

7-21-1997 10:08AM

FROM ANDREA S HILLYER 691 320 6485

SEVENTH CONGRESS OF MICRONESIA

PUBLIC LAW NO. 7-71

FIRST SPECIAL SESSION, 1977

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

AN ACT

To create a new Title 52 of the Trust Territory Code entitled "Fishery Zones Jurisdiction," establishing a 200-mile fishery zone; to provide for the regulation of living resources in the fishery zone; to authorize appropriation of funds for the administration of the Title; and for other purposes.

BE IT ENACTED BY THE CONGRESS OF MICRONESIA:

1 Section 1. Fishery Zones Jurisdiction. A new Title 52 entitled
2 "Fishery Zones Jurisdiction" is hereby added to the Trust Territory
3 Code to read as follows:

4 "Chapter 1 GENERAL PROVISIONS

5 Sections

6 1. Statement of purpose.

7 2. Definitions.

8 ~~Chapter 3~~ FISHERY ZONES JURISDICTION ESTABLISHED

9 Sections

10 51. Baseline system defined.

11 52. Territorial Sea.

12 53. Exclusive Fishery Zone.

13 54. Extended Fishery Zone.

14 55. Merged zones.

15 56. Submerged reefs.

16 57. Delimitation.

17 58. Separate District Zones.

18 Chapter 5 MANAGEMENT AUTHORITY

19 Sections

20 101. Micronesian Maritime Authority.

21 102. District authorities authorized.

22 Chapter 7 FOREIGN FISHING

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 Sections

2 151. Foreign fishing permitted.

3 152. Foreign fishing agreements.

4 153. International fishery agreements.

5 154. Fishing permits.

6 Chapter 9. PENALTIES

7 Sections

8 201. Prohibited acts.

9 202. Civil penalties.

10 203. Criminal penalties.

11 204. Forfeitures.

12 205. Revenue from fines and forfeitures.

13 206. Fees.

14 207. Jurisdiction of courts.

15 208. Enforcement.

16 "Chapter 1

17 GENERAL PROVISIONS

18 Sections

19 1. Statement of purpose.

20 2. Definitions.

21 "Section 1. Statement of purpose. The living resources of
22 the sea around Micronesia are a finite but renewable part of the
23 physical heritage of the people of Micronesia. As Micronesia is nearly
24 devoid of land-based resources, the sea provides the only feasible
25 means for the development of economic viability necessary to provide

PUBLIC LAW NO. 7-71
HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 the foundation for political stability. The resources of the sea
2 around Micronesia are being heavily exploited by the citizens of other
3 nations without benefit to the people of Micronesia. Catch statistics
4 indicate that certain reef and highly migratory stocks of fish may be
5 threatened with irreversible diminution by reckless and excessive
6 exploitation, thus threatening the material advancement and ultimately
7 the political viability and stability of Micronesia. The purpose of
8 this Title is to promote economic development and to manage and conserve
9 Micronesia's vital sea resources by means of the extension of the
10 fishery jurisdiction of Micronesia out 200 miles from its shores.

11 "Section 2. Definitions. As used in this Title, unless the
12 context otherwise requires, the term:

13 (1) "Atoll" means a circular or oval coral reef forming
14 a geographic and ecologic unity crowned by at least one island.

15 (2) "Authority" means the Micronesian Maritime Autho-
16 rity established by Section 101 of this Title.

17 (3) "Congress" means the Congress of Micronesia.

18 (4) "Director" means the Director of the Micronesian
19 Maritime Authority.

20 (5) "District" means any of the administrative districts
21 of the Trust Territory of the Pacific Islands except the Mariana
22 Islands District.

23 (6) "Fish" means any living resource.

24 (7) "Fishery" means:

25 (a) One or more stocks of fish which can be treated

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 as a unit for purposes of conservation and management and which are
2 identified on the basis of geographical, scientific, technical, re-
3 creational, and economic characteristics; and

4 (b) Any fishing for such stocks.

5 (8) "Foreign Fishing Agreement" means an agreement
6 approved by the Congress between the Authority on behalf of the Govern-
7 ment of Micronesia and one or more foreign commercial fishing interests
8 to permit foreign vessels to harvest fish within the territorial sea and
9 fishery zones of Micronesia. A "foreign party" is a party to such an
10 agreement other than the Authority.

11 (9) "Foreign fishing" means fishing by vessels not
12 wholly owned by citizens of Micronesia, or fishing by a foreign vessel
13 chartered by citizens of Micronesia.

14 (10) "Island" means a naturally formed area of land,
15 surrounded by water, which is above water at high tide.

16 (11) "Living resource" means finfish, mollusks,
17 crustaceans, and all other forms of marine animal and plant life other
18 than marine birds.

19 (12) "Micronesia" or "Government of Micronesia" refers
20 to all of the Trust Territory of the Pacific Islands except the Mariana
21 Islands District.

22 (13) "Person" means any individual, corporation,
23 partnership, association, or other entity, the Government of Micronesia
24 or any of its subdivisions or any entity thereof, and any foreign govern-
25 ment, subdivision of such government or entity thereof.

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 (14) "Reef fish" means any species of living resource
2 which predominately inhabits reef areas or internal waters.

3 (15) "Stock of fish" means a species, subspecies,
4 gcographical grouping, or other category of fish capable of management
5 as a unit.

6 (16) "Submerged reef" means a coral reef forming a
7 geographic and ecologic unity which is wholly submerged at high tide.

8 "Chapter 3

9 FISHERY ZONES JURISDICTION ESTABLISHED

10 Sections

11 51. Baseline system defined.

12 52. Territorial Sea.

13 53. Exclusive Fishery Zone.

14 54. Extended Fishery Zone.

15 55. Merged zones.

16 56. Submerged reefs.

17 57. Delimitation.

18 58. Separate District Zones.

19 "Section 51. Baseline system defined. A baseline is a
20 continuous line which encircles an island or atoll. The baseline from
21 which the zones designated in this Chapter are to be measured is as
22 follows:

23 (1) The baseline of an island or portion of an island
24 lacking a barrier reef, fringing reef, or other reef system is the low
25 water line of the island as marked on large scale charts officially

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 recognized by the Government of Micronesia.

2 (2) The baseline of an atoll or island or portion of
3 an island having a barrier reef, fringing reef, or other reef system
4 is a line following the contour of the seaward edge of the reef system,
5 which line connects those outermost elevations of the reef which are
6 above water at low tide, and which line exists as marked on large scale
7 charts officially recognized by the Government of Micronesia.

8 "Section 52. Territorial Sea.

9 (1) There is hereby established a Territorial Sea of
10 three miles breadth. The inner boundary of the Territorial Sea of each
11 island or atoll is the baseline as defined in Section 51 of this Title.
12 The outer boundary is a line, every point of which is three nautical
13 miles seaward of the nearest point on the baseline.

14 (2) Waters landward of the baseline, including the
15 lagoons of atolls or islands, are internal waters.

16 "Section 53. Exclusive Fishery Zone.

17 (1) There is hereby established an Exclusive Fishery
18 Zone contiguous to the Territorial Sea. The inner boundary of the
19 Exclusive Fishery Zone of each island or atoll is the seaward boundary
20 of the Territorial Sea, and the outer boundary is a line, every point
21 of which is twelve nautical miles seaward of the nearest point on the
22 baseline as defined in Section 51 of this Title.

23 (2) The Government of Micronesia possesses and may
24 exercise the same sovereign rights to living resources in the Exclusive
25 Fishery Zone as it does in the Territorial Sea.

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 "Section 54. Extended Fishery Zone. There is hereby
2 established an Extended Fishery Zone contiguous to the Exclusive
3 Fishery Zone. The inner boundary of the Extended Fishery Zone of
4 each island or atoll is the seaward boundary of the Exclusive Fishery
5 Zone, and the outer boundary is a line, every point of which is two
6 hundred nautical miles seaward of the nearest point on the baseline as
7 defined in Section 51 of this Title. The Government of Micronesia
8 shall have exclusive management, conservation, and regulatory authority
9 over all living resources within the Extended Fishery Zone to the full
10 extent recognized by international law.

11 "Section 55. Merged zones. Where the zone of one island over-
12 laps a like zone of another island, they merge and become one, the outer
13 boundary of which is the seaward most boundary of the merged zones.

14 "Section 56. Submerged reefs. Traditionally recognized
15 fishing rights in submerged reef areas wherever located within the
16 fishery zones of Micronesia shall be preserved and respected in accord-
17 ance with the regulations of the district authorities established pursuant
18 to Section 102 of this Title.

19 "Section 57. Delimitation.

20 (1) The Micronesian Maritime Authority and the United
21 States government shall cooperate in the delimitation of the Micronesian
22 Extended Fishery Zone when it overlaps a zone of national jurisdiction
23 established by another nation.

24 (2) In the event an administrative district chooses to
25 establish its own fishery zone in accordance with Section 58 of this

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 act, the boundary between the Extended Fishery Zone established herein
2 and the fishery zone of said district shall be established by agree-
3 ment between the Authority and the appropriate district agency.

4 "Section 58. Separate District Zones. By district law approved
5 by not less than a two-thirds roll call vote of the membership of the
6 district legislature, any district may remove itself from the application
7 of this act. After removal, such district is hereby authorized to enact
8 its own fishery zone legislation. Nothing herein shall be construed to
9 preclude cooperation between the Micronesian Maritime Authority and a
10 district agency established to manage a fishery zone created by a
11 district. It is self-evident that any island or group of islands which
12 achieves separate sovereignty through political separation from the
13 remaining districts of Micronesia will thereby attain sovereign rights
14 to its sea area.

"Chapter 5

MANAGEMENT AUTHORITY

Sections

101. Micronesian Maritime Authority.

102. District authorities authorized.

"Section 101. Micronesian Maritime Authority.

(1) There is hereby established a Micronesian Maritime
Authority composed of four members appointed by the High Commissioner;
four members appointed by the President of the Senate and the Speaker
of the House of Representatives of the Congress of Micronesia; and one
member appointed jointly by the President of the Senate, Speaker of the

PUBLIC LAW NO. 7-71
HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 House of Representatives and the High Commissioner. All appointments
2 shall be for a term of two years except that two of the initial
3 appointments of the High Commissioner and two of the initial appoint-
4 ments of the President of the Senate and the Speaker of the House of
5 Representatives shall be for a term of one year. All subsequent appoint-
6 ments shall be for a two year term. The term of office of each member
7 shall commence effective the date of the first meeting of the Authority.
8 Vacancies shall be filled in the same manner as the original appoint-
9 ment for the remainder of the term of office of the vacancy. The
10 Authority shall be constituted not less than sixty days after the
11 effective date of this act. The President of the Senate and the Speaker
12 of the House of Representatives shall jointly designate one appointee
13 as a temporary chairman. The temporary chairman shall call the first
14 meeting of the Authority and preside over its deliberations until a
15 permanent Chairman is chosen by majority vote of the members of the
16 Authority. The Authority shall meet at such times and places as may
17 be designated by the Chairman or by the Authority. The Authority shall
18 adopt its own rules of procedure and regulations by majority vote.
19 Regulations adopted by the Authority shall have the full force and
20 effect of law. The process for the adoption of regulations by the
21 Authority is expressly exempt from the requirements of the Administra-
22 tive Procedure Act set forth in Title 17 of the Trust Territory Code,
23 but the Authority nevertheless shall insure wide dissemination of the
24 proposed regulations and afford the public a reasonable opportunity
25 to present its views prior to the adoption of any regulation.

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

-
- 1 (2) The Authority shall have the following duties,
2 functions and authority:
- 3 (a) To adopt regulations for the conservation,
4 management, and exploitation of all living resources in the territorial
5 sea and fishery zones of Micronesia pursuant to Sections 52, 53, and
6 54 of this Title;
- 7 (b) To participate in the delimitation of the
8 Extended Fishery Zone in accordance with Section 57 of this Title;
- 9 (c) To negotiate and conclude foreign fishing
10 agreements in accordance with Section 152 of this Title;
- 11 (d) To issue foreign fishing permits in accordance
12 with regulations promulgated pursuant to Subsection 1 and Paragraph 2
13 (a) of this section;
- 14 (e) The Authority shall submit its budget and a
15 report regarding the expenditure of its funds to the Congress of
16 Micronesia each regular session for approval; and
- 17 (f) To perform such other duties and functions as
18 may be necessary to carry out the purposes of this Title.
- 19 (3) The Authority shall employ a full-time Director
20 qualified in fishery management and experienced in international
21 negotiation. The Authority may employ such other staff as it may deem
22 necessary.
- 23 (4) Members of the Authority, other than the member
24 appointed jointly by the Presiding Officers of the Congress and the
25 High Commissioner, shall be compensated at the rate of fifty dollars

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 per day when actually on the business of the Authority. The joint
2 appointee shall be compensated at a rate established by the Authority,
3 but shall not participate in the decision of the Authority determining
4 his compensation. If any member of the Authority, including the joint
5 appointee, is concurrently employed by the Trust Territory Government,
6 or is a member or employee of the Congress of Micronesia, he shall
7 receive his regular salary while on the business of the Authority, or
8 fifty dollars per day, whichever is greater. All members of the Authority
9 shall receive per diem and travel expenses at established Trust Territory
10 Government rates while on the business of the Authority.

11 (5) The Chairman of the Authority shall report on its
12 activities to the President of the Senate and the Speaker of the House
13 of Representatives, and to the Chairmen of the Senate and House Commit-
14 tees on Resources and Development of the Congress of Micronesia on a
15 quarterly basis, and to the Congress as a whole on an annual basis.
16 The annual report shall contain a detailed accounting of the expendi-
17 ture of funds by the Authority.

18 "Section 102. District authorities authorized. The district
19 governments are hereby authorized to manage, conserve, and regulate the
20 harvesting of reef fish throughout their habitat, both within the reef
21 areas of islands and atolls, and in distant submerged reef areas within
22 the jurisdictional competence of the district. Prior to the establish-
23 ment of a district authority, the Micronesian Maritime Authority shall
24 be responsible for the management, conservation and regulation of the
25 reef fishery in the district.

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 "Chapter 7

2 FOREIGN FISHING

3 Sections

4 151. Foreign Fishing Permitted.

5 152. Foreign fishing agreements.

6 153. International fishery agreements.

7 154. Fishing permits.

8 "Section 151. Foreign fishing permitted. After June 30, 1979,
9 no foreign fishing regulated pursuant to the provisions of this act is
10 permitted in the territorial sea and fishery zones of Micronesia except
11 by valid and applicable permit issued under authority conferred by
12 Sections 101 or 102, and Section 154 of this Title, and except in
13 accordance with a valid and applicable foreign fishing agreement approved
14 by the Congress by resolution.

15 "Section 152. Foreign fishing agreements.

16 (1) Each foreign fishing agreement shall acknowledge the
17 exclusive fishery management authority of the Government of Micronesia
18 as set forth in this Title.

19 (2) In negotiating foreign fishing agreements, the
20 Authority shall seek substantial agreement by the foreign parties to the
21 following terms and conditions:

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

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

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

4 (i) Any officer authorized to enforce the
5 provisions of this Title shall be permitted to board and search or
6 inspect any vessel at any time and make arrests and seizures provided
7 for in Section 208 of this Title whenever such officer has reasonable
8 cause to believe, as a result of such a search or inspection, that any
9 such vessel or any person has committed an act prohibited by this
10 Title;

11 (ii) Such officer shall also be permitted to
12 examine and make notations on the permit issued pursuant to Section
13 154 of this Title;

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

17 (iv) Appropriate position-fixing and identi-
18 fication equipment shall be installed and maintained in working order
19 on each such vessel;

20 (v) Fully authorized Micronesian observers
21 shall be permitted on board any such vessel and that the Government
22 of Micronesia shall be reimbursed for the cost of such observers; and

23 (vi) Agents shall be appointed and maintained
24 within Micronesia who are authorized to receive and respond to any
25 legal process issued in Micronesia with respect to such owner or

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 operator.

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

6 (d) Foreign parties will:

7 (i) Apply, pursuant to Section 154, for any
8 required permits;

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

12 (iii) Abide by the requirement that no foreign
13 fishing will be permitted in the territorial sea and fishery zones of
14 Micronesia after June 30, 1979, without a valid and applicable permit,
15 and that all conditions and restrictions of the permit are complied
16 with.

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

20 (3) The total allowable level of foreign fishing, if
21 any, with respect to any fishery subject to the provisions of this
22 Title, shall be that portion of the optimum yield of such fishery which
23 will not be harvested by vessels of Micronesia.

24 (4) After reviewing recommendations by the Micronesian
25 Maritime Authority, the Congress of Micronesia by legislation shall

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 determine the allocation among foreign nations of the total allowable
2 level of foreign fishing which is permitted with respect to any
3 fishery subject to the provisions of this Title. In determining the
4 allocation among nations, the Congress shall take into consideration:

5 (a) The extent to which vessels of such nations
6 have traditionally fished the particular regulated species;

7 (b) Whether such nations have cooperated with the
8 Government of Micronesia in, and made substantial contributions to,
9 fishery research and the identification of fishery resources;

10 (c) Whether such nations have cooperated with the
11 Government of Micronesia in enforcement of the provisions of this Title
12 and the regulations issued under its authority; and

13 (d) Such other matters as it may deem appropriate.

14 "Section 153. International fishery agreements. An inter-
15 national fishery agreement is an international agreement primarily
16 affecting living resources within the fishery zones of Micronesia.
17 Such agreements shall be negotiated and concluded in cooperation between
18 the Administering Authority and the Authority. Prior to the conclusion
19 of such an agreement, the United States shall obtain the concurrence
20 of the Congress of Micronesia by resolution to its terms and provisions
21 to the extent such terms and provisions affect living resources within
22 the fishery zones of Micronesia.

23 "Section 154. Fishing permits.

24 (1) After June 30, 1979, no foreign fishing vessel
25 shall engage in fishing regulated pursuant to the provisions of this

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 act in the territorial sea or fishery zones of Micronesia unless such
2 vessel has on board a valid permit issued under this Section for such
3 vessel.

4 (2) Fishing permits will only be issued in accordance
5 with a foreign fishing agreement approved by the Congress; PROVIDED that
6 permits issued for non-commercial fishing in accordance with sub-section
7 10 of this Section need not be pursuant to a foreign fishing agreement.

8 (3) Each foreign party entitled to permits in accord-
9 ance with its foreign fishing agreement shall make application on forms
10 prescribed by the Micronesian Maritime Authority specifying inter alia:

11 (a) The name and official number or other identi-
12 fication of each fishing vessel for which a permit is sought, together
13 with the name and address of the owner thereof;

14 (b) The tonnage, capacity, speed, processing equip-
15 ment, type and quantity of fishing gear, and such other pertinent infor-
16 mation with respect to characteristics of each such vessel as the
17 Authority may require;

18 (c) Each fishery in which such vessel wishes to
19 fish;

20 (d) The amount of fish or tonnage of catch contem-
21 plated for each such vessel during the time such permit is in force;
22 and

23 (e) The ocean area in which, and the season or
24 period during which, such fishing will be conducted.

25 (4) Upon receipt of an application, the Director shall

PUBLIC LAW NO. 7-71
HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 transmit copies to each member of the Authority and to the chairmen of
2 the House and Senate Committees on Resources and Development of the
3 Congress.

4 (5) The Authority shall review the application, solicit
5 views from appropriate persons in the administrative districts, hold
6 public hearings where necessary and may approve the application on such
7 terms and conditions and with such restrictions as the Authority deems
8 appropriate.

9 (6) If the Authority does not approve the application
10 submitted by the foreign party, the Chairman shall notify such foreign
11 party of the disapproval and the reasons therefor. After taking into
12 consideration the reasons for disapproval, the foreign party may submit
13 a revised application.

14 (7) Fees and other forms of compensation for the right
15 to exploit living resources within the territorial sea or fishery zones
16 of Micronesia shall be established in the agreement.

17 (8) Upon notification by the foreign party of acceptance
18 of the terms, conditions, and restrictions on the application and permit,
19 the Chairman shall issue the permit.

20 (9) If any foreign fishing vessel for which a permit
21 has been issued pursuant to this Section has been used in the commission
22 of any act prohibited by this Title or if any civil penalty or criminal
23 fine imposed by this Title has not been paid and is overdue, the
24 Authority shall:

25 (a) Revoke such permit with or without prejudice

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 to the right of the foreign party involved to obtain a permit for such
2 vessel in any subsequent year; or

3 (b) Suspend such permit for the period of time
4 deemed appropriate; or

5 (c) Impose additional conditions and restrictions
6 on the approved application of the foreign party involved and on any
7 permit issued under such application.

8 (10) Notwithstanding any other provision of this Act,
9 the Authority may by regulation provide for the issuance of permits, on
10 reasonable conditions, to foreign vessels or parties for research,
11 recreational, or other non-commercial fishing within the fishing zones
12 of Micronesia.

13 "Chapter 9

14 PENALTIES

15 Sections

16 201. Prohibited acts.

17 202. Civil penalties.

18 203. Criminal penalties.

19 204. Forfeitures.

20 205. Revenue from fines and forfeitures.

21 206. Fees.

22 207. Jurisdiction of courts.

23 208. Enforcement.

24 "Section 201. Prohibited acts.

25 (1) It is unlawful for any person:

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 (a) To violate any provision of this Title or of
2 any regulation or permit issued pursuant to this Title;

3 (b) To use any fishing vessel to engage in
4 fishing after revocation, or during the period of suspension, of an
5 applicable permit issued pursuant to this Title;

6 (c) To violate any provision of, or regulation under,
7 an applicable foreign fishing agreement entered into pursuant to Sections
8 151 and 152 of this Title;

9 (d) To refuse to permit any officer authorized to
10 enforce the provisions of this Title to board a fishing vessel subject
11 to such person's control for purposes of conducting any search or
12 inspection in connection with the enforcement of this Title or any
13 regulation, permit, or agreement referred to in Paragraphs (a) and (c)
14 of this Section;

15 (e) To forcibly assault, resist, oppose, impede,
16 intimidate, or interfere with any such authorized officer in the
17 conduct of any search or inspection described in Paragraph (d);

18 (f) To resist a lawful arrest for any act prohi-
19 bited by this Section;

20 (g) To knowingly ship, transport, offer for sale,
21 sell, purchase, import, export, or have custody, control, or possession
22 of any fish taken or retained in violation of this Title or any re-
23 gulation, permit, or agreement referred to in Paragraph (a) and (c) of
24 this Section; or

25 (h) To interfere with, delay, or prevent, by any

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 means, the apprehension or arrest of another person, knowing that such
2 person has committed any act prohibited by this Section.

3 (2) It is unlawful for any vessel other than a vessel
4 wholly owned by citizens of Micronesia, and for the owner or operator
5 of any vessel other than a vessel wholly owned by citizens of Micronesia,
6 to engage in fishing in the territorial sea or fishery zones of Micro-
7 nesia unless such fishing is authorized by and conducted in accordance
8 with a valid and applicable fishing permit issued pursuant to Section
9 154 of this Title.

10 "[Section 202. Civil penalties. Reserved.]

11 "Section 203. Criminal penalties.

12 (1) A person is guilty of an offense if he commits any
13 act prohibited by Section 201 of this Title.

14 (2) Any offense described as a prohibited act by
15 Section 201 (1) (a), (b), (c) or (g), is punishable by a fine of not
16 more than \$50,000.

17 (3) Any offense described as a prohibited act by Section
18 201 (1) (d), (e), (f), or (h), is punishable by a fine of not more than
19 \$100,000, or imprisonment for not more than two years, or both; except
20 that if in the commission of any such offense the person uses a
21 dangerous weapon, engages in conduct that causes bodily injury to any
22 officer authorized to enforce the provisions of this Title, or places
23 any such officer in fear of imminent bodily injury, the offense is
24 punishable by a fine of not more than \$250,000, or imprisonment for not
25 more than ten years, or both.

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 (4) Any offense described as a prohibited act by
2 Section 201 (2), is punishable by a fine of not more than \$100,000.
3 Each day of continuing violation shall be considered a separate
4 offense.

5 "Section 204. Forfeitures.

6 (1) Any fishing vessel including its fishing gear,
7 furniture, appurtenances, stores, and cargo used, and any fish taken
8 or retained, in any manner, in connection with or as a result of the
9 commission of any act prohibited by Section 201 of this Title shall be
10 subject to forfeiture to the Government of Micronesia. All or part of
11 such vessel shall, and all such fish shall, be forfeited to the Govern-
12 ment of Micronesia pursuant to a civil proceeding under this Section.

13 (2) The High Court of the Trust Territory of the Pacific
14 Islands shall have jurisdiction, upon application by the Attorney
15 General or the Director on behalf of the Government of Micronesia, to
16 order any forfeiture authorized under Subsection (1) of this Section.

17 (3) If a judgment is entered for the Government of
18 Micronesia in a civil forfeiture proceeding under this Section, the
19 Attorney General shall seize any property or other interest declared
20 forfeited to the Government of Micronesia, which has not previously been
21 seized pursuant to this Title.

22 (4) The forfeited vessel, gear, furniture, appurtenances,
23 stores, cargo, and fish may be sold and the proceeds deposited with the
24 Authority for use in accordance with Section 205 of this Title, or may be
25 retained for use by, or at the direction of, the Government of

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 Micronesia.

2 (5) Pending completion of the civil forfeiture pro-
3 ceeding, the seized vessel, gear, furniture, appurtenances, stores,
4 cargo, and fish, or any part thereof, may be discharged at the dis-
5 cretion of the court upon deposit with the court of a satisfactory bond
6 or other security at least equal to the fair market value of the seized
7 property. Such bond or other security shall be conditioned upon such
8 person delivering such property to the appropriate court upon order
9 thereof, without any impairment of its value, or paying the monetary
10 value of such property pursuant to an order of such court. Judgment
11 shall be recoverable on such bond or other security against both the
12 principal and any sureties in the event that any condition thereof is
13 breached, as determined by such court.

14 (6) Any fish seized pursuant to this Title may be sold,
15 subject to the approval and direction of the court. The proceeds of
16 any such sale shall be deposited with such court pending the disposition
17 of the civil forfeiture proceeding.

18 (7) For purposes of this Title, it shall be a rebuttable
19 presumption that all fish found on board a fishing vessel which is seized
20 in connection with an act prohibited by Section 201 of this Title were
21 taken or retained in violation of this Title.

22 "Section 205. Revenue from fines and forfeitures. All fines
23 and the proceeds of sale of all forfeitures collected pursuant to the
24 provisions of this Title shall be deposited with the Authority for use
25 for its administrative expenses and the costs of enforcement of the

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 provisions of this Title. All funds remaining in excess of administra-
2 tive expenses and costs of enforcement shall be used for the develop-
3 ment of marine resources in the Trust Territory of the Pacific Islands.

4 "Section 206. Fees. After the payment of the operating and
5 other expenses of the Authority, the fees collected by the Authority
6 pursuant to Section 154 (7) for foreign fishing in the territorial sea
7 or fishery zones of Micronesia shall be returned to each district in
8 proportion to the catch harvested by foreign fishermen in that district.

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

16 "Section 208. Enforcement.

17 (1) Primary responsibility for the enforcement of this
18 Title shall be assumed by the Office of the Attorney General through the
19 Division of Public Safety. The High Commissioner and Attorney General
20 may, from time to time, seek enforcement assistance from the United
21 States Government.

22 (2) Any officer who is authorized by the Attorney
23 General to enforce the provisions of this Title, may:

24 (a) With or without a warrant or other process:

25 (i) Arrest any person, if he has reasonable

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 cause to believe that such person has committed an act prohibited by
2 Section 201 of this Title;
3 (ii) Board, and search or inspect any fishing
4 vessel which is subject to the provisions of this Title;
5 (iii) Seize any fishing vessel used or employed
6 in, or when it reasonably appears that such vessel was used or employed
7 in, the violation of any provision of this Title;
8 (iv) Seize any fishing gear, furniture,
9 appurtenances, stores, cargo, and fish in the possession of a fishing
10 vessel seized pursuant to authority granted by Subparagraph (iii) of this
11 Paragraph; and
12 (v) Seize any other evidence related to any
13 violation of any provision of this Title;
14 (b) Execute any warrant or other process issued
15 by any court of competent jurisdiction; and
16 (c) Exercise any other lawful authority.
17 (3) For purposes of this Chapter the terms "provisions
18 of this Title" and "violation of any provisions of this Title" includes
19 the provisions of any regulation or permit issued pursuant to this
20 Title."
21 Section 2. Amendment. Section 101 (3) of Title 19 of the Trust
22 Territory Code is hereby amended to read as follows:
23 "(3) 'Territorial waters' means, for the purpose of this
24 Chapter, the waters of the Territorial Sea as defined and described in
25 Section 52 of Title 52 of the Trust Territory Code.

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 Section 3. Repeals. Sections 251, 252, 253, and 254 of Title
2 19 of the Trust Territory Code, concerning fisheries zone, are hereby
3 repealed.

4 Section 4. Appropriation.

5 (1) There is hereby appropriated from the General Fund of
6 the Congress of Micronesia, the sum of \$25,000, or so much thereof as
7 may be necessary, to be matched by an equal amount from the Executive
8 Branch of the Trust Territory Government, for the purpose of carrying
9 out the provisions of this act. The Chairman of the Authority shall
10 be responsible for the expenditure of the funds appropriated herein.

11 (2) Any balance of the funds appropriated herein which
12 remains unobligated and unexpended on March 31, 1979, shall revert to
13 the General Fund of the Congress of Micronesia.

14 Section 5. Severability. If any provision of this act or amend-
15 ments or additions thereto, or the application thereof to any person,
16 thing or circumstances is held invalid, the invalidity does not affect
17 the provisions or application of this act or the amendments or additions
18 that can be given effect without the invalid provisions or application,
19 and to this end the provisions of this act and the amendments or
20 additions thereto are severable.

21 Section 6. Effective Date.

22 (1) Upon approval by the High Commissioner, or upon its
23 becoming law without such approval, Section 54 of Section 1 of this
24 act will take effect on July 1, 1979.

25 (2) The remaining provisions of this act shall take effect

PUBLIC LAW NO. 7-71

HOUSE BILL NO. 7-287, H.D. 1, H.D. 2,
S.D. 1, S.D. 2

1 upon approval by the High Commissioner, or upon their becoming law
2 without such approval.

3 (3) This act shall automatically expire without further act
4 by the Congress of Micronesia 180 days after the date of the termina-
5 tion of the Trusteeship for the Trust Territory of the Pacific Islands.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

October 15, 1977

Adrian P. Winkel
Adrian P. Winkel
High Commissioner
Trust Territory of the Pacific Islands