section 306. Annual report. The chairman of the Authority
3 shall report on its activities to the ~~High Commissioner~~ Pre-
4 sident of the Federated States of Micronesia, ~~and~~ to the Pre-
5 siding Officer of the Congress of the Federated States of
6 Micronesia, and to each State Governor on an annual basis,
7 which report shall contain a detailed accounting of the ex-
8 penditure of funds of the Authority."

9 Section 6. Section 403 of title 24 of the Code of the Federated
10 States of Micronesia is hereby amended to read as follows:

11 "Section 403. Foreign fishing agreements - Terms. In
12 negotiating foreign fishing agreements, the Authority shall
13 seek substantial agreement by the foreign parties to the
14 following terms and conditions:

15 (1) The foreign party and the owner or operator of any
16 fishing vessel fishing pursuant to such agreement will abide
17 by all regulations issued under authority of chapter 3 of this
18 title.

19 (2) The foreign party and the owner or operator of any
20 fishing vessel fishing pursuant to such foreign fishing agree-
21 ments will abide by the agreement that:

22 (a) any officer authorized to enforce the provisions
23 of this title shall be permitted to board and search or inspect
24 any vessel at any time and make arrests and seizures provided for
25 in section 508 of this title whenever such officer has reasonable

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1 cause to believe, as a result of such a search or inspection,
2 that any such vessel or any person has committed an act pro-
3 hibited by this title;

4 (b) such officer shall also be permitted to examine
5 and make negotiations on ~~the~~ any permit issued pursuant to
6 sections 410 through 412 of this chapter, or other documenta-
7 tion required under any applicable foreign fishing agreement;

8 (c) ~~the~~ any permit issued for any such vessel pur-
9 suant to sections 410 through 412 of this chapter or any docu-
10 mentation required to be displayed under foreign fishing agree-
11 ments shall be prominently displayed in the wheelhouse of such
12 vessel;

13 (d) appropriate position-fixing and identification
14 equipment shall be installed and maintained in working order
15 on each such vessel;

16 (e) duly authorized Micronesian observers shall be
17 permitted on board any such vessel and that the Government of
18 Micronesia shall be reimbursed for the cost of such observers; and

19 (f) agents shall be appointed and maintained within
20 Micronesia who are authorized to receive and respond to any legal
21 process issued in Micronesia with respect to such owner or opera-
22 tor.

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

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1 in the event allocations are established by the Authority.

2 (4) Foreign parties will:

3 (a) apply, pursuant to sections 410 through 412 of
4 this chapter, for any required permits;

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

8 (c) abide by the requirement that no foreign fishing
9 will be permitted in the extended fishery zone of Micronesia
10 after June 30, 1979, without a valid and applicable permit,
11 except as provided by foreign fishing agreements concluded
12 pursuant to chapter 3 of this title, and that all conditions
13 and restrictions of the permit, or any applicable foreign fishing
14 agreement, are complied with.

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

18 Section 7. Section 406 of title 24 of the Code of the Federated States
19 of Micronesia is hereby amended to read as follows:

20 "Section 406. Approval of foreign fishing agreements.

21 (1) To take effect within the extended fishery zone of the
22 Federated States of Micronesia, a foreign fishing agreement shall
23 require the approval of the Congress of the Federated States of
24 of Micronesia by resolution.

25 (2) The Committee on Resources and Development of the

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1 Congress of the Federated States of Micronesia shall approve
2 such an agreement if the Congress is not in session.

3 (3) An agreement involving fewer than ~~six~~ ten vessels will
4 not require the approval of the Congress of the Federated States
5 of Micronesia."

6 Section 8. Section 408 of title 24 of the Code of the Federated
7 States of Micronesia is hereby amended to read as follows:

8 "Section 408. Fishing permits required. No foreign fishing
9 vessel shall engage in fishing regulated pursuant to the provi-
10 sions of this title in the extended fishery zone of Micronesia
11 unless such vessel has on board a valid permit issued under
12 this section and sections 409 through 414 for such vessel, except
13 as may be provided in any applicable foreign fishing agreement.

14 No foreign fishing vessel shall engage in fishing in the Territorial
15 Sea or the exclusive fishery zone of a State unless such vessel has
16 on board a valid permit issued by the State for such vessel, except
17 as may be provided in any applicable foreign fishing agreement."

18 Section 9. Section 410 of title 24 of the Code of the Federated States
19 of Micronesia is hereby amended to read as follows:

20 "Section 410. Application for permit - Contents. Each foreign
21 party entitled to permits in accordance with its foreign fishing
22 agreement shall make application on forms prescribed by the Micro-
23 nesian Maritime Authority specifying inter alia:

24 (1) the name and official number or other identification of
25 each fishing vessel for which a permit is sought, together with

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1 the name and address of the owner thereof;

2 (2) the tonnage, capacity, ~~speed~~, processing equip-
3 ment, ~~type, and quantity of fishing gear~~, and such other
4 pertinent information with respect to characteristics of
5 each such vessel as the Authority may require; and

6 (3) the amount of fish or tonnage of catch contemplated
7 for each such vessel during the time such permit is in force
8 and as required by the foreign fishing agreement; and

9 (A) ~~the ocean area in which, and the season or period~~
10 ~~during which, such fishing will be conducted as required by~~
11 ~~the foreign fishing agreement.~~ "

12 Section 10. This act shall become law upon approval by the
13 President of the Federated States of Micronesia or upon its becoming
14 law without such approval.

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16 Date: 10/29/82

Introduced by: *Sasao H. Gouland*
Sasao H. Gouland

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