

A BILL FOR AN ACT

To further amend sections 101, 102, 103, 106, 201, 205, 402, 407, 603, 606, 611, 701, 907 and 910 of title 24 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 18-109, to enhance the ability of the National Government of the Federated States of Micronesia to enforce in the territory or exclusive economic zone and other zones where FSM-flagged or FSM-licensed vessels undertake fishing activities, the national fishery laws, regulations, and the international obligations entered into by the Federated States of Micronesia relating to conservation, sustainable exploitation and management of fishery resources, taking into consideration the national development needs and aspirations of the FSM, and for other purposes.

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

1           Section 1. Section 101 of title 24 of the Code of  
2 the Federated States of Micronesia (Annotated), is hereby  
3 amended to read as follows:

4                   "Section 101. Purpose of this subtitle.

5                   (1) The purpose of this subtitle is to ensure  
6                   the sustainable development, conservation and  
7                   use of the marine resources in the exclusive  
8                   economic zone by promoting development of, and  
9                   investment in, fishing and related activities  
10                  in the context of effective stewardship and to  
11                  regulate fishing and related activities of  
12                  vessels entitled to fly the flag of the  
13                  Federated States of Micronesia beyond the  
14                  fishery waters.

1                   (2) This act may be referred to as the  
2                   'Marine Resources Act of 2002'."

3           Section 2. Section 102 of title 24 of the Code of  
4 the Federated States of Micronesia (Annotated) is hereby  
5 amended to read as follows:

6                   "Section 102. Definitions. In this subtitle,  
7                   except where otherwise specified, the following  
8                   terms shall have the meanings stated below:

9                   (1) 'Access agreement' means a treaty,  
10                   agreement or arrangement entered into by the  
11                   Authority pursuant to this act in relation to  
12                   access to the exclusive economic zone for  
13                   fishing by foreign fishing vessels, and includes  
14                   bilateral and multilateral instruments  
15                   applicable at the national, subregional,  
16                   regional or international level.

17                   (2) 'Administrator' means the director of a  
18                   regional fisheries agency or any other  
19                   organization or person authorized, pursuant to  
20                   section 106 of chapter 1 of this subtitle, to  
21                   administer a fisheries access agreement or  
22                   fisheries management agreement to which the  
23                   Federated States of Micronesia is party.

24                   (3) 'Agent' includes a person appointed or  
25                   designated by a foreign fishing company to act

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1 as the legal representative of that company  
2 within the Federated States of Micronesia,  
3 including acceptance of and response to legal  
4 process, pursuant to section 404(4)(a) of  
5 chapter 4 of this subtitle.

6 (4) 'Aircraft' means any craft capable of  
7 self-sustained movement through the atmosphere  
8 and includes helicopters.

9 (5) 'Atoll' means a naturally formed coral  
10 reef system which has one or more islands  
11 situated on the reef system, including, but not  
12 limited to, Ngulu, Ulithi, Sorol, Eauripik,  
13 Woleai, Faraulep, Ifalik, Olaimarao, Elato,  
14 Lamotrek, West Fayu, Puluwat, Pulap, Pulusuk,  
15 Namonuito, Kuop, Nomowin, Murilo, Losap,  
16 Namoluk, Satawan, Etal, Lukunor, Minto Reef,  
17 Oroluk, Nukuoro, Kapingamarangi, Pakin, Ant,  
18 Sapwuahfik, Mwoakilloa and Pingelap.

19 (6) 'Authority' means the National Oceanic  
20 Resource Management Authority established by  
21 section 201 of chapter 2 of this subtitle.

22 (7) 'Authority observer' means any person  
23 authorized in writing by the Authority to act as  
24 an observer on fishing vessels for the purposes  
25 of this subtitle, including any observer

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1 authorized pursuant to the provisions of an  
2 access agreement or a fisheries management  
3 agreement.

4 (8) 'Authorized officer' means any person or  
5 category of persons designated pursuant to  
6 section 602 of chapter 6 of this subtitle as an  
7 authorized officer.

8 (9) 'Automatic location communicator' or  
9 'mobile transceiver unit' or 'transponder' means  
10 a Forum Fisheries Agency (FFA) approved device  
11 placed on a fishing vessel that transmits either  
12 in conjunction with another device or devices or  
13 independently, information concerning the  
14 position, fishing and such other activities of  
15 the vessel.

16 (10) 'Based in the Federated States of  
17 Micronesia' means using land-based facilities in  
18 the Federated States of Micronesia to support  
19 fishing, including location of the home port of  
20 a vessel in the Federated States of Micronesia,  
21 landing or transshipping all fish harvested  
22 within the exclusive economic zone and/or  
23 operating under a joint venture arrangement in  
24 the Federated States of Micronesia, or under  
25 arrangements where the operator of a vessel is

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1 participating in shore-based developments or is  
2 otherwise making a substantial contribution to  
3 the development of the domestic tuna industry.

4 (11) 'Buy' includes:

5 (a) barter or attempt to barter;

6 (b) purchase or attempt to purchase;

7 (c) receive on account or consignment;

8 (d) purchase or barter for future goods

9 or for any consideration of value; and

10 (e) purchase or barter as an agent for

11 another person, and 'buyer' shall have a

12 corresponding meaning.

13 (12) 'by-catch' means all living and non-  
14 living organisms incidentally caught while  
15 fishing for target species, including any by-  
16 products and discard forming part of the catch  
17 not retained on board the vessel during such  
18 fishing operation.

19 (13)[~~(12)~~] 'Citizen' means a person who is a  
20 citizen of the Federated States of Micronesia.

21 (14)[~~(13)~~] 'Closed area' means an area in which  
22 fishing is prohibited.

23 (15)[~~(14)~~] 'Closed season' means a period of  
24 time during which fishing is prohibited.

25 (16)[~~(15)~~] 'Commercial fishing' means any

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1 fishing resulting or intending or appearing to  
2 result in the sale or trade of any fish which  
3 may be taken during the fishing operation, and  
4 does not include subsistence fishing. For the  
5 purposes of this act, the following shall be  
6 presumed to be commercial fishing:

7 (a) use of a vessel for fishing which  
8 measures twenty-seven (27) feet or more in  
9 overall length;

10 (b) use of more than one vessel for  
11 fishing which is owned by a single person for  
12 the primary purpose of selling or trading any  
13 fish.

14 (17)~~(16)~~ 'Commercial pilot fishing' means any  
15 fishing for the purpose of testing the  
16 commercial viability of:

17 (a) new fishing methods;

18 (b) developing new stocks of fish; or

19 (c) fishing in previously unexploited  
20 areas.

21 (18)~~(17)~~ 'Court' means the Supreme Court of  
22 the Federated States of Micronesia.

23 (19)~~(18)~~ 'Domestic fishing' means any fishing  
24 by a local fishing vessel longer than twenty-  
25 seven (27) feet in overall length, but not

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1 including commercial pilot fishing, and  
2 'domestic fishing vessel' shall have a  
3 corresponding meaning.

4 [~~(19)~~ (Reserved)]

5 (20) (Reserved)

6 (21) 'Drift net' means a gillnet or other net  
7 or arrangement of nets which is more than 2.5  
8 kilometers (1.56 miles) in length, the purpose  
9 of which is to enmesh, entrap or entangle fish.

10 (22) 'Drift net fishing activities' includes  
11 fishing with the use of a drift net and any  
12 related activities including transporting,  
13 transshipping and processing any drift net  
14 catch, and provisioning of food, fuel and other  
15 supplies for vessels used or outfitted for drift  
16 net fishing.

17 (23) 'Exclusive economic zone' means the  
18 exclusive economic zone as defined in title 18  
19 of the Code of the Federated States of  
20 Micronesia.

21 (24) 'Executive Director' means the individual  
22 appointed by the Authority to be in charge of  
23 the daily activities and operation of the  
24 authority and to perform such other functions as  
25 required by this subtitle.

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1 (25) 'Export' means to:

2 (a) send or take out of the country;

3 (b) attempt to send or take out of the  
4 country;

5 (c) receive on account or consignment  
6 for purposes of paragraph (a) or (b) above;

7 (d) act as an agent for another person  
8 for purposes of (a) through (c) above; and

9 (e) carry or transport anything for  
10 purposes of paragraphs (a) through (d) of this  
11 subsection, and 'exporter' shall have a  
12 corresponding meaning.

13 (26) 'Fish' means any living marine resource.

14 (27) 'Fish aggregating device' means [~~any man-~~  
15 ~~made or party man-made floating or not, intended~~  
16 ~~for the purpose of aggregating fish, and~~  
17 ~~includes any natural floating object on which a~~  
18 ~~device has been placed to facilitate its~~  
19 location] an object or group of objects, of any  
20 size, that has or has not been deployed, that is  
21 living or non-living, including but not limited  
22 to buoys, floats, netting, webbing, plastics,  
23 bamboo, logs and whale sharks floating on or  
24 near the surface of the water that fish may  
25 associate with.



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1           (28) 'Fish processing' means the producing of  
2           any substance or article from fish by any method  
3           and includes the cutting up, dismembering,  
4           cleaning, sorting, loining, freezing, canning,  
5           salting, preserving and reduction of fish.

6           (29) 'Fisheries management agreement' means  
7           any agreement, arrangement or treaty in force to  
8           which the Federated States of Micronesia is a  
9           party, not including any access agreement, which  
10          has as its primary purpose cooperation in or  
11          coordination of fisheries management measures in  
12          all or part of the region, or implementation of  
13          a multilateral access agreement, including, but  
14          not limited to, fisheries monitoring, control  
15          and surveillance and establishing criteria or  
16          requirements for fishing and fisheries access.

17          (30) 'Fishery' or 'Fisheries' means one or  
18          more stock of fish or any fishing operation  
19          based on such stocks which can be treated as a  
20          unit for purposes of conservation and  
21          management, taking into account geographical,  
22          scientific, technical, recreational, economic  
23          and other relevant characteristics.

24          (31) 'Fishery waters' means the exclusive  
25          economic zone, the territorial sea and internal

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1 waters as described in title 18 of the Code of  
2 the Federated States of Micronesia, and any  
3 other waters over which the Federated States of  
4 Micronesia claims sovereignty or sovereign  
5 ~~[R]~~rights.

6 (32) 'Fishing' means:

7 (a) ~~[actual or attempted]~~ searching for,  
8 catching, taking or harvesting fish;

9 (b) attempting to search for, catch,  
10 take or harvest fish;

11 ~~[(b)]~~(c) engaging in any other activity which  
12 can reasonably be expected to result in the  
13 locating, catching, taking or harvesting of fish  
14 for any purpose;

15 ~~[(c)]~~(d) the placing, searching for or  
16 recovering fish aggregating devices or  
17 associated electronic equipment such as radio  
18 beacons;

19 ~~[(d)]~~(e) any operations at sea directly in  
20 support of, or in preparation for, any activity  
21 described in sub-paragraphs (a) to (d), except  
22 for operations defined as related activities in  
23 subsection (62) of this section;

24 ~~[(e)]~~(f) the use of any other vessel,  
25 vehicle, aircraft or hovercraft, ~~[in relation~~

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1           ~~to~~] for any activity described in [~~this~~  
2           ~~subsection~~] sub-paragraphs (a) to (e) except for  
3           ~~flights in~~] emergencies involving the health  
4           and safety of crew or the safety of a vessel.

5           (33) 'Fishing day' means any calendar day, or  
6           part of a calendar day, during which a fishing  
7           vessel is in the fishery waters outside of a  
8           port, but does not include any calendar day, or  
9           part of a calendar day on which the fishing  
10          vessel is not engaged in fishing or related  
11          activities.

12          ~~(33)~~(34) 'Fishing gear' means any equipment,  
13          implement, or other thing that can be used in  
14          the act of fishing, including any fishing net,  
15          rope, line, float, trap, hook, winch, boat,  
16          beacon or locating device, aircraft or  
17          helicopter.

18          ~~(34)~~(35) 'Fishing vessel' means any vessel,  
19          boat, ship or other craft which is used for,  
20          equipped to be used for or of a type that is  
21          normally used for fishing as the term fishing is  
22          defined in subsection ~~(33)~~(32) of this  
23          section.

24          ~~(35)~~(36) 'Flag fishing vessel' means any  
25          foreign fishing vessel that is [~~registered in~~]

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1           entitled to fly the flag of the Federated States  
2           of Micronesia pursuant to title 18 of the Code  
3           of the FSM and any domestic fishing vessel.  
4           ~~[(36)]~~(37) 'Foreign fishing' means any fishing  
5           not defined as domestic fishing, and not  
6           including commercial pilot fishing or fishing  
7           from a local fishing vessel less than or equal  
8           to twenty-seven (27) feet in overall length.  
9           ~~[(37)]~~(38) 'Foreign fishing vessel' means any  
10          ~~[fishing vessel other than a local fishing]~~  
11          vessel, ship or other craft which is used for,  
12          equipped to be used or of a type that is  
13          normally used for fishing which operates in the  
14          fisheries waters of an FFA Member and is not  
15          part of the domestic fleet of that FFA member.  
16          ~~[(38)]~~(39) 'Foreign party' means a noncitizen  
17          party to an access agreement or a party to an  
18          access agreement that is at least twenty percent  
19          foreign-owned.  
20          ~~[(39)]~~(40) 'Foreign recreational fishing' means  
21          fishing using a foreign fishing vessel for  
22          recreational or sport purposes.  
23          (41) "Full insurance coverage" means insurance  
24          cover for:  
25                  (a) personal injury;

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1                    (b) loss of life;  
2                    (c) loss of equipment and personal  
3                    effects;  
4                    (d) medical coverage, including medical  
5                    evacuation if required;  
6                    (e) repatriation costs if required; and  
7                    (f) losses arising from the action,  
8                    inaction or activity of the authorized observer  
9                    whilst on board or in the service of the  
10                   vessel.”

11                   ~~[(40)]~~(42) 'High seas' means all parts of the  
12                   sea that are not included in the exclusive  
13                   economic zone, in the territorial sea, or in  
14                   the internal water of any nation, or in the  
15                   archipelagic waters of an archipelagic nation.

16                   ~~[(41)]~~(42) 'Internal waters' means waters on  
17                   the landward side of the baseline of the  
18                   territorial sea of any island within the  
19                   Federated States of Micronesia.

20                   (43) 'international conservation and  
21                   management measures' means measures to conserve  
22                   or manage fish that are adopted and applied by  
23                   an organization or arrangement to which the  
24                   Federated States of Micronesia is a member and  
25                   is required to apply.

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1            [~~(42)~~](44) 'Island' means a naturally formed  
2            area of land surrounded by water, which is  
3            above water at high tide.

4            (45) 'licensing member' or 'FFA member' means  
5            a party to the South Pacific Forum Fisheries  
6            Agency Convention, 1979.

7            (46)[~~(43)~~] 'Local fishing vessel' means any  
8            fishing vessel wholly owned and controlled by:

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

12                   (b) one or more natural persons who are  
13                   citizens of the Federated States of Micronesia;

14                   (c) any corporation, company, society,  
15                   or other association of persons incorporated or  
16                   established under the laws of the Federated  
17                   States of Micronesia or of any State and which  
18                   is wholly owned and controlled by one or more  
19                   of the entities or persons described in  
20                   paragraphs(a) or (b) of this subsection; and

21                   (d) any combination of persons or  
22                   entities described in paragraphs (a) through  
23                   (c) of this subsection.

24            (47)[~~(44)~~] 'Master' in relation to any fishing  
25            vessel means the person in charge or apparently

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1 in charge of that vessel.

2 (48)~~[(45)]~~ 'Multilateral access agreement'  
3 means an access agreement between a foreign  
4 party and one or more regional parties, to  
5 which the Federated States of Micronesia is a  
6 party.

7 (49) 'net sharing' means the transfer of any  
8 fish or fish products from any vessel to any  
9 vessel belonging to the same owner in the last  
10 set of a fishing trip provided that such  
11 transfer is authorized by the Authority and in  
12 accordance with any conditions required in  
13 writing by the Authority or prescribed by  
14 regulations.

15 (50)~~[(46)]~~ 'Officer' means any authorized  
16 officer or national police officer, and  
17 includes any officer of a vessel or aircraft  
18 used for the enforcement of this act, whether  
19 or not such officers are officials of the  
20 Government of the Federated States of  
21 Micronesia or of one of the four State  
22 governments.

23 (51)~~[(47)]~~ 'Operator' means any person who is  
24 in charge of, directs or controls a fishing  
25 vessel, or for whose direct economic or

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1 financial benefit a vessel is being used,  
2 including the owner, charterer and master.  
3 (52)~~(48)~~ 'Owner' in relation to a fishing  
4 vessel means any person exercising or  
5 discharging or claiming the right or accepting  
6 the obligation to exercise or discharge any of  
7 the powers or duties of an owner, whether on  
8 his own behalf or on behalf of another, and  
9 includes a person who owns the vessel jointly  
10 with any other person or persons and any  
11 manager, director or secretary of any corporate  
12 body or company that holds an ownership  
13 interest in the vessel.  
14 (53)~~(49)~~ 'Permit' means any permit issued  
15 under this subtitle or under an access  
16 agreement entered into pursuant to this  
17 subtitle.  
18 (54)~~(50)~~ 'Person' means any natural person or  
19 business enterprise and includes, but is not  
20 limited to, a corporation, partnership,  
21 cooperative, association, the government of any  
22 of the four States, or any political  
23 subdivision thereof, and any foreign  
24 government, subdivision of such government or  
25 other entity.



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1            (55)~~(51)~~ 'Port sampler' means a category of  
2            authorized observer who performs duties at a  
3            point of transshipment or port located either  
4            inside or outside the Federated States of  
5            Micronesia.

6            (56)~~(52)~~ 'Recreational fishing' means fishing  
7            for sport or leisure.

8            (57)~~(53)~~ 'Region' means that area of land and  
9            ocean which falls within the sovereignty and  
10           sovereign rights of the member countries of the  
11           [~~South~~] Pacific Islands Forum Fisheries Agency,  
12           whose headquarters are located in Honiara,  
13           Solomon Islands, and includes high seas within  
14           such area, and for the purposes of data  
15           collection, includes that area of the Western  
16           and Central Pacific Ocean which falls within  
17           the jurisdiction and sovereign rights of the  
18           member countries of the Secretariat of the  
19           Pacific Community located in Noumea, New  
20           Caledonia, and 'regional' shall have a  
21           corresponding meaning.

22           (58)~~(54)~~ 'Regional access license' means a  
23           regional access license issued to any fishing  
24           vessel of a party to a multilateral access  
25           agreement or fisheries management agreement, in

1           accordance with such agreement.

2           (59) 'Regulation' or 'Regulations' means any  
3           regulation which may be promulgated by the  
4           Authority pursuant to this act.

5           (60)[(55)] 'Related activities' in relation to  
6           fishing means:

7                       (a) transshipment;

8                       (b) refueling or supplying fishing  
9           vessels, selling or supplying fishing  
10          equipment, or performing either activity in  
11          support of fishing; and

12                      (c) on-shore storing, buying or  
13          processing fish or fish products from the time  
14          they are first landed.

15          (61)[(57)] 'Secretary' means the Secretary of  
16          the Department of Justice.

17          (62)[(58)] 'Sell' includes the exchange of any  
18          fish or fish product or other thing for cash or  
19          for anything which has value or which can be  
20          exchanged for cash, and includes any exchange  
21          by barter.

22          (63)[(59)] 'Shark' means any fish of the taxon  
23          Elasmobranchii.

24          (64)[(60)] 'Shark Fin' means any fin of a shark  
25          including caudal fins.

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1            (65)~~(61)~~ 'Stock of fish' means a species,  
2            subspecies or other category of fish identified  
3            on the basis of geographical, scientific,  
4            technical, recreational and economic  
5            characteristics which can be treated as a unit  
6            for purposes of conservation and management.

7            (66)~~(62)~~ 'Subsistence fishing' means fishing  
8            by a citizen or a resident substantially for  
9            personal consumption, and does not include any  
10           fishing resulting or intending or appearing to  
11           result, directly or indirectly, in the sale or  
12           trading of any fish which may be taken during  
13           the fishing operations.

14           (67)~~(63)~~ 'Transponder' [or] has the same  
15           meaning as 'automatic location communicator'  
16           ~~[means a device placed on a fishing vessel that~~  
17           ~~transmits, either in conjunction with another~~  
18           ~~device or devices or independently, information~~  
19           ~~concerning the position, fishing and other~~  
20           ~~activities of the vessel].~~

21           (68)~~(64)~~ 'Transshipment' means the transfer of  
22           any or all fish ~~[or fish products]~~ on board a  
23           fishing vessel to ~~[or from any]~~ another vessel  
24           ~~[or aircraft for the purpose of transporting~~  
25           ~~such fish or fish products elsewhere]~~ either at

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1           sea or in port, and includes net sharing.

2           (69)[(+65)] 'United Nations Agreement' means the  
3           agreement for the implementation of the  
4           provisions of the United Nations Convention on  
5           the Law of the Sea of 10 December [~~1992~~] 1982  
6           relating to the conservation and management of  
7           straddling fish stocks and highly migratory  
8           fish stocks.

9           (70) 'United Nations Convention' means the  
10          United Nations Convention on the Law of the  
11          Sea, 1982.

12          (71)[(+67)] 'Vehicle' means any car, truck, van,  
13          bus, trailer or other powered land conveyance.

14          (72)[(+68)] 'Vessel' means any boat, ship, canoe  
15          or other water-going craft."

16          (73) 'Vessel Monitoring System' or "VMS" means  
17          the systems employed by FFA members and  
18          coordinated by the FFA to monitor the position  
19          and activities of fishing vessels for the  
20          purpose of effective management fisheries.

21          (74) 'zone' means the exclusive economic zone  
22          or fisheries zone of an FFA member of the  
23          Pacific Islands Forum Fisheries Agency."

24          Section 3. Section 103 of title 24 of the Code of  
25          the Federated States of Micronesia (Annotated), is hereby

1 amended to read as follows:

2 "Section 103. Fishing permits and related  
3 activities permits required - commercial."  
4 No domestic fishing, commercial pilot fishing,  
5 foreign fishing or such other fishing or  
6 related activity as may be prescribed shall be  
7 allowed in the exclusive economic zone unless  
8 it is in accordance with:

9 (1) a valid and applicable permit issued  
10 under authority conferred by this subtitle or  
11 its regulations; or

12 (2) a valid and applicable license issued by  
13 an administrator pursuant to a multilateral  
14 access agreement entered into pursuant to  
15 section 106 of chapter 1 of this subtitle."

16 Section 4. Section 106 of title 24 of the Code of  
17 the Federated States of Micronesia (Annotated), is hereby  
18 amended to read as follows:

19 "Section 106. Fisheries management agreements;  
20 multilateral access agreements.

21 (1) Notwithstanding any other provision of  
22 this subtitle, the Authority is authorized to  
23 enter into fisheries management agreements for  
24 cooperation in or coordination of fisheries  
25 management measures in all or part of the

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1 region or for the implementation of a  
2 multilateral access agreement. Such agreements  
3 may, among other things, at the Authority's  
4 discretion, include provisions for the  
5 following:

6 (a) authorization of a person, body or  
7 organization to perform functions required by a  
8 multilateral access agreement, including, but  
9 not limited to, the allocation, issuance and  
10 denial of fishing licenses valid in the region  
11 or part thereof, including the exclusive  
12 economic zone;

13 (b) an observer program;

14 (c) a port sampling program;

15 (d) fisheries monitoring and control;

16 and

17 (e) any other matter relating to  
18 fisheries management.

19 (2) For the purpose of giving effect to a  
20 multilateral access agreement or fisheries  
21 management agreement, the Authority may, in  
22 writing:

23 (a) exempt any foreign fishing vessel,  
24 holding a valid fishing license issued pursuant  
25 to a multilateral access agreement, from any

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1 requirement of this subtitle which is  
2 inconsistent with the terms of such agreement;

3 (b) implement the establishment of  
4 closed areas, closed seasons and such other  
5 management measures as may be agreed upon  
6 pursuant to a fisheries management agreement;

7 (c) authorize observers designated under  
8 an observer program entered into pursuant to  
9 subsection (1)(b) of this section to perform  
10 such duties and responsibilities as may be  
11 required by such agreement;

12 (d) prescribe or otherwise require the  
13 conditions to be observed by operators of  
14 foreign fishing vessels exempted under  
15 paragraph (a) of this subsection;

16 (e) prescribe or otherwise require the  
17 conditions to be observed by flag vessels and  
18 citizens for fishing outside the exclusive  
19 economic zone, in accordance with any access  
20 agreement or fisheries management agreement to  
21 which the Federated States of Micronesia may be  
22 party.

23 (3) For the purpose of giving effect to  
24 international conservation and management  
25 measures and decisions of an organization

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1           established under a fisheries management  
2           agreement, the Authority may prescribe  
3           regulations or attach such conditions to a  
4           permit, or authorization to fish or conduct  
5           related activities as the Authority may  
6           consider necessary or expedient for this  
7           purpose.

8           (4) The provisions of this subtitle  
9           concerning the application of  
10          international conservation and management  
11          measures do not apply to the internal  
12          waters and territorial sea of the  
13          Federated States of Micronesia as defined  
14          under the Title 18 of the Code of the  
15          Federated States of Micronesia, without  
16          the express consent of each of the states  
17          of the Federated States of Micronesia."

18          Section 5. Section 204 of title 24 of the Code of  
19 the Federated States of Micronesia (Annotated), is hereby  
20 amended to read as follows:

21                 "Section 204. Authority – adoption of  
22                 regulations.

23                 (1) The Authority shall have the authority  
24                 to:

25                         (a) adopt regulations for the



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1 management, development and sustainable use of  
2 fisheries resources in the exclusive economic  
3 zone;

4 (b) adopt regulations applicable to  
5 related activities as defined in section 102 of  
6 this subtitle;

7 (c) adopt regulations in relation to  
8 fisheries monitoring and control;

9 (d) adopt regulations to implement  
10 access agreements and fisheries management  
11 agreements;

12 (e) adopt regulations relating to the  
13 confidentiality of information consistent with  
14 section 208 of this subtitle;

15 (f) adopt regulations for the issuance  
16 of citations and assessment of administrative  
17 penalties consistent with chapter 7 of this  
18 subtitle;

19 (g) adopt regulations relating to  
20 compliance by citizens and fishing vessels of  
21 the Federated States of Micronesia which engage  
22 in fishing or related activities on the high  
23 seas or outside the [~~internal waters, the~~  
24 ~~territorial sea or exclusive economic zone of~~  
25 ~~the Federated States of Micronesia] fishery~~

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1           waters with applicable laws of foreign states  
2           and with applicable access agreements or  
3           fisheries management agreements;

4                   (h) adopt regulations relating to marine  
5           scientific research and training;

6                   (i) adopt regulations relating to  
7           observer programs and port sampling programs;  
8           and

9                   (j) adopt, in consultation with relevant  
10          State or national agencies, regulations  
11          consistent with the international obligations  
12          of the Federated States of Micronesia to  
13          prohibit the entry and use of ports and  
14          facilities by vessels that have been engaged in  
15          fishing or related activities that undermine  
16          international conservation and management  
17          measures;

18          (k)[~~(j)~~] adopt any other regulations deemed  
19          necessary for the implementation of this  
20          subtitle."

21                   (2) Regulations adopted by the Authority  
22          shall have the full force and effect of law,  
23          and shall be considered an integral part of  
24          this subtitle."

25          Section 6. Section 205 of title 24 of the Code of

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1 the Federated States of Micronesia (Annotated), is hereby  
2 amended to read as follows:

3           "Section 205. Authority - duties and  
4           functions. In addition to the regulatory  
5           authority granted in the preceding section, the  
6           Authority shall have the following duties and  
7           functions:

8           (1) to provide technical assistance in the  
9           delimitation of the exclusive economic zone in  
10          accordance with section 107 of title 18 of the  
11          Code of the Federated States of Micronesia;

12          (2) to negotiate, conclude and implement  
13          access agreements and fisheries management  
14          agreements in accordance with sections 105 and  
15          106 of chapter 1 of this subtitle and chapters  
16          4 and 5 of this subtitle;

17          (3) to issue fishing permits in accordance  
18          with this subtitle;

19          (4) to issue permits for fishing in the  
20          territorial sea or internal waters of an FSM  
21          State as authorized pursuant to section 118 of  
22          chapter 1 of this subtitle; (5) to regulate  
23          related activities in accordance with this  
24          subtitle;

25          (6) to coordinate and implement fisheries

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1 monitoring and control as required under this  
2 subtitle and under international treaties to  
3 which the Federated States of Micronesia is a  
4 party;

5 (7) to cooperate as appropriate with other  
6 nations or territories in the region and with  
7 foreign states fishing in the region and  
8 adjacent high seas area for the conservation  
9 and management of highly migratory fish stocks;

10 (8) to cooperate in and coordinate as  
11 appropriate with each FSM State on fisheries  
12 management measures in the exclusive economic  
13 zone and territorial sea;

14 (9) to convene and chair a Fisheries  
15 Management and Surveillance Working Group as  
16 set forth in section 207 of this chapter;

17 (10) to employ a full-time Executive Director  
18 and such other staff as it may deem necessary;

19 (11) to submit the Authority's budget and  
20 report regarding the expenditure of its funds  
21 to the Congress each regular session for  
22 review;

23 (12) to contribute to the planning of programs  
24 relating to fisheries, or fishing in the  
25 exclusive economic zone, in which an FSM State

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1 government or the Government of the Federated  
2 States of Micronesia, or any agency or  
3 subdivision thereof, has a proprietary  
4 interest, direct or indirect, by way of stock  
5 ownership, partnership, joint venture or  
6 otherwise; and

7 (13) to act as the authority responsible for  
8 implementing the international fisheries and  
9 related obligations of the Federated States of  
10 Micronesia including the verification of catch  
11 and issuance of catch certificates;

12 (14)[~~(13)~~] to perform such other duties and  
13 functions as may be necessary to carry out the  
14 purpose of this subtitle."

15 Section 7. Section 402 of title 24 of the Code of  
16 the Federated States of Micronesia (Annotated), is hereby  
17 amended to read as follows:

18 "Section 402. Negotiation of access  
19 agreements.

20 The Authority shall negotiate and enter into  
21 access agreements on behalf of the Government  
22 of the Federated States of Micronesia in  
23 accordance with this subtitle. Such agreements  
24 may, at the Authority's discretion:

25 (1) establish fees to be collected for

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1           permits issued under the access agreement;  
2           (2) establish a minimum or maximum number of  
3           vessels to be granted access under the  
4           agreement; and  
5           (3) establish a maximum number of fishing  
6           days or such other rights to be granted under  
7           an access agreement; and  
8           (4)[(3)] permit the rebate of access fees in  
9           accordance with section 403(2) of this  
10          subtitle, as the Authority deems appropriate at  
11          the end of the licensing period if the operator  
12          of any applicable vessel participated  
13          substantially in shore-based developments or  
14          otherwise made a substantial contribution to  
15          the development of the fishing industry of the  
16          Federated States of Micronesia."

17          Section 8. Section 407 of title 24 of the Code of  
18          the Federated States of Micronesia (Annotated), is hereby  
19          amended to read as follows:

20                 "Section 407. Related activities -  
21                 transshipment.

22                 (1) The operator of a foreign fishing vessel  
23                 shall:

24                         (a) not transship at sea under any  
25                         circumstances, except where specifically

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1 authorized by the Authority;

2 (b) provide seventy-two (72) hours  
3 notice to the  
4 Authority of a request to transship any or all  
5 of the fish on board and shall provide the name  
6 of the vessel, its international radio call  
7 sign, its position, the catch on board by  
8 species, the time and port where such  
9 transshipment is requested to occur and an  
10 undertaking to pay all fees required under the  
11 laws of the Federated States of Micronesia;

12 (c) only transship at the time and port  
13 authorized for transshipment; and

14 (d) comply with all conditions attached  
15 to the authorization for transshipment;

16 (e) pay such fees required by the  
17 Authority or prescribed by regulation; and

18 (f)[~~(d)~~] submit full reports on transshipping  
19 on such forms as may be required by the  
20 Authority or prescribed by regulation.

21 (g) shall allow and assist any person  
22 identified as an authorized officer or an  
23 officer of the licensing member full access to  
24 and use of facilities and equipment, which the  
25 officer may determine is necessary to carry out

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1 his duties; have full access to the bridge,  
2 fish on board and areas which may be used to  
3 hold, process, weigh and store fish; remove  
4 samples; have full access to the vessel's  
5 records, including its log and documentation  
6 for the purpose of inspection and photocopying;  
7 and gather any other information required to  
8 fully monitor the activity;

9 (h) shall not assault, obstruct, resist,  
10 delay, refuse boarding to, intimidate or  
11 interfere with any such officer in the  
12 performance of his duties.

13 (2) During transshipment in the Federated  
14 States of Micronesia the foreign party and  
15 operator of each vessel shall comply with all  
16 applicable National and State laws and  
17 regulations in the Federated States of  
18 Micronesia relating to protection of the  
19 environment, including without limitation,  
20 sewage holding tank requirements.

21 (3) Any person who violates subsection  
22 (1)(a), (1)(c), (1)(d), (1)(e), (1)(f), (1)(g),  
23 (1)(h) or (2) of this section shall be subject  
24 to a civil penalty of not less than \$75,000 and  
25 not more than \$275,000."



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1           Section 9. Section 603 of title 24 of the Code of  
2 the Federated States of Micronesia (Annotated), is hereby  
3 amended to read as follows:

4           "Section 603. Powers of authorized officers.  
5           (I) within the fishery waters.

6           (1) For the purposes of enforcing this  
7 subtitle, any authorized officer may:

8           (a) stop, board, remain on board and  
9 search any vessel in the fishery waters that he  
10 reasonably believes is a fishing vessel or a  
11 vessel which is used for, equipped to be used  
12 for or of a type that is normally used for  
13 related activities as the term related  
14 activities is defined in section 102 of chapter  
15 1;

16           ~~[(b) stop, board, remain on board~~  
17 ~~and search any flag fishing vessel outside of~~  
18 ~~the fishery waters;]~~

19           (b)[(c)] stop and search any vessel, vehicle  
20 or aircraft that he reasonably believes may be  
21 transporting fish or engaging in other  
22 activities relating to fishing;

23           (c)[(d)] require the master or any crew  
24 member or other person aboard to inform him of  
25 the name, call sign and country of registration

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1 of the vessel and the name of the master,  
2 owner, charterer and crew members;

3 (d)~~(e)~~ examine the master or any crew  
4 member or other person aboard about the cargo,  
5 contents of holds and storage spaces, voyage  
6 and activities of the vessel;

7 (e)~~(f)~~ make such examination and inquiry as  
8 may appear necessary concerning any vessel,  
9 vehicle or aircraft in relation to which any of  
10 the powers conferred by this subsection have  
11 been or may be exercised and take samples of  
12 any fish or fish product found therein;

13 (f)~~(g)~~ require to be produced, examine and  
14 take copies of any permit, logbook, record or  
15 other documents required under this subtitle or  
16 concerning the operation of any vessel or  
17 aircraft;

18 (g)~~(h)~~ make an entry dated and signed by  
19 him in the logbook of such vessel or aircraft;

20 (h) require to be produced and examine any  
21 fish, fishing gear or appliance, explosive,  
22 poison or other noxious substance;

23 ~~(j)~~ give directions to the master and  
24 any crew member of any vessel, vehicle or  
25 aircraft stopped, boarded or searched as may be

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1           necessary or reasonably expedient for any  
2           purpose specified in this subtitle or to  
3           provide for the compliance of the vessel,  
4           vehicle or aircraft, or master or any crew  
5           member with the conditions of any permit;  
6           (j)~~(k)~~ endorse any permit; and  
7           (k)~~(l)~~ arrest any person who assaults him  
8           or any other authorized officer in the exercise  
9           of his duties under this subtitle.

10           (2) Where an authorized officer has  
11           reasonable grounds to believe an offense  
12           against this subtitle is being or has been  
13           committed, he may without a warrant:

14                   (a) enter, inspect and search any  
15                   vessel, premises, other than premises used  
16                   exclusively as a dwelling house, in which he  
17                   has reasonable grounds to believe an offense  
18                   has been or is being committed or fish have  
19                   been taken illegally and are being stored;

20                   (b) stop, enter, search and stay in or  
21                   on any vessel, vehicle or aircraft which he  
22                   reasonably suspects of transporting fish or  
23                   fish products;

24                   (c) take samples of any fish found in  
25                   any vessel or vehicle inspected or within any

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1 premises searched under this subtitle;

2 (d) after hot pursuit of a foreign  
3 fishing vessel undertaken in accordance with  
4 international law and commenced within the  
5 fishery waters, stop, board and search outside  
6 the fishery waters any fishing vessel that he  
7 has reasonable grounds to believe has been used  
8 in the commission of an offense, exercise any  
9 powers conferred by this subtitle in accordance  
10 with international law, and bring such vessel  
11 and all persons and things on board within the  
12 fishery waters;

13 (e) seize:

14 (i) any vessel (including its  
15 fishing gear, equipment, stores and cargo),  
16 vehicle, fishing gear, nets or other fishing  
17 appliances or aircraft that he has reasonable  
18 grounds to believe has been or is being used in  
19 the commission of an offense or in respect of  
20 which the offense has been committed;

21 (ii) any fish or fish products that  
22 he has reasonable grounds to believe have been  
23 caught in the commission of an offense or are  
24 possessed in contravention of this subtitle;

25 (iii) any logs, charts or other

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1 documents required to be maintained by this  
2 subtitle or under the terms of any license or  
3 other authorization or which he has reasonable  
4 grounds to believe show or tend to show, with  
5 or without other evidence, the commission of an  
6 offense against this subtitle; and

7 (iv) any thing which he has  
8 reasonable grounds to believe might be used as  
9 evidence in any proceeding under this subtitle;

10 (f) arrest any person who he has  
11 reasonable grounds to believe has committed an  
12 offense against this subtitle; and

13 (g) issue citations as authorized by  
14 regulations promulgated under section 703 of  
15 chapter 7 of this subtitle.

16 (3) An authorized officer may, while  
17 arresting any person or fishing vessel that he  
18 has reasonable grounds to believe has done any  
19 act in contravention of this subtitle, use such  
20 force as is reasonably necessary in the  
21 circumstances to effect the arrest.

22 (4) Any person arrested without a warrant  
23 under this section shall be detained and dealt  
24 with in accordance with law.

25 (5) An authorized officer may:

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1 (a) execute any warrant or other process  
2 issued by any court of competent jurisdiction;  
3 and

4 (b) exercise any other lawful authority.

5 (6) A written receipt shall be given for any  
6 article or thing seized under this section and  
7 the grounds for such seizure shall be stated in  
8 such receipt.

9 (II) Beyond the fishery waters.

10 (1) An authorized officer may exercise any of  
11 the powers under this Title beyond the fishery  
12 waters of the Federated States of Micronesia in  
13 respect of any flag fishing vessel, foreign  
14 fishing vessel or any person on board any such  
15 vessel and relating to fisheries inspection,  
16 compliance or enforcement provided that the  
17 exercise of those powers is authorized by an  
18 access agreement or fisheries management  
19 agreement to which the Federated States of  
20 Micronesia is a party or authorized under a  
21 conservation and management measure of a  
22 regional fisheries management organization or  
23 arrangement to which the Federated States of  
24 Micronesia is a member.

25 (1) In exercising his powers beyond the

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1           fishery waters, an authorized officer shall  
2           comply with the procedures and requirements  
3           under such access agreement or fisheries  
4           management agreement or conservation and  
5           management measures implemented by a regional  
6           fisheries management organization or  
7           arrangement.

8           (2) The Authority may make regulations  
9           providing for additional measures and powers  
10          for authorized officers beyond the fishery  
11          waters.”

12          Section 10. Section 606 of title 24 of the Code of  
13 the Federated States of Micronesia (Annotated), is hereby  
14 amended to read as follows:

15                 "Section 606. Appointment of authorized  
16                 observers; port samplers.

17                 (1) The Executive Director may appoint, in  
18                 writing, any person to be an authorized observer  
19                 or class of persons to be authorized observers  
20                 for the purposes of this subtitle, any access  
21                 agreement or any fisheries management agreement.

22                 (2) Authorized observers appointed under this  
23                 subtitle shall exercise their duties beyond the  
24                 fishery waters in accordance with any access  
25                 agreement or fisheries management agreement. The

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1           Authority may enter into such reciprocal  
2           agreement or arrangement necessary to facilitate  
3           the exercise of the authorized observer's duties  
4           beyond the fishery waters.

5           ~~(3)(2)~~ The Executive Director may appoint, in  
6           writing, any authorized observer to serve as a  
7           port sampler. Port samplers shall perform the  
8           duties of authorized observers at a point of  
9           transshipment or port located either inside or  
10          outside the Federated States of Micronesia.

11          ~~[(3) Authorized observers and port samplers~~  
12          ~~shall not be appointed as authorized officers~~  
13          ~~and shall not be authorized to take enforcement~~  
14          ~~action under this subtitle.]~~

15          (4) The Authority may promulgate regulations  
16          that provide, *inter alia*, for:

17                 (a) observer duties within the fishery  
18                 waters;

19                 (b) observer duties on the high seas and  
20                 in waters under the jurisdiction of another  
21                 nation;

22                 (c) conduct of observers and related  
23                 penalties;

24                 (d) observer agents including the  
25                 conduct and registration or licensing of such



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1           agents; and  
2                       (e) reciprocal agreements or  
3           arrangements for the recognition of observers  
4           appointed by another nation.

5           (5)[(4)] The requirements of sections 607(1),  
6           607(2), 607(6), 607(7), 608, 609 and 610 shall  
7           apply equally to authorized observers and port  
8           samplers."

9           Section 11. Section 611 of title 24 of the Code of  
10          the Federated States of Micronesia (Annotated), is hereby  
11          amended to read as follows:

12                "Section 611. Transponders required.

13                   (1) The Authority may require, as a condition  
14                   of fishing in the exclusive economic zone, that  
15                   the operator of any vessel:

16                           (a) install on such vessel, at its own  
17                           expense, a transponder approved by the  
18                           Authority;

19                           (b) maintain such transponder in good  
20                           working order at all times during the period of  
21                           validity of a permit [~~while in the fishery~~  
22                           ~~waters or such other area as may be agreed or~~  
23                           ~~designated; and]~~

24                           (c) consent to the monitoring of the  
25                           transponder by the Authority in all waters and

1           at all times during the period of validity of  
2           the permit; and

3           (d)~~(e)~~ ensure that any information or data  
4           required by the Authority to be transmitted by  
5           the transponder is transmitted continuously,  
6           accurately and effectively to the designated  
7           receiver."

8           Section 12. Section 701 of title 24 of the Code of  
9 the Federated States of Micronesia (Annotated), is hereby  
10 amended to read as follows:

11           "Section 701. Jurisdiction of the court. (1)  
12           Any case or controversy arising under this  
13           subtitle or out of any act or omission committed  
14           in contravention of any provision of this  
15           subtitle by any person:

16                   (a) within the fishery waters; or  
17                   (b) outside the fishery waters by any  
18           flag vessel, citizen or person ordinarily  
19           resident in the Federated States of Micronesia;  
20           or

21                   (c) by any person on board any fishing  
22           vessel registered in the Federated States of  
23           Micronesia shall be subject to the jurisdiction  
24           of the Supreme Court of the Federated States of  
25           Micronesia and judicial proceedings shall be

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1 taken as if such act or omission had taken place  
2 in the Federated States of Micronesia within the  
3 jurisdiction of the Supreme Court of the  
4 Federated States of Micronesia.

5 (2) Where an authorized officer is exercising  
6 any powers conferred on him outside the fishery  
7 waters in accordance with section 603(II) of  
8 chapter 6 of this subtitle, any act or omission  
9 of any person in contravention of any of the  
10 provisions of this subtitle shall be deemed to  
11 have been committed within the fishery waters.

12 (3) Notwithstanding any provision of any  
13 other law of the Federated States of Micronesia,  
14 any information or complaint with respect to any  
15 violation of this subtitle must be filed within  
16 two years of the discovery of the violation.

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

23 Section 13. Section 907 of title 24 of the Code of  
24 the Federated States of Micronesia (Annotated), is hereby  
25 amended to read as follows:

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1           "Section 907. Fishing, Conducting Research or  
2           training or Related Activities without a valid  
3           permit.

4           (1) No person shall use any ~~fishing~~ vessel  
5           for, and the crew and operator of any ~~fishing~~  
6           vessel shall not engage in, commercial or non-  
7           commercial fishing, research or related  
8           activities in the [~~exclusive economic zone~~]  
9           fishery waters without a valid and applicable  
10          permit as required pursuant to sections 103, 104  
11          or 117 of chapter 1 of this subtitle.

12          (2) Any person who commits an act in  
13          violation of this section shall be subject to a  
14          civil penalty of not less than \$100,000 and not  
15          more than \$1,000,000."

16          Section 14. Section 910 of title 24 of the Code of  
17          the Federated States of Micronesia (Annotated), is hereby  
18          amended to read as follows:

19          "Section 910. Improper stowage of fishing gear  
20          and reporting requirement.

21          (1) No operator of a fishing vessel in the  
22          fishery waters shall refuse or otherwise fail to  
23          stow all fishing gear in such a manner that it  
24          is not readily available for use in fishing  
25          except when such fishing vessel is in an area in

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1           which it is authorized to fish in accordance  
2           with this subtitle.

3           (2) No operator of a vessel which is used  
4           for, equipped to be used for or of a type that  
5           is normally used for fishing or related  
6           activities transiting the fishery waters shall,  
7           upon entry and while within the fishery waters,  
8           refuse or otherwise fail to report its name,  
9           International Radio Call Sign, flag  
10          registration, date and time, position (to 1  
11          minute of arc), complement, intended activity in  
12          the fishery waters, catch on board, and such  
13          other information prescribed, to the Authority  
14          in the manner prescribed.

15          (3) Where the operator of a vessel transiting  
16          the fishery waters refuses or otherwise fails  
17          to report the information described in  
18          subsection (2), there shall be a refutable  
19          presumption that all fish found on board such  
20          vessel have been caught within the fishery  
21          waters in violation of this subtitle.

22          (4)[(-2)] Any person who commits an act in  
23          violation of this section shall be subject to a  
24          civil penalty of not less than \$50,000 and not  
25          more than \$500,000."

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1           Section 15. Section 911 of title 24 of the Code of  
2 the Federated States of Micronesia (Annotated), is hereby  
3 amended to read as follows:

4           "Section 911. Violation of marine space.

5           (1) No person shall use a vessel which is  
6 used for, equipped to be used for or of a type  
7 that is normally used for related activities  
8 for entering or remaining within the exclusive  
9 economic zone in violation of any provision of  
10 this subtitle.

11           (2) No operator of a vessel which is used  
12 for, equipped to be used for or of a type that  
13 is normally used for related activities  
14 entering or remaining within the exclusive  
15 economic zone shall, upon entry and while  
16 within the exclusive economic zone, refuse or  
17 otherwise fail to report its name,  
18 International Radio Call Sign, flag  
19 registration, date and time, position (to 1  
20 minute of arc), complement, intended activity  
21 in the exclusive economic zone, catch on board,  
22 and such other information prescribed, to the  
23 Authority in the manner prescribed.

24           (3) Where the operator of a vessel entering  
25 or remaining within the exclusive economic zone

