

CHAPTER 3

Permits for Fishing on the High Seas or in an Area

Designated by a Fisheries Management Agreement by Flag Vessels

Editor's note: Section 37 of PL 12-34 created a new chapter 3 entitled Permits for Fishing on the High Seas or in an Area Designated by a Fisheries Management Agreement by Flag Vessels Management Authority 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Section 1 of PL 12-34 repealed chapters 1 through 5 in their entirety.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

§ 301. Permits for flag fishing vessels.

§ 302. Registration fee for flag fishing vessels.

§ 303. Fishing by flag fishing vessels on the high seas or in an area designated by a fisheries management agreement—compliance.

§ 301. Permits for flag fishing vessels.

The Authority may require each flag fishing vessel to hold a valid and applicable permit for the following activities, under such terms and conditions as may be prescribed by regulation or otherwise required by the Authority:

- (1) fishing on the high seas or in an area designated by a fisheries management agreement;
- (2) fishing within areas over which foreign nations claim sovereignty or sovereign rights.

Source: PL 12-34 § 38.

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.

Case annotations: Regulation of the Exclusive Economic Zone rests exclusively with the Micronesian Maritime Authority, 24 F.S.M.C. 301-02. *FSM v. Kotobuki Maru No. 23 (I)*, 6 FSM R. 65, 69 (Pon. 1993).

Conditions on commercial fishing permits issued by the Micronesian Maritime Authority need not be "reasonable" as with recreational permits. *FSM v. Kotobuki Maru No. 23 (I)*, 6 FSM R. 65, 73 (Pon. 1993).

The Marine Resources Act of 2002 amended the prior fisheries law for the purpose of ensuring the sustainable development, conservation and use of the marine resources in the exclusive economic zone by promoting development of, and investment in, fishing and related activities. Included in the definition of "fishing" under the Act is the actual or attempted searching for fish; the placing of any fish aggregating device or associated electronic equipment such as radio beacons; and the use of an aircraft in relation to any activity described in this subsection. "Fishing gear" is equipment or other thing that can be used in the act of fishing, including any aircraft or helicopter. Helicopters, which are used to search for fish and to place radio devices near schools of fish to assist fishing boats in locating fish, fall within the express definition of fishing equipment. Therefore, since fishing in the FSM's EEZ is subject to the exclusive national government jurisdiction and regulation, and since a company's helicopters, based on fishing vessels and piloted by the company's employees, are used to search for fish within the FSM's EEZ, those helicopters are engaged in fishing for purposes of the statutory definition and thus the helicopters, which the company charters to the purse seine operators, and their pilots are subject to the national government's exclusive regulation. *Helicopter Aerial Survey Pty., Ltd. v. Pohnpei*, 15 FSM R. 329, 334-35 (Pon. 2007).

§ 302. Registration fee for flag fishing vessels.

The Executive Director may issue a permit to each flag fishing vessel in accordance with this section, after:

- (1) an application has been made in such form as may be required by the Authority; and
- (2) such registration fee as the Authority shall require is paid.

Source: PL 12-34 § 39.

§ 303. Fishing by flag fishing vessels on the high seas or in an area designated by a fisheries management agreement—compliance.

(1) Flag fishing vessels and citizens fishing on the high seas or in an area designated by a fisheries management agreement shall:

(a) comply at all times with any applicable law or agreement and the terms of any applicable permit, and shall carry such permit on board at all times and produce it on demand for inspection by an authorized officer or investigating authority appointed pursuant to a fisheries management agreement; and

(b) give information to an authorized officer or investigating authority appointed pursuant to a fisheries management agreement which may be required, including vessel position, catches, fishing gear, fishing operations and related activities in the area of an alleged violation of such agreement.

(2) The Authority shall establish a national record of fishing vessels authorized to fish on the high seas and provide access to the information contained in that record on request by directly interested foreign states, taking into account any applicable laws of the Federated States of Micronesia regarding the release of such information.

(3) Flag fishing vessels and citizens are not permitted to engage in drift net fishing activities.

(4) The Authority may take such further measures to implement any fisheries management agreement in respect to flag fishing vessels as may be necessary.

Source: PL 12-34 § 40.

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.