

A BILL FOR AN ACT

To further amend section 404 of title 24 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 19-169, to grant the National Oceanic Resource Management Authority (NORMA) the discretion to exempt a fishing vessel from the prohibition of fishing in neighbouring high seas, and for other purposes.

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

1           Section 1. Section 404 of title 24 of the Code of the  
2 Federated States of Micronesia (Annotated), as amended by Public  
3 Law No. 19-169, is hereby further amended to read as follows:

4           "Section 404. Access agreements—minimum terms and  
5 conditions.

6           (A) All access agreements shall include the following  
7 minimum terms:

8           (1) the foreign party recognizes the sovereign rights  
9 and exclusive fishery management authority of the  
10 Federated States of Micronesia within the exclusive  
11 economic zone;

12           (2) the operator and each member of the crew shall  
13 comply with the applicable access agreement, applicable  
14 permit conditions, this subtitle, all regulations issued  
15 pursuant to this subtitle and all other applicable laws  
16 and regulations;(3) the operator shall:

17           (a) accept the Authority's authorized observers;

1                   (b) provide any authorized observer, while on  
2 board the vessel, at no expense, with officer level  
3 accommodations, food and medical facilities;

4                   (c) meet the following costs of the authorized  
5 observer:

6                           (i) full travel costs to and from the  
7 vessel;

8                           (ii) salary; and

9                           (iii) full insurance coverage;

10                   (d) display any permit or permit number issued  
11 for any such vessel, pursuant to this subtitle, or any  
12 other documentation as required by the Authority to be  
13 displayed, under any access agreement, in the wheelhouse  
14 of such vessel;

15                   (e) ensure that appropriate position-fixing and  
16 identification equipment is installed and maintained in  
17 working order on each vessel;

18                   (f) ensure that the vessel is marked and  
19 identified in accordance with the Food and Agricultural  
20 Organization (FAO) approved Standard Specifications for  
21 the Marking and Identification of Fishing Vessels;

22                   (g) ensure the continuous monitoring of the  
23 international distress and call frequency 2182 kHz (HF)  
24 or the international safety and call frequency 156.8 MHz  
25 (channel 16, VHF-FM) to facilitate communication

1 with the fisheries management, surveillance and  
2 enforcement authorities;

3 (h) ensure that a recent and up-to-date copy of  
4 the International Code of Signals (INTERCO) is on board  
5 and accessible at all times;

6 (i) ensure that the vessel is seaworthy and  
7 contains adequate life safety equipment and survival  
8 gear for each passenger and member of the crew;

9 (j) ensure that, promptly upon direction by the  
10 Authority, each vessel will have installed, maintained  
11 and fully operational at all times on board a  
12 transponder, in accordance with section 611 of chapter 6  
13 of this subtitle, and shall be responsible for all  
14 operational and maintenance costs of the transponder and  
15 cooperate fully with the Authority in their utilization.

16 (4) the party to the access agreement shall, for the  
17 duration of the access agreement:

18 (a) appoint and maintain a resident agent in the  
19 Federated States of Micronesia that is approved by the  
20 Authority, or establish and maintain a company  
21 registered in accordance with the laws of the Federated  
22 States of Micronesia, authorized to receive and respond  
23 to any legal process issued in the Federated States of  
24 Micronesia with respect to the owner or operator of the  
25 vessel, and shall notify the Federated States of

1           Micronesia of the name and address of such agent or  
2           company, and any communication, information, document,  
3           direction, request or response to, or from that agent or  
4           company, shall be deemed to have been sent to, or  
5           received from such owner or operator;

6                   (b) not exceed any allocation which may be  
7           established in any given licensing period in accordance  
8           with this subtitle;

9                   (c) ensure compliance by each fishing vessel,  
10          its operator and crew members, with the access  
11          agreement, all laws of the Federated States of  
12          Micronesia and the terms of the permit; and

13                   (d) ensure compliance by each fishing vessel,  
14          its operator and crew members, with sub regional and  
15          regional conservation and management measures for highly  
16          migratory fish stocks.

17                   (B) On such further terms and conditions as may be  
18          modified or expanded by regulation promulgated by the  
19          Authority in accordance with the Administrative  
20          Procedures Act, the following terms and conditions are  
21          mandatory to every access agreement:

22                   (1) Catch retention. All bigeye, skipjack and  
23          yellowfin tuna taken by a purse seine vessel shall be  
24          retained on board and then landed or transshipped in  
25          accordance with this title, except for:

1                   (a) fish clearly and demonstrably unfit for  
2                   human consumption; and

3                   (b) the final set of a trip where the Authority  
4                   has authorized net-sharing.

5                   It is the duty of Master of fishing vessel to report  
6                   fish discard under (1) (a) and (b) of this subsection.

7                   (2) Use of fish aggregating device. There shall be  
8                   no deployment or servicing of fish aggregating device  
9                   and associated electronic equipment, or fishing by purse  
10                  seine vessels on floating objects, between 0001 hours  
11                  GMT on 1 July and 2359 hours GMT on 30 September each  
12                  year, except that:

13                  (a) by regulation, the Authority may grant  
14                  exemption to fishing vessels that have suffered  
15                  disproportionate burden from the prohibition on the use  
16                  of fish aggregating device; and

17                  (b) by regulation, the Authority may provide for  
18                  appropriate arrangement set out in a FAD management plan  
19                  to meet the requirements of domestic fishing vessels  
20                  that are highly dependent on fishing on floating  
21                  objects.

22                  (3) Closure of high seas areas. A fishing vessel  
23                  shall not fish the areas listed below:

24                  (a) the area of high seas bounded by the  
25                  national waters of the Federated States of Micronesia,

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1 Indonesia, Palau, and Papua New Guinea; and

2 (b) the area of high seas bounded by the  
3 national waters of the Federated States of Micronesia,  
4 Fiji, Kiribati, the Marshall Islands, Nauru, Papua New  
5 Guinea, the Solomon Islands, and Tuvalu.

6 (c) On a case-by-case basis, the Authority may  
7 exercise discretionary exemption from this prohibition."

8 Section 2. This act shall become law upon approval by the  
9 President of the Federated States of Micronesia or upon its  
10 becoming law without such approval.

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12 Date: 7/12/17

Introduced by: /s/ for Joseph J. Urusemal  
Florencio S. Harper  
(by request)

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