

EIGHTEENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

THIRD REGULAR SESSION, 2014

CONGRESSIONAL BILL NO. 18-134, C.D.1,  
C.D.2

**P.C. NO. 18-454**

**PUBLIC LAW NO. 18-108**

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AN ACT

To further amend chapters 1, 5, and 9 of title 24 of the Code of the Federated States of Micronesia, as amended, by adding "Shark" and "Shark Fin" to the Definition section in chapter 1; by adding a new section 503 and by renumbering existing sections 503 as section 504 in chapter 5, for the purpose of requiring that all vessels land their by catch at port; by amending sections 913 and 914 in chapter 9 to prohibit the practice of shark finning and extend civil penalties to apply to such violations, by modifying what is considered as destruction of evidence, and for other purposes."

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

1           Section 1. Section 102 of Title 24 of the Code of the  
2 Federated States of Micronesia, as enacted by Public Law No.  
3 12-34, is hereby amended to read as follows:

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

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

14           (2) 'Administrator' means the director of a regional  
15 fisheries agency or any other organization or person  
16 authorized, pursuant to section 106 of chapter 1 of this

1 subtitle, to administer a fisheries access agreement or  
2 fisheries management agreement to which the Federated  
3 States of Micronesia is party.

4 (3) 'Agent' includes a person appointed or designated  
5 by a foreign fishing company to act as the legal  
6 representative of that company within the Federated States  
7 of Micronesia, including acceptance of and response to  
8 legal process, pursuant to section 404(4) (a) of chapter 4  
9 of this subtitle.

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

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

20 (6) 'Authority' means the National Oceanic Resource  
21 Management Authority established by section 201 of chapter  
22 2 of this subtitle.

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

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

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

6 (9) 'Automatic location communicator' or 'transponder'  
7 means a device placed on a fishing vessel that transmits,  
8 either in conjunction with another device or devices or  
9 independently, information concerning the position,  
10 fishing and other activities of the vessel.

11 (10) 'Based in the Federated States of Micronesia' means  
12 using land-based facilities in the Federated States of  
13 Micronesia to support fishing, including location of the  
14 home port of a vessel in the Federated States of  
15 Micronesia, landing or transshipping all fish harvested  
16 within the exclusive economic zone and/or operating under  
17 a joint venture arrangement in the Federated States of  
18 Micronesia, or under arrangements where the operator of a  
19 vessel is participating in shore-based developments or is  
20 otherwise making a substantial contribution to the  
21 development of the domestic tuna industry.

22 (11) 'Buy' includes:

- 23 (a) barter or attempt to barter'  
24 (b) purchase or attempt to purchase;  
25 (c) receive on account or consignment;

1 (d) purchase or barter for future goods or for  
2 any consideration of value; and

3 (e) purchase or barter as an agent for another  
4 person, and 'buyer' shall have a corresponding meaning.

5 (12) 'Citizen' means a person who is a citizen of the  
6 Federated States of Micronesia.

7 (13) 'Closed area' means an area in which fishing is  
8 prohibited.

9 (14) 'Closed season' means a period of time during  
10 which fishing is prohibited.

11 (15) 'Commercial fishing' means any fishing resulting  
12 or intending or appearing to result in the sale or trade  
13 of any fish, which may be taken during the fishing  
14 operation, and does not include subsistence fishing.  
15 For the purposes of this act, the following shall be  
16 presumed to be commercial fishing:

17 (a) use of a vessel for fishing, which measures  
18 twenty seven (27) feet or more in overall length;

19 (b) use of more than one vessel for fishing which  
20 is owned by a single person for the primary purpose of  
21 selling or trading any fish.

22 (16) 'Commercial pilot fishing' means any fishing for  
23 the purpose of testing the commercial viability of (a)  
24 new fishing methods;

25 (b) developing new stocks of fish; or

1 (c) fishing in previously unexploited areas.

2 (17) 'Court' means the Supreme Court of the Federated  
3 States of Micronesia.

4 (18) 'Domestic fishing' means any fishing by a local  
5 fishing vessel longer than twenty-seven (27) feet in  
6 overall length, but not including commercial pilot  
7 fishing.

8 (19) (Reserved)

9 (20) (Reserved)

10 (21) 'Drift net' means a gillnet or other net or  
11 arrangement of nets which is more than 2.5 kilometers  
12 (1.56 miles) in length, the purpose of which is to  
13 enmesh, entrap or entangle fish.

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

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

23 (24) 'Executive Director' means the individual  
24 appointed by the Authority to be in charge of the daily  
25 activities and operation of the authority and to perform

1 such other functions as required by this subtitle.

2 (25) "Export" means to:

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

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

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

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

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

12 (26) 'Fish' means any living marine resources.

13 (27) 'Fish aggregating device' means any man-made or  
14 partly man-made floating or semi-submerged device,  
15 whether anchored or not, intended for the purpose of  
16 aggregating fish, and includes any natural floating  
17 object on which a device has been placed to facilitate  
18 its location.

19 (28) 'Fish processing' means the producing of any  
20 substance or article from fish by any method and  
21 includes the cutting up, dismembering, cleaning,  
22 sorting, lining, freezing, canning, salting, preserving  
23 and reduction of fish.

24 (29) 'Fisheries management agreement' means any  
25 agreement, arrangement or treaty in force to which the

1 Federated States of Micronesia is a party, not including  
2 any access agreement, which has as its primary purpose  
3 cooperation in or coordination of fisheries management  
4 measures in all or part of the region, or implementation  
5 of a multilateral access agreement, including, but not  
6 limited to, fisheries monitoring, control and  
7 surveillance and establishing criteria or requirements  
8 for fishing and fisheries access.

9 (30) 'Fishery' or 'Fisheries' means one or more stock  
10 of fish or any fishing operation based on such stocks,  
11 which can be treated as a unit for purposes of  
12 conservation and management, taking into account  
13 geographical, scientific, technical, recreational,  
14 economic and other relevant characteristics.

15 (31) 'Fishery waters' means the exclusive economic  
16 zone, the territorial sea and internal waters as  
17 described in title 18 of the Code of the Federated  
18 States of Micronesia, and any other waters over which  
19 the Federated States of Micronesia claims sovereignty or  
20 sovereign Rights.

21 (32) 'Fishing' means:

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

24 (b) any activity, which can reasonably be  
25 expected to result in the locating, catching, taking or

1 harvesting of fish,

2 (c) the placing, searching for or recovering of  
3 any fish aggregating device or associated electronic  
4 equipment such as radio beacons;

5 (d) any operation at sea directly in support of  
6 or in preparation for any activity described in this  
7 subsection except for operations defined as related  
8 activities in subsection (51) of this section; and

9 (e) the use of an aircraft in relation to any  
10 activity described in this subsection except for flights  
11 in emergencies involving the health or safety of crew  
12 members or the safety of a vessel.

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

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

23 (35) 'Flag fishing vessel' means any foreign fishing  
24 vessel that is registered in the Federated States of  
25 Micronesia pursuant to title 18 of the Code of the FSM

1 and any domestic fishing vessel.

2 (36) 'Foreign fishing' means any fishing not defined as  
3 domestic fishing, and not including commercial pilot  
4 fishing or fishing from a local fishing vessel less than  
5 or equal to twenty-seven (27) feet in overall length.

6 (37) 'Foreign fishing vessel' means any fishing vessel  
7 other than a local fishing vessel.

8 (38) 'Foreign party' means a noncitizen party to an  
9 access agreement or a party to an access agreement that  
10 is at least twenty percent foreign-owned.

11 (39) 'Foreign recreational fishing' means fishing using  
12 a foreign fishing vessel for recreational or sport  
13 purposes.

14 (40) 'High seas' means all parts of the sea that are  
15 not included in the exclusive economic zone, in the  
16 territorial sea, or in the internal water of any nation,  
17 or in the archipelagic waters of an archipelagic nation.

18 (41) 'Internal waters' means waters on the landward  
19 side of the baseline of the territorial sea of any  
20 island within the Federated States of Micronesia.

21 (42) 'Island' means a naturally formed area of land  
22 surrounded by water, which is above water at high tide.

23 (43) 'Local fishing vessel' means any fishing vessel  
24 wholly owned and controlled by:

25 (a) the Government of the Federated States of

1           Micronesia, any State government or any subdivision  
2           thereof;

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

5                   (c) any corporation, company, society, or other  
6           association of persons incorporated or established under  
7           the laws of the Federated States of Micronesia or of any  
8           State and which is wholly owned and controlled by one or  
9           more of the entities or persons described in paragraphs  
10          (a) through (c) of this subsection.

11           (44) 'Master' in relation to any fishing vessel means  
12          the person in charge or apparently in charge of that  
13          vessel.

14           (45) 'Multilateral access agreement' means an access  
15          agreement between a foreign party and one or more  
16          regional parties, to which the Federated States of  
17          Micronesia is a party.

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

24           (47) 'Operator' means any person who is in charge of or  
25          directors or controls a fishing vessel, or for whose

1 direct economic or financial benefit a vessel is being  
2 used, including the master, owner, and charterer.

3 (48) 'Owner' in relation to a fishing vessel means any  
4 person exercising or discharging or claiming the right  
5 or accepting the obligation to exercise or discharge any  
6 of the powers or duties of an owner, whether on his own  
7 behalf or on behalf of another, and includes a person  
8 who owns the vessel jointly with any other person or  
9 persons and any manager, director or secretary of any  
10 corporate body or company that holds an ownership  
11 interest in the vessel.

12 (49) 'Permit' means any permit issued under this  
13 subtitle or under an access agreement entered into  
14 pursuant to this subtitle.

15 (50) 'Person' means any natural person or business  
16 enterprise and includes, but is not limited to, a  
17 corporation, partnership, cooperative, association, the  
18 government of any of the four States, or any political  
19 subdivision thereof, and any foreign government,  
20 subdivision of such government or other entity.

21 (51) 'Port sampler' means a category of authorized  
22 observer who performs duties at a point of transshipment  
23 or port Micronesia.

24 (52) 'Recreational fishing' means fishing for sport or  
25 leisure.

1           (53) 'Region' means that area of land and ocean which  
2           falls within the sovereignty and sovereign rights of the  
3           member countries of the South Pacific Forum Fisheries  
4           Agency, whose headquarters are located in Honiara,  
5           Solomon Islands, and includes high seas within such  
6           area, and for the purposes of data collection, includes  
7           that area of the Western and Central Pacific Ocean which  
8           falls within the jurisdiction and sovereign rights of  
9           the member countries of the Secretariat of the Pacific  
10          Community located in Noumea, New Caledonia, and  
11          'regional' shall have a corresponding meaning.

12          (54) 'Regional access license' means a regional access  
13          license issued to any fishing vessel of a party to a  
14          multilateral access agreement or fisheries management  
15          agreement, in accordance with such agreement.

16          (55) 'Related activities' in relation to fishing means:

17                 (a) transshipment;

18                 (b) refueling or supplying fishing vessels,  
19                 selling or supplying fishing equipment, or performing  
20                 either activity in support of fishing; and

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

23          (57) 'Secretary' means the Secretary of the Department  
24          of Justice.

25          (58) 'Sell' includes the exchange of any fish or fish

1 product or other thing for cash or for anything, which  
2 has value or which can be exchanged for cash, and  
3 includes any exchange by barter.

4 (59) 'Shark' means any fish of the taxon Elasmobranchii

5 (60) 'Shark Fin' means any fin of a shark including  
6 caudal fins

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

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

18 (63) 'Transponder' or 'automatic location communicator'  
19 means a device placed on a fishing vessel that  
20 transmits, either in conjunction with another device or  
21 devices or independently, information concerning the  
22 position, fishing and other activities of the vessel.

23 (64) 'Transshipment' means the transfer of any or all  
24 fish or fish products to or from any vessel or aircraft  
25 for the purposes of transporting such fish or fish

1 products elsewhere.

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

7 (67) 'Vehicle' means any car, truck, van, bus, trailer  
8 or other powered land conveyance.

9 (68) 'Vessel' means any boat, ship, canoe or other  
10 water-going craft."

11 Section 2. Chapter 5 of title 24 of the Code of the  
12 Federated States of Micronesia, as enacted by Public Law No.  
13 12-34, is hereby amended by adding a new section 503 to read as  
14 follows:

15 "Section 503. Compulsory landing of by-catch by fishing  
16 vessels.

17 (1) By-catch caught by a fishing vessel may be landed  
18 at a transshipment port in the Federated States of  
19 Micronesia in accordance with any regulation promulgated  
20 pursuant to this act.

21 (2) It shall be unlawful for fishing vessels to  
22 retain, discard or otherwise dispose of by-catch in  
23 contravention of this section.

1           (3) Any person who commits an act in violation of this  
2           section shall be subject to a civil penalty of not less  
3           than \$100,000 and not more than \$500,000.

4           (4) Any by-catch pursuant to this title may be  
5           disposed of in such manner as prescribed by regulation."

6           Section 3. Chapter 5 of title 24 of the Code of the  
7           Federated States of Micronesia, as enacted by Public Law No. 12-  
8           34, is hereby amended by renumbering section 503 as section 504.

9           Section 4. Chapter 5 of title 24 of the Code of the Federated  
10          States of Micronesia, as enacted by Public Law No. 12-34, is hereby  
11          amended by renumbering section 504 as section 505.

12          Section 5. Section 913 of Chapter 9 of title 24 of the Code  
13          of the Federated States of Micronesia, as enacted by Public Law  
14          No. 12-34, is hereby amended to read as follows:

15                 "Section 913. Possession, handling and sale of fish,  
16                 shark, or shark fin, unlawfully taken.

17                 (1) No person shall knowingly capture ship, transport,  
18                 offer for sale sell, purchase, import, export or have  
19                 custody, control or possession of any fish taken or  
20                 retained in contravention of this subtitle or any access  
21                 agreement, permit or applicable law.

22                 (2) It shall be unlawful to remove shark fins from  
23                 sharks on board fishing vessels, and to retain on board,  
24                 transship or land sharks or shark fins, subject to  
25                 subsections (4) and (6).

1           (3) It shall be unlawful for fishing vessels to possess  
2 wire leaders, steel trace, or wire trace."

3           (4) All sharks caught by a fishing vessel shall be  
4 either: (a) if still alive, immediately released back  
5 into the ocean. Fishing vessels must ensure that sharks  
6 are released whole, and that sharks are not  
7 unnecessarily harmed during the release process; or (b)  
8 if dead, landed at a transshipment port in the Federated  
9 States of Micronesia. Fishing vessels must ensure that  
10 sharks are landed whole with all shark fins attached to  
11 the carcass PROVIDED THAT Purse Seine vessels shall be  
12 exempted from the application of subsection 913(4) (b)  
13 for six months from the effective date of this act.

14           (5) It shall be unlawful to purchase, offer for sale  
15 or sell sharks or shark parts, including shark fins  
16 which have been removed on board a vessel, transshipped  
17 or landed in contravention of this section.

18           (6) Any person who holds a license or permit from the  
19 Authority to conduct scientific research on sharks and  
20 carries out activities in accordance with that license  
21 or permit shall not be held in contravention of this  
22 section."

23           (7) Any person who commits an act in violation of this  
24 section shall be subject to a civil penalty of not less  
25 than \$50,000 and not more than \$250,000.

1           (8) It shall be a rebuttable presumption that any  
2           sharks caught or shark fins possessed by a fishing  
3           vessel originated from the EEZ of the Federated States  
4           of Micronesia.

5           (9) All shark or shark fins seized and forfeited shall  
6           be destroyed by incineration."

7           Section 6. Section 914 of chapter 9 of title 24 of the Code  
8           of the Federated States of Micronesia, as enacted by Public Law  
9           No. 12-34, is hereby further amended to read as follows:

10           Section 914. Destruction of evidence

11           (1) No person shall destroy, dispose of, conceal,  
12           tamper with or abandon any fish, shark, shark fin, fish  
13           product, fishing gear, net or other fish appliance,  
14           record, document, electric shock device, explosive,  
15           poison or other noxious substance, or any other thing  
16           with intent to avoid seizure or the detection of an  
17           offense against this subtitle.

18           (2) Any person who commits an act in violation of this  
19           section is subject to a civil penalty of not less than  
20           \$100,000 and not more than \$500,000."

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23           Section 7. This act shall become law upon approval by the  
24           President of the Federated States of Micronesia or upon its becoming  
25           law without such approval.

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February 25, 2015

/s/ Manny Mori  
Manny Mori  
President  
Federated States of Micronesia