AN ACT


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

1 Section 1. Section 101 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

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

2 Section 2. Section 102 of title 24 of the Code of the Federated States of Micronesia, as amended by Public Law No. 5-37, is hereby
further amended to read as follows:

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

(1) 'Administrator' means the director of a regional fisheries agency or any other organization or person authorized, pursuant to section 106 of this title, to administer a regional fisheries treaty.

(1) 'Applicable laws' means those laws affecting marine resources from time to time identified by the Authority by regulation.

(2) 'Atoll' means a naturally formed coral reef system which has one or more islands situated on the reef system, including Ngulu, Ulithi, Sorol, Eauripik, Woleai, Faraulep, Ifalik, Olaaimarao, Elato, Lamotrek, West Fayu, Puluwat, Pulap, Pulusuk, Namonuito, Kuop, Nomowin, Murilo, Losap, Namoluk, Satawan, Etal, Lukunor, Minto Reef, Orolok, Nukuoro, Kapingamarangi, Pakin, Ant, Sapwulhik, Mwoakiloa, and Pingelap.

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

(4) 'Authorized observer' means any person authorized in writing by the Authority to act as an observer on foreign fishing vessels, including any observer authorized pursuant to a regional fisheries treaty to be an authorized observer for purposes of this title.
(5) 'Authorized officer' means any officer of the Division of Security and Investigation of the Government of the Federated States of Micronesia or any other person authorized in writing by the Attorney General to be an authorized officer for the purposes of this title.

(6) 'Based in the Federated States of Micronesia' means using land-based facilities in the Federated States of Micronesia to support fishing, including location of the home port of a vessel in the Federated States of Micronesia, selling all fish for processing within the Federated States of Micronesia, transshipping all fish harvested within the exclusive economic zone, and basing operations in the Federated States of Micronesia while operating in the exclusive economic zone.

(7) 'Commercial Pilot Fishing' means any fishing for the purpose of testing the commercial viability of:
   (a) New fishing methods;
   (b) Developing new stocks of fish; or
   (c) Fishing in previously unexploited areas.

(8) 'Court' means the Supreme Court of the Federated States of Micronesia.

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

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

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

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

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

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

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

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

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

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

(19) 'Fishing' means:

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

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

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

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

(e) transshipping fish to or from any vessel;

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

(g) refueling or supplying fishing vessels; or

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

(20) 'Fishing gear' means any equipment, implement or
other thing that can be used in the act of fishing,
including any fishing net, rope, line, float, trap, hook,
winch, boat carried on board a fishing vessel, aircraft or
helicopter.
(21) 'Fishing vessel' means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type that is normally used for:
   (a) fishing;
   (b) aiding or assisting one or more vessels at sea in the performance of any activity related to fishing, including, but not limited to preparation, supply, storage, refrigeration, transportation, or processing.

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

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

(24) 'Foreign fishing vessel' means any fishing vessel not defined as a local fishing vessel.

(25) 'Foreign party' means a party to a foreign fishing agreement other than the Authority, the Government of the Federated States of Micronesia or a State government.

(26) 'Foreign recreational fishing' means fishing by a foreign fishing vessel for recreational or sport purposes.
(27) 'Island' means a naturally formed area of land surrounded by water, which is above water at high tide.

(28) 'Living marine resource' means all forms of marine animal and plant life other than marine birds and includes, finfish, mollusks, and crustaceans.

(29) 'Local fishing vessel' means any fishing vessel wholly owned and operated by one or more:

(a) The Government of the Federated States of Micronesia, any State government or any subdivision thereof;

(b) Citizen of the Federated States of Micronesia;

(c) Corporation or cooperative established under the laws of the Federated States of Micronesia or of any State which is wholly owned and controlled by one or more of the persons described in paragraphs (a) and (b) of this subsection;

(d) Any combination of persons described in paragraphs (a) through (c) of this subsection.

(30) 'Operator' means any person who is in charge of, directs, or controls a vessel, including the owner, charterer, or the master.

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

(32) 'Permit' means the document authorizing fishing within all or part of the exclusive economic zone issued
pursuant to section 111 of this title or pursuant to a

treaty, or any agreement or arrangement entered into
pursuant to section 106 of this title.

(33) 'Person' means any individual, corporation,
partnership, association, or other entity, the Government
of the Federated States of Micronesia or any of the States,
or any political subdivision thereof, and any foreign
government, subdivision of such government, or entity
thereof.

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

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

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

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

Section 3. Section 103 of title 24 of the Code of the Federated States of Micronesia is hereby repealed.

Section 4. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 103 to read as follows:

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

(1) By a valid and applicable permit issued under authority conferred by this title; or

(2) By a regional or multilateral license issued pursuant to a treaty or agreement entered into under the authority provided in section 106 of this chapter."

Section 5. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 104 to read as follows:

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

Section 6. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 105 to read as follows:
"Section 105. Stowage of fishing gear. All fishing gear
aboard a fishing vessel in the exclusive economic zone
shall be stowed in such a manner that it is not readily
available for use in fishing, except when such fishing
vessel is in an area in which it is authorized to fish in
accordance with this title."

Section 7. Title 24 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 106 to
read as follows:

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

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

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

(b) An observer program.

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

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

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

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

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

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

(3) With respect to any observer program entered into
pursuant to subsection (1)(b) of this section, standing in
the Supreme Court of the Federated States of Micronesia
shall be afforded to any authorized observer or the
Federated States of Micronesia to bring action against any
person or fishing vessel for any act or offense that is
actionable under the law of the Federated States of
Micronesia or is a violation of the treaty, agreement or
arrangement pursuant to which the observer was authorized,
which has occurred on the high seas, notwithstanding the
nationality of the observer."

Section 8. Title 24 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 107 to
read as follows:

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

Section 9. Title 24 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 108 to
read as follows:

"Section 108. Allowable levels of fishing.

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

(a) The scientific evidence available, including
statistical and other information concerning such stocks of
fish; and
(b) Conservation, management and development
measures contained in management plans relating to such
stocks of fish.

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

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

Section 10. Title 24 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 109 to
read as follows:

"Section 109. Application for permit — Contents.
(1) Each party entitled to apply for a permit under
this title shall make application on prescribed forms
specifying:
(a) The name, official number, and other
identification of each fishing vessel for which a permit is
sought, together with the name and address of the owner and
operator thereof;
(b) The tonnage, capacity, processing equipment, and such other pertinent information with respect to characteristics of each such vessel as the Authority may require;

(c) The country of registration of the vessel; and

(d) If applicable, the foreign fishing agreement or domestic-based fishing agreement under which such permit is sought.

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

Section 11. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 110 to read as follows:

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

Section 12. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 111 to read as follows:
"Section 111. Application for permit — Issuance and denial.

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

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

(3) A permit may be denied:

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

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

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

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

(e) Where an operator of the vessel has
contravened, or the vessel has been used for contravention
of a fishing agreement, or has committed an offense against
the laws of the Federated States of Micronesia; or

(f) Where the Authority determines that the
issuance of a permit would not be in the best interests of
the Federated States of Micronesia.

(4) A permit shall be denied:

(a) Where the Authority determines that the
permit would authorize foreign fishing or domestic-based
fishing on, over, or within one nautical mile of the edge
of a coral reef that is wholly submerged at mean high tide
within the exclusive economic zone; or

(b) Where the Authority determines that the
permit would authorize fishing on, over, or within one
nautical mile of the edge of a coral reef that is wholly
submerged at mean high tide within the exclusive economic
zone, and that subsection (a) of this section does not
apply to the permit application; and

(i) The Authority has submitted a copy of
the application to the State, to the customary inhabitants
of which, the authority to control the fishing over such
reef has been traditionally ascribed. The Authority shall
have the power to prescribe by regulation the ascription of
such reefs to each of the States. For the purposes of this
subsection (b), the State shall mean the Governor thereof,
and the councils of traditional leaders established by law
having the constitutional authority to affect the enactment
of State legislation; and

(ii) Within 30 days of such submission, the
State, or any constituent part thereof, has communicated in
writing to the Authority its objection to the issuance of
the permit with respect to the reef or reefs
traditionally ascribed to its customary inhabitants.

(5) If the Authority denies an application submitted
by an applicant, the Authority shall notify such applicant
of the disapproval and the reasons therefore. The
applicant may then submit a revised application taking into
consideration the reasons for disapproval."

Section 13. Title 24 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 112 to
read as follows:

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

(1) Revoke such permit with or without prejudice to the right of any party involved to be issued a permit for such vessel in any subsequent year;

(2) Suspend such permit for the period of time deemed appropriate; or

(3) Impose additional conditions and restrictions on any permit issued pursuant to this title."

Section 14. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 113 to read as follows:

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

Section 15. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 114 to read as follows:

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

Section 16. Title 24 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 115 to
read as follows:

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

Section 17. Title 24 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 116 to
read as follows:

"Section 116. Reporting requirements."
(1) The master of each foreign fishing vessel issued a permit or which is permitted to fish pursuant to a treaty or any agreement or arrangement referred to in section 106 shall at all times while the vessel is in the fishery waters, cause to be maintained in the English language a fishing log in a form supplied or approved by the Authority, and shall enter the following information relating to the activities of the vessel on a daily basis:

(a) The gear type used;

(b) The noon position of the vessel and, where applicable, the set location and time;

(c) The species of fish taken and the quantity of each species by weight or number as may be specified in the form;

(d) The species of fish returned from the vessel to the sea, the quantity of each species by weight or number as may be specified in the form, and the reasons for discard; and

(e) Such other information as the Authority may prescribe by regulation or as may be required by an applicable treaty, agreement, or arrangement.

(2) The original log form described in subsection (1) shall be sent to the Authority by registered airmail within 30 days of entry of the vessel into port at the completion of the relevant trip, or as provided in the
applicable treaty, agreement, or arrangement.

(3) The owner or operator of a local fishing vessel longer than twenty-seven feet in overall length shall maintain a fishing log in a prescribed form issued by the Authority, in which he shall enter the following information relating to the activities of the vessel on each fishing day:

(a) The type of gear used;

(b) Time and location where such fishing activities have taken place;

(c) Species of fish taken and quantity of each species by weight and number as may be specified in a form issued by the Authority; and

(d) Such other information as the Authority may require in a specified form.

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

(5) The Authority, by regulation, may prescribe such other reporting requirements as may be required for the conservation and management of marine resources and to enforce the provisions of this title."
Section 18. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 117 to read as follows:

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

Section 19. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 118 to read as follows:

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

Section 20. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 119 to read as follows:

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

Section 21. Section 104 of title 24 of the Code of the Federated States of Micronesia is hereby renumbered as section 120.

Section 22. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 201 of chapter 2 to read as follows:

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

Section 23. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 202 of chapter 2 to read as follows:

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

(1) The extent to which each vessel or operator of such vessel has historically fished in a particular area;

(2) The extent to which each vessel or operator of such vessel is advancing the development of a fishing industry in the Federated States of Micronesia;
(3) The extent to which each vessel or operator of such vessel has historically fished for a particular regulated species;

(4) The extent to which each vessel or operator of such vessel submits information for the conservation, management, and development of stocks of fish;

(5) The extent to which each vessel or operator of such vessel has traditional rights to fishing in an area; and

(6) Such other factors as the Authority deems appropriate."

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

"Section 301. Micronesian Maritime Authority — Established.

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

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

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

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

Section 25. Section 302 of title 24 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:

"Section 302. Authority; Regulations.

(1) The Authority shall have the following authority:

(a) to adopt regulations for the conservation,
management, and exploitation of fish in the exclusive
economic zone;

(b) to conclude foreign and domestic-based
fishing agreements in accordance with sections 401 and
406 of this title;

(c) to issue domestic, domestic-based, and
foreign fishing permits in accordance with procedures
prescribed by the Authority or regulations promulgated
pursuant to subsections (1)(a) and (2) of this section;
and

(d) to participate in the planning and execution
of programs relating to fisheries, or fishing in the
exclusive economic zone in which a State government or the
Government of the Federated States of Micronesia, or any
agency or subdivision thereof, has a proprietary interest,
direct or indirect, by way of stock ownership, partnership,
joint venture, or otherwise.

(2) Regulations adopted by the Authority shall have
the full force and effect of law."

Section 26. Section 303 of title 24 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:

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

(1) to provide technical assistance in the
delimitation of the exclusive economic zone in accordance
with section 107 of title 18;

(2) to negotiate domestic-based and foreign fishing
agreements in accordance with sections 404 and 406 of
this title;

(3) to issue permits for fishing in the Territorial
Sea or internal waters of a State as authorized pursuant to
section 117;

(4) to submit its budget and a report regarding the
expenditure of its funds to the Congress each regular
session for review; and

(5) to perform such other duties and functions as may
be necessary to carry out the purposes of this title."

Section 27. Section 305 of title 24 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:

"Section 305. Compensation.

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

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

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

Section 28. Section 306 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 306. Annual report. The chairman of the Authority shall report on its activities to the President of the Federated States of Micronesia, the Speaker of the Congress of the Federated States of Micronesia, and each State Governor by December 1 of each year, which report shall contain a detailed accounting of the expenditure of funds of the Authority, the number of permits and licenses issued, the fees, forfeitures, and fines collected, estimates of the effect of the current level of fishing on the stock of fish in the exclusive economic zone, and such other information regarding the implementation of this title in the preceding fiscal year as the Authority
may determine."
Section 29. Sections 401, 405, and 407 through 415 inclusive of
title 24 of the Code of the Federated States of Micronesia are hereby
repealed.
Section 30. Section 402 of title 24 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:
"Section 401. Foreign fishing agreements - Required.
No foreign fishing vessel shall be issued a permit to
fish in the exclusive economic zone without having entered
into a foreign fishing agreement."
Section 31. Title 24 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 402 to
read as follows:
"Section 402. Fees for foreign fishing permits. Fees and
other forms of compensation for the right to exploit marine
resources within the exclusive economic zone by foreign
fishing vessels shall be established in foreign fishing
agreements entered into pursuant to sections 401, 404 and
405 of this title."
Section 32. Section 404 of title 24 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:
"Section 403. Allocation of allowable fishing among
foreign fishing vessels.
(1) The Authority may determine the allocation among
foreign parties of the total allowable level of foreign
fishing which is permitted with respect to any stock of
fish subject to the provisions of this title.

(2) In determining the allocation among parties, the
Authority shall take into consideration:

(a) the extent to which vessels of such parties
have historically fished the particular regulated species;

(b) the extent to which vessels of such parties
have complied with the laws of the Federated States of
Micronesia and any relevant treaties, agreements, or
arrangements;

(c) whether such parties or their national
governments have cooperated with the Federated States of
Micronesia in, and made substantial contributions to, the
conservation, management and development of fisheries,
fishery research and the identification of marine resources;

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

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

Section 33. Section 403 of title 24 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:
"Section 404. Foreign fishing agreements - Terms.

All foreign fishing agreements shall have the following minimum terms:

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

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

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

(b) permit any officer authorized to enforce the provisions of this title to board and search or inspect any vessel at any time and make arrests and seizures provided for in section 508 of this title whenever such officer has reasonable cause to believe, as a result of such a search or inspection, that any such vessel or any person has committed an act prohibited by this title;

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

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

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

(f) allow and assist authorized observers to
board the vessel for scientific, monitoring, compliance and
other functions, and have full access to, and the use of,
facilities and equipment on board the vessel which the
authorized observer may determine is necessary to carry out
his duties; have full access to the bridge, fish on board
and areas which may be used to hold, process, weigh and
store fish; remove samples; have full access to the vessel's
records, including its logs and documentation for the
purpose of inspection and copying; and gather any other
information relating to fisheries in the exclusive economic
zone;

(g) not assault, obstruct, resist, delay, refuse
boarding to, intimidate, or interfere with an authorized
officer or authorized observer in the performance of his
duties;

(h) display any permit or permit number issued
for any such vessel pursuant to sections 109 through 111 of
this title or any documentation required to be displayed
under foreign fishing agreements in the wheelhouse of such vessel;

   (i) ensure that appropriate position-fixing and identification equipment shall be installed and maintained in working order on each such vessel;

   (j) ensure that the vessel is marked in accordance with regulations issued by the Authority while within the exclusive economic zone;

   (k) require that the National Government of the Federated States of Micronesia shall be reimbursed for the cost of authorized observers;

   (l) appoint and maintain an agent within the Federated States of Micronesia who is authorized to receive and respond to any legal process issued in the Federated States of Micronesia with respect to such owner or operator of such vessel; and

   (m) not, in any year, exceed such party's allocation of the total allowable level of foreign fishing, in the event allocations are established in accordance with this title.

(3) Foreign parties will:

   (a) apply, pursuant to section 109 of this title, for any required permits;

   (b) deliver promptly to the owner or operator of the appropriate fishing vessel any permit which is issued
under that section for such vessel; and
(c) abide by the requirement that no foreign
fishing will be permitted in the exclusive economic zone
without a valid and applicable permit, except as provided
by foreign fishing agreements concluded pursuant to this
chapter, and that all conditions and restrictions of the
permit, or any applicable foreign fishing agreement, are
complied with."

Section 34. Section 406 of title 24 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:
"Section 405. Approval of foreign and domestic-based
fishing agreements.
(1) To take effect within the exclusive economic
zone, a foreign fishing agreement or domestic-based fishing
agreement shall require the approval of the Congress of the
Federated States of Micronesia by resolution.
(2) The Committee on Resources and Development of the
Congress of the Federated States of Micronesia shall
approve such an agreement if the Congress is not in session.
(3) An agreement involving fewer than ten vessels
does not require the approval of the Congress of the
Federated States of Micronesia."

Section 35. Title 24 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 406 to
read as follows:
"Section 406. Domestic-based fishing agreements. No domestic-based fishing vessels shall be issued a permit to fish in the exclusive economic zone without having entered into a domestic-based fishing agreement. Such fishing agreement shall have the same minimum terms required of foreign fishing agreements by section 404 of this title."

Section 36. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 407 to read as follows:

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

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

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

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

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

Section 37. Section 416 of title 24 of the Code of the
Federated States of Micronesia is hereby renumbered as section 408.

Section 38. Section 501 of title 24 of the Code of the
Federated States of Micronesia, as amended by Public Law No. 5-37,
is hereby further amended to read as follows:

"Section 501. Prohibited acts.

(1) It is unlawful for any person:

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

(b) to engage in fishing after revocation, or
during the period of suspension, of an applicable permit
issued pursuant to this title;

(c) to violate any provision of, or regulation
under, an applicable domestic-based or foreign fishing
agreement entered into pursuant to sections 401 and 404
through 406 of this title or any term or condition of any
permit issued in accordance with this title and any
regulations made under this title;

(d) to violate any provision of any applicable
foreign fishing treaty, agreement or arrangement or the
terms of any regional fishing license recognized in
accordance with this title;

(e) to refuse to permit any authorized officer
to board a fishing vessel for purposes of conducting any
search or inspection in connection with the enforcement
of this title or any regulation, permit, or foreign or
domestic-based fishing agreement or any applicable fishing
treaty, agreement or arrangement;
(f) to assault, obstruct, resist, delay, refuse
boarding to, intimidate, or interfere with any authorized
officer or authorized observer in performance of his duties,
including in the conduct of any search or inspection
described in paragraph (e) of this subsection; and for the
purposes of this subparagraph, any person who refuses to
allow any authorized officer or observer, or any person
acting under his order or in his aid, to exercise any of
the powers conferred on an authorized officer or observer
by this title or any regulations made under this title
shall be deemed to be obstructing that officer, observer,
or person;
(g) to fail to comply with the lawful require-
ments of any authorized officer or observer;
(h) to furnish to any authorized officer any
particulars which, to his knowledge, are false or mis-
leading in any respect;
(i) being on board any vessel being pursued or
about to be boarded by any authorized officer, to throw
overboard or destroy any fish, fishing gear, explosive,
poison, or other noxious substance to avoid seizure of such
fish, fishing gear, explosive, poison, or other noxious
substance or thing or to avoid the detection of any offense
under this title or the regulations made under this title;
(j) to resist a lawful arrest for any act
prohibited by this section;
(k) to provide information required to be
recorded, notified or communicated pursuant to any
requirement of the provisions of this title or the
regulations, knowing or having reasonable cause to believe
that it is false, incomplete or misleading;
(l) to knowingly ship, transport, offer for
sale, sell, purchase, import, export, or have custody,
control, or possession of any fish taken or retained in
violation of this title or any regional fishing treaty,
regulation, permit, foreign or domestic-based fishing
agreement or any applicable law;
(m) to interfere with, delay, or prevent, by
any means, the apprehension or arrest of another person,
knowing that such person has committed any act prohibited
by this section;
(n) to violate any provision of, or regulation
under, any applicable agreement to implement a regional
fisheries treaty, or any other treaty, agreement or
arrangement having effect in the Federated States of
Micronesia, entered into pursuant to section 106 of this
title; or

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

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

Section 39. Section 503 of title 24 of the Code of the
Federated States of Micronesia, as amended by Public Law No. 5-37, is
hereby further amended to read as follows:

"Section 503. Criminal penalties.

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

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

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

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

Section 40. Section 504 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 504. Forfeitures - Liability.

(1) Any fishing vessel involved in the commission of any act prohibited by section 501 of this chapter shall, along with its fishing gear, furniture, appurtenances, stores, or cargo used, be forfeited to the Federated States of Micronesia."
(2) Any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 501 of this chapter shall be forfeited to the Federated States of Micronesia upon the commission of the act giving rise to forfeiture under this section.

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

Section 41. Section 505 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 505. Forfeitures - Jurisdiction. The Supreme Court of the Federated States of Micronesia shall have jurisdiction, upon application by the Attorney General or the executive director on behalf of the Federated States of Micronesia, to order any forfeiture authorized under section 504 of this chapter."

Section 42. Section 506 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 506. Forfeitures - Seizures. If a judgment is entered for the Federated States of Micronesia in a civil forfeiture proceeding under sections 504 through 509 of this chapter, the Attorney General shall seize any property or other interest declared forfeited to the Federated States of Micronesia, which has not previously been seized pursuant to this title."
Section 43. Section 507 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

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

Section 44. Section 509 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 509. Forfeitures — Disposition of perishable articles.

(1) Any fish, fish products, or other perishable articles seized or taken pursuant to this title may be sold, subject to the approval and direction of the Court. The proceeds of any such sale shall be deposited with such Court pending the disposition of the civil forfeiture proceeding.

(2) For purposes of this title, it shall be a rebuttable presumption that:

(a) All fish found on board a fishing vessel which is seized or taken in connection with an act prohibited by section 501 of this chapter were taken or retained in violation of this title; and

(b) All fish found on board a transiting fishing vessel which vessel has been used in the commission of an
offense in the exclusive economic zone, shall be deemed to
have been caught in the exclusive economic zone."

Section 45. Section 511 of title 24 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:

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

(2) The Court may at any time enter restraining
orders or prohibitions; issue warrants, process in rem, or
other processes; prescribe and accept satisfactory bonds or
other security; and take such other actions as are in the
interests of justice."

Section 46. Section 512 of title 24 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:

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

Section 47. Section 513 of title 24 of the Code of the
Federated States of Micronesia is hereby amended to read as follows:

"Section 513. Enforcement authority.

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

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

(b) Stop, board and search:

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

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

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

(d) Make such examination and inquiry as may
appear necessary to him concerning any premises, fish
processing establishment, vessel or vehicle in relation to
which any of the powers conferred by this section have
been, or may be exercised and take samples of any fish, or
fish products, found therein;

(e) Require any person to produce his permit or
his authority if it appears to the authorized officer that
such person is doing any act for which a permit or other
authority is required under this title and take copies of
any such license or other authority;
(f) Require any person to produce any logbook, record or other document required to be held by him under this title or any regulations made under this title and take copies of such logbook, record or other document.

(2) Where he has reasonable cause to believe that an offense against the provisions of this title or any regulations made under this title has been committed, any authorized officer may, with or without a warrant or other process:

(a) Following hot pursuit in accordance with international law and commenced within the fishery waters, stop, board and search inside or outside the fishery waters any fishing vessel which he believes has been used in the commission of that offense within the fishery waters or in relation to which he believes such offense has been committed and bring such vessel and all persons and things on board within the fishery waters;

(b) Within the fishery waters:

(i) Arrest any person if he has reasonable cause to believe that such person has committed an offense prohibited by this title or any regulations issued under this title;

(ii) Seize any fishing vessel used or employed in, or when it reasonably appears to have been used or employed in, the violation of any provision of this
title or any regulations issued under this title;

(iii) Seize any fishing gear, furniture, appurtenances, stores, cargo, and fish in or on a fishing vessel seized pursuant to this section; and

(iv) Seize any fish which he reasonably believes to have been taken or fish products produced in violation of any provision of this title or any regulations issued under this title.

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

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

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

Section 48. Title 24 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 515 to read as follows:

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

Section 49. Title 24 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 516 to
read as follows:

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

Section 50. Nothing in this act shall be construed to require
changes in foreign fishing agreements in effect on the day preceding
the effective date of this act nor shall this act impose any added
burdens on any person or vessel fishing in the exclusive economic
zone pursuant to such agreements.

Section 51. This act shall take effect 30 days after the day on
which the act shall have become law.
Section 52. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

\[\text{Becomes Law W/out Signature 7/21/89}\]

John E. Hagelgarn
President
Federated States of Micronesia