

## CHAPTER 5

### Conservation, Management and Sustainable Use of Fishery Resources

**Editor's note:** Section 49 of PL 12-34 created a new chapter 5 entitled Conservation, Management and Sustainable Use of Fishery Resources of subtitle I of this title.

Section 1 of PL 12-34 repealed chapters 1 through 5 in their entirety. Section 2 of PL 12-34 enacted a new subtitle I entitled Marine Resources Act of 2002. Section 104 of PL 12-34 renumbered chapters 6 and 7 as chapters 10 and 11, respectively. PL 12-34 enacted new chapters 1 through 9 of subtitle I. PL 12-34 became law in 2002 without the signature of President Leo A. Falcam.

#### SECTIONS

- § 501.       **Definitions.**
- § 502.       **Conservation, management and sustainable use of the fishery resources.**
- § 503.       **Allocation of allowable fishing between domestic fishing vessels.**
- § 504.       **Allocation of allowable fishing between foreign fishing vessels.**

#### **§ 501. Definitions.**

In this chapter, the terms “foreign party”, “United Nations Agreement” and “United Nations Convention” shall have the meanings set forth in section 102 of chapter 1 of this subtitle.

**Source:** PL 12-34 § 50.

#### **§ 502. Conservation, management and sustainable use of the fishery resources.**

- (1) The Authority shall adopt management measures which promote the objectives of:
  - (a) utilizing the fishery resources of the Federated States of Micronesia in a sustainable way;
  - (b) obtaining maximum, sustainable economic benefits from these resources; and
  - (c) promoting national economic security through optimum utilization of resources.
- (2) The Authority shall ensure that such management measures are based on the best scientific evidence available and designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, and taking into account fishing patterns, the interdependence of stocks and generally recommended international minimum standards.
- (3) The Authority shall apply a precautionary approach in the adoption of such management measures that is consistent with and no less stringent than the criteria set forth in the United Nations Agreement

or any other relevant access agreement or fisheries management agreement to which the Federated States of Micronesia is a party.

(4) The Authority shall, as appropriate, do the following in relation to fisheries management:

(a) assess the impact of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks;

(b) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or associated with or dependent upon the target stocks, with a view to maintaining or restoring population of such species above the level at which their reproduction may become seriously threatened;

(c) minimize pollution, waste, discards, catch by lost or abandoned gear, and impact on associated or dependent species, in particular endangered species, through measures including, to the extent practical, the development and use of selective, environmentally safe and cost effective fishing gear and techniques;

(d) protect biodiversity in the marine environment;

(e) take measures to prevent or eliminate over fishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;

(f) take into account the interests of artisanal and subsistence fishermen;

(g) collect and share, in a timely manner and in accordance with fisheries management agreements and international law, complete and accurate data concerning fishing activities, including, but not limited to, vessel position, catch of target and non-target species and fishing effort, as well as information from national and international research programs;

(h) promote and conduct scientific research and develop appropriate technologies in support of fishery conservation and management;

(i) implement and enforce conservation and management measures through effective monitoring and control and through support for and collaboration with the FSM maritime surveillance program.

(5) The Authority shall determine the total allowable level of fishing with respect to any stock of fish subject to the provisions of this subtitle or as provided in an access agreement or fisheries management agreement entered into in accordance with this subtitle, and in so doing shall take into account the requirements in subsections (1) through (4) of this section.

(6) The Authority may determine participatory rights in the fishery, such as allocations of allowable catch or levels of fishing effort. Allocations of such participatory rights:

(a) shall be made first to domestic fishing vessels, then to vessels fishing pursuant to a fisheries management agreement, with any remaining allocations to foreign fishing vessels;

(b) may include restrictions as to vessel type, gear type, seasons of operations, areas in which the fishing can take place, or any other restriction relevant to fisheries conservation and management.

(7) The Authority shall, in respect of highly migratory fish stocks which occur both in the exclusive economic zone and in the high seas, and without prejudice to the sovereign rights of the Federated States of Micronesia within its exclusive economic zone, have authority to cooperate with foreign states fishing on the

high seas in respect of such stocks for the purpose of achieving compatible conservation and management measures in accordance with the United Nations Agreement, any access agreement or fisheries management agreement, and in so doing shall take into account:

(a) the conservation and management measures adopted and applied in the exclusive economic zone, and ensure that measures established in respect of such stocks for the high seas do not undermine the effectiveness of such measures;

(b) previously agreed measures established and applied for the high seas in accordance with the United Nations Convention with respect to the same stocks by Federated States of Micronesia and foreign states fishing on the high seas;

(c) previously agreed measures established and applied in accordance with the United Nations Convention with respect to the same stocks by a subregional or regional fisheries management organization or arrangement;

(d) the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographic particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;

(e) the respective dependence of the Federated States of Micronesia's and the foreign states' fishing on the high seas on the stocks concerned;

(f) that such measures do not result in harmful impact on the living marine resources as a whole.

**Source:** PL 12-34 § 51.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

### **§ 503. Allocation of allowable fishing between domestic fishing vessels.**

The Authority shall allocate that portion of the total allowable catch allocated to domestic fishing vessels among domestic fishing vessels, if it determines that unrestricted fishing by domestic fishing vessels would otherwise result in a catch level exceeding the optimum sustainable yield. In determining the allocation, the Authority shall take into consideration the extent to which each vessel or operator of such vessel:

- (1) has historically fished in a particular area;
- (2) is advancing the development of a fishing industry in the Federated States of Micronesia;
- (3) has historically fished for a particular regulated species;
- (4) submits information for the conservation, management and development of stocks of fish;
- (5) has traditional rights to fishing in an area; and
- (6) such other factors as the Authority deems appropriate.

**Source:** PL 12-34 § 52.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

**§ 504. Allocation of allowable fishing among foreign fishing vessels.**

- (1) The Authority may determine the allocation among foreign parties of the total allowable level of foreign fishing which is permitted with respect to any stock of fish subject to the provisions of this subtitle.
- (2) In determining the allocation among parties, the Authority shall take into consideration:
  - (a) the extent to which vessels of such parties have complied with the laws of the Federated States of Micronesia and any relevant access agreements;
  - (b) whether such parties or their national governments have cooperated with the Federated States of Micronesia in, and made substantial contributions to, the conservation, management and development of fisheries, fishery research and the identification of marine resources;
  - (c) whether such parties or their national governments undertake to invest in the fisheries sector in such a manner as to bring significant benefit to the Federated States of Micronesia;
  - (d) whether such parties or their national governments have cooperated with the Federated States of Micronesia in the enforcement of the provisions of this subtitle and the regulations issued under its authority, including flag State enforcement and the provision of information required for the conservation and management of fish;
  - (e) whether such parties or their national governments, while in the waters under national jurisdiction of any foreign state in the region, have complied with the terms of any fisheries management agreement to which the Federated States of Micronesia is a party and which is implemented in such other foreign state; and
  - (f) such other matters as it may deem appropriate.

**Source:** PL 12-34 § 53.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the FSM Congress are found in title 3 of this code.

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