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AN ACT

3 to amend certain provisions under Title 51 of the Marshall Islands Revised Code, namely the
4 Marshall Islands Marine Resources Act 1997 (51 MIRC Ch.1), the Fisheries Act (51 MIRC Ch.2),
5 Fishing Access and Licensing Act (51 MIRC Ch. 4) and the Fisheries Enforcement Act (51 MIRC
6 Ch.5), in order to address certain gaps, and to modernize such laws in light of recent development
7 in international, regional, and sub-regional fisheries law.

8

9 **BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS:**

10

11 Section 1. **Short Title.**

12 This Act may be cited as the "Title 51 (Fisheries) Amendment Act, of 2011.

13 Section 2. **Amendments to the Marshall Islands Marine Resources Act, 1997 (51 MIRC**
14 **Ch.1).**

15

16 (1) Section 102 of the Marshall Islands Marine Resources Act, 1997 is hereby amended as
17 follows:

18

19 (a) By Inserting the following:

20 "\"In this Title\", (to provide for the context in which the definitions in Section 102 are to be
21 read)\";

22 (b) By inserting the following new definitions as follows:

23 "\"Areas beyond the Fishery Waters\" means areas of high seas and any other waters under
24 the jurisdiction of another coastal State;

25 "\"competent Authority\" means the Authority exercising the functions in accordance with
26 §119(1)(g) of this Title;

27 "\"export\" means to:

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

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

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1 (c) receive on account or consignment for purposes of (a) or (b);

2 (d) act as an agent for another person for purposes of (a) - (c);

3 (e) carry or transport anything for purposes of (a) - (d);

4 (f) send to another country after transshipment at port;

5 "fish" means any aquatic plant or animal, whether piscine or not; and included any oyster
6 or other mollusk, crustacean, coral, sponge, holthurian (bech-de-mer), or other
7 echinoderm turtle and marine mammal, and includes their eggs, spawn, spat and all
8 juvenile stages and any of their parts;

9 "fish processing establishment" means any place where fish are cut up, dismembered,
10 cleaned, sorted, loined, canned, dried, gutted, salted, iced, chilled, frozen or otherwise
11 preserved or processed for sale;

12 "fish product" means any product in which fish is an ingredient or component.

13 "Historic preservation site" has the same meaning as in the Historic Preservation Act
14 1991;

15 "International conservation and management measures" mean a measure to conserve
16 and manage one or more species of living marine resources that is adopted and applied, in
17 accordance with the relevant rules of international law;

18 "Illegal fishing" means fishing activities: (a) conducted by national or foreign vessels in
19 waters under the jurisdiction of a State, without the permission of that State, or in
20 contravention of its laws and regulations; or (b) conducted by vessels flying the flag of
21 States that are parties to a relevant regional fisheries management organization but
22 operate in contravention of the conservation and management measures adopted by that
23 organization and by which the States are bound, or relevant provisions of the applicable

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1 international law; or (c) in violation of national laws or international obligations,
2 including those undertaken by cooperating States to a relevant regional fisheries
3 management organization;

4 'Marshall Islands Record of Fishing Vessels' means The Record established under §503
5 of this Title;

6 "Mobile Transceiver Unit" means a device approved by the Authority and placed on a
7 fishing vessel that transmits, either in conjunction with another device or devices or
8 independently, information concerning the position, fishing and such other activities of
9 the vessel as may be required;

10 "unreported fishing" means fishing activities which have not been reported, or have been
11 misreported, to the relevant national authority, in contravention of national laws and
12 regulations; or undertaken in the area of competence of a relevant regional fisheries
13 management organization which have not been reported or have been misreported, in
14 contravention of the reporting procedures of that organization;

15 "unregulated fishing" means fishing activities (a) in the area of application of a relevant
16 regional fisheries management organization that are conducted by vessels without
17 nationality, or by those flying the flag of a State not party to that organization, or by a
18 fishing entity, in a manner that is not consistent with or contravenes the conservation and
19 management measures of that organization; or (b) in areas or for fish stocks in relation to
20 which there are no applicable conservation or management measures and where such
21 fishing activities are conducted in a manner inconsistent with State responsibilities for the
22 conservation of living marine resources under international law;

1 "operator" means any person who is in charge of or directs or controls a fishing vessel, or
2 fish processing establishment or for whose direct economic or financial benefit a vessel
3 or establishment is being used, including the master, owner, manager and charterer;

4 "owner" in relation to a fishing vessel or a fish processing establishment means any
5 person exercising or discharging or claiming the right or accepting the obligation to
6 exercise or discharge any of the powers or duties of an owner whether on his own behalf
7 or on behalf of another and includes a person who is the owner jointly with any other
8 person or persons and any manager, director or secretary of any body, corporate
9 or company;

10 "sport fishing" means the use or hiring out of a fishing vessel or services thereof for
11 recreational fishing purposes, but does not include commercial fishing;

12 "vessel monitoring system information" means all data and information generated,
13 obtained or collected in respect to the operation of the vessel monitoring system as
14 required under this Title;

15 (2) Section 119 of the Marshall Islands Marine Resources Act, 1997 is hereby amended to
16 read as follows:

17 **§119. Powers and Functions of the Authority.**

18 (1) Unless otherwise provided in this Title, the Authority shall have the exclusive powers
19 and functions to:

20 (a) conserve, manage and sustainably develop all resources in the Fishery Waters and
21 seabed and subsoil there-under, in accordance with the principles and provisions in this Title
22 and in sub-regional, regional and international instruments to which the Republic of the
23 Marshall Islands is party;

1 (b) establish management plans and programs to manage the resources in the Fishery
2 Waters;

3 (c) issue licenses in accordance with this Title;

4 (d) issue licenses for the exploration and exploitation of the seabed and subsoil of the
5 Fishery Waters;

6 (e) negotiate and conclude access agreements and fisheries management agreements on
7 behalf of the Government in accordance with Article V, Section 1(d) of the Constitution and
8 Part I of Chapter 4 of this Title;

9 (f) implement by regulation or otherwise as appropriate access agreements or fisheries
10 management agreements to which the Republic of the Marshall Islands is party;

11 (g) act as the Competent Authority for the purpose of implementing the international
12 fisheries and related obligations of the Marshall Islands;

13 (h) coordinate and manage fisheries monitoring, control and surveillance and, in
14 consultation with the Attorney-General, enforcement of this Title;

15 (i) appoint authorized officers and observers in accordance with this Title;

16 (j) cooperate in the conservation and management of highly migratory fish stocks as
17 appropriate with other coastal States in the region and States fishing in the region and high
18 seas area and participate in appropriate sub-regional, regional and international organizations
19 or arrangements relating to fisheries;

20 (k) participate in the planning and execution of projects, programs or other activities
21 related to fisheries or fishing, or the exploration or exploitation of the nonliving resources of
22 the Fishery Waters, seabed or subsoil there under, in which the Government or any agency or

1 instrumentality that has a proprietary interest, direct or indirect, by way of stock ownership,
2 partnership, joint venture or otherwise;

3 (l) regulate the processing, marketing and export of fish and fish products;

4 (m) seek technical assistance for the determination of the Fishery Waters zones and
5 boundaries;

6 (n) submit the budget and a report regarding the expenditure of its funds to the Nitijela on
7 an annual basis; and

8 (o) perform such other duties and functions as may be necessary to carry out the purposes
9 and provisions of this Title.

10 (2) The Authority shall, in exercising its powers and functions, cooperate with other agencies of
11 the Government with competence, given under authority of law, in any related area.

12 (3) Section 119 of the Marshall Islands Marine Resources Act, 1997 is further amended by
13 inserting new provisions as follows:

14 **§119A. Giving effect to international conservation and management measures and**
15 **international agreements.**

16
17 (1) The Authority may, for the purpose of giving effect to decisions of a regional fisheries
18 management organization or arrangement to which the Marshall Islands is a member, make such
19 regulations or attach such conditions to a permit, license or authorization to fish as the Authority
20 may consider necessary or expedient for this purpose.

21 (4) Section 120 of the Marshall Islands Marine Resources Act is hereby amended as follows:

22 **§120. Power to make regulations and standards.**

1 (1) Subject to the provisions of this Title, the Authority may make regulations and standards to
2 carry out the purposes and provisions of this Title, and in particular but without restricting the
3 generality of the foregoing, may adopt regulations in relation to:

4 (a) the conservation, management and sustainable development of fish in the Fishery
5 Waters, including but without restricting the generality of the foregoing the catching, loading,
6 landing, handling, transporting, possession, inspection, disposal and export of fish;

7 (b) related activities in the Fishery Waters;

8 (c) the operation of fishing vessels or any other vessel which may enter the Fishery
9 Waters for any purpose which falls within this Title;

10 (d) the use and protection of fishing gear and equipment, including fish aggregating
11 devices and artificial reefs;

12 (e) licensing for fishing, fish processing establishments and other activities falling within
13 this Title;

14 (f) pollution or the environmental quality of the Fishery Waters;

15 (g) fisheries monitoring, control and surveillance;

16 (h) prescribing the powers and duties of persons engaged in the administration or
17 enforcement of this Title and providing for the carrying out of those powers and duties;

18 (i) compliance by citizens and fishing vessels entitled to fly the flag of the Marshall
19 Islands which engage in fishing outside the Fishery Waters with applicable laws of other States
20 or regional fisheries management organizations or arrangements, and applicable access
21 agreements or fisheries management agreements;

22 (j) prescribing any other matter to carry out the purposes and provisions of this Title.

23 (k) the processing of fish and fish products

1 (1) the export of fish and fish products.

2 (2) In promulgating regulations the Authority shall comply, mutatis mutandis, with the
3 procedures Cabinet is required to take in promulgating regulations under the Administrative
4 Procedures Act, 1994.

5 (3) Any regulation promulgated by the Authority in accordance with this Title shall have the full
6 force and effect of law, and shall form an integral part of this Title.

7 Section 3. **Amendments to the Fisheries Act (51 MIRC Ch.2)**

8 (1) Inserting a new subsection (4) in section 208 as follows:

9 "(4) Any person who contravenes measures pursuant to this section commits an offence
10 and shall be liable to a fine of not less than five thousand (\$5,000) and not exceeding one
11 hundred thousand (\$100,000), to which fine shall be added an amount equivalent to the current
12 retail value of the fish, fish product or other marine resources obtained in contravention of the
13 measure, in the market for which it is destined, or be imprisoned up to six months or both."

14 (2) Section 227 is amended as follows:

15 **§227. Export of live fish, fish product or other marine resources.**

16 (1) No person shall:

17 (a) export any live fish, live rock or viable fish eggs or spawn taken from the
18 Fishery Waters;

19 (b) export any fish or fish product caught in the Fishery Waters, unless it is
20 exported for personal consumption by immediate family members, does not exceed a
21 total of 100 pounds and is not intended for commercial resale;

1 without meeting the requirements of this Title in relation to licensing, certification and
2 any other prior written permission of the Authority, or as may be otherwise required by
3 the Authority
4 or prescribed by regulation.

5 (2) Any person undertaking activities in contravention of subsection (1) commits an
6 offense and shall be fined not more than one hundred thousand (\$100,000) to which
7 fine shall be added an amount equivalent to the current retail value of the fish or fish product
8 in the market for which it is destined, or be imprisoned up to 6 months, or both.

9 (3) Inserting a new section as follows:

10 **§227A. Certification of fish and fish products.**

11 No operator or business may export fish or fish products without an accompanying health
12 certificate on a form approved by the Authority.

13 (4) Inserting new Part III immediately following Section 227A to read as follows:

14 **PART III: FISHING ACTIVITIES AFFECTING AREAS DESIGNATED AS HISTORIC SITES.**

15 **§228. Prohibition Against Fishing Activities in Areas Designated As Historic**
16 **Preservation Sites.**

17
18 (1) No person shall engage in any fishing activity within 500 meters of any marine area
19 designated under the *Historic Preservation Act, 1991*, as a 'historic site', or adversely interfere
20 with a 'Landmark' or 'cultural historic property' within the meaning of the *Historic Preservation*
21 *Act, 1991*, that may be located on, or within any fishing grounds.

22 (2) A person who contravenes Sub-section (1) of this Section, shall be guilty of an
23 offence and upon conviction shall be liable to a fine not exceeding fifty thousand (\$50,000) or a
24 term of six (6) months imprisonment, or both.

25 (5) Inserting new Part, PART IV, immediately following Section 228 to read as follows:

1 "PART IV. PROHIBITION ON SHARK

2 **§229. Prohibition of Commercial Shark Fishing**

3 Commercial Shark fishing is hereby prohibited as a target fishery in the Republic of the Marshall
4 Islands Fishery waters.

5 **§229A. Prohibition of taking of sharks, possession, sale and trade.**

6 (1) No person shall catch, capture or intentionally engage in fishing for shark or any part
7 thereof or intentionally remove the fins or the tail of any shark or otherwise mutilate or injure
8 any shark within the land or fisheries waters of the Republic of the Marshall Islands.

9 (2) Notwithstanding subsection (1):

10 (a) Any person who holds a license or permit from the Marshall Islands Marine
11 Resources Authority to conduct research on sharks and carries out activities in
12 accordance with that license or permit shall not be subject to the penalties in this
13 section.

14 (b) Fishing for shark for subsistence use is permitted provided that no person shall
15 harvest shark that have been declared as protected species. The Authority may make
16 Regulation imposing catch limit on all or certain species.

17 (3) Any shark that is inadvertently caught or captured, subject to subsection (2), shall be
18 immediately released, whether the shark is dead or alive. No shark shall be retained even if
19 caught as bycatch.

20 (4) No person shall possess, receive, sell, transfer, store or have on board or transship any
21 shark, shark fins or any other part of shark. For the purpose of this subsection it shall be a
22 rebuttable presumption that if any shark or any part of a shark is found aboard a vessel, the shark,
23 or part of a shark, is deemed possessed or transferred in violation of this subsection.

1 (5) Notwithstanding subsection (4), any person who holds a license or permit from the
2 Marshall Islands marine Resources Authority to conduct research and possesses shark fins in
3 accordance with that license or permit shall not be subject to the penalties in this section.

4 (6) No person, operator, or Fishing vessel, licensed to fish in the Fishery waters, of the
5 Marshall Islands shall possess, use or caused to use a trace wire The Authority may make
6 regulations and fishing license condition including restrictions on type of fishing gear in order to
7 further reduce the mortality of sharks, in accordance with this Title.

8 **§230. Penalties.**

9 (1) Contravention of provisions of this Part or a regulation promulgated pursuant to this
10 Part, is an offence punishable by a fine of not less than twenty five thousand (\$25,000) and not
11 exceeding two hundred thousand (\$200,000), and in addition to an amount equivalent to the
12 current retail value of any confiscated shark fin in the market for which it was destined.

13 (2) Shark fins seized and forfeited pursuant to this Title shall be destroyed by
14 incineration, dumping at sea or any other appropriate means.

15 **Section 4. Amendments to the Fishing Access and Licensing Act (51 MIRC Ch.4)**

16 (1) Section 409 is amended as follows:

17 **§409. Transshipment.**

18 (1) The operator of a fishing vessel shall:

19 (a) not transship at sea under any circumstances;

20 (b) provide 72 hours notice to the Authority of a request to transship any or all of
21 the fish on board and shall provide the name of the vessel, its international radio call sign,
22 Its position, the catch on board by species, the time and port where such transshipment is

1 requested to occur and an undertaking to pay all fees required under the laws of the
2 Republic of the Marshall Islands;

3 (c) only transship at the time and port authorized by the Director for
4 transshipment;

5 (d) submit full reports on transshipping on such forms as may be required by the
6 Authority or prescribed by regulation;

7 (e) not transship without a license;

8 (f) not transship without the presence of an authorized officer who can confirm
9 the sanitary condition of that transshipment; and

10 (f) obtain certification for the products being transshipped in accordance with this
11 Act.

12 (2) During transshipment in the Fishery Waters, the foreign party and operator of each
13 vessel shall comply with all applicable laws relating to protection of the environment, including
14 without limitation, sewage holding tank requirements.

15 (3) Any person undertaking activities in contravention of subsections (1) or (2)
16 commits an offense and shall be fined not less than twenty five thousand (\$25,000), and
17 not exceeding two hundred and fifty thousand (\$250,000), to which fine may be added an
18 amount equivalent to the current retail value of the fish or fish product in the market for which
19 it is destined.

20 (2) Section 410 is amended as follows:

21 **§410. Licenses may be required.**

22 (1) The Authority may require by decision of the Board or by regulation any person or

1 class of persons or vessel, fishing vessel or class of fishing vessels, fish processing
2 establishment or class of fish processing establishments to hold a license issued by the
3 Authority for activities described in Section 411, in addition to the requirements in Section 412,
4 but shall exempt from such requirement:

5 (a) any fishing vessel which holds a valid and applicable license issued pursuant
6 to a multilateral access agreement to which the Republic of the Marshall Islands is party
7 and which designates a licensing authority outside the Republic of the Marshall Islands;

8 (b) any citizen engaging in subsistence fishing;

9 (c) any fish processing establishment processing for domestic, personal or
10 non-commercial use.

11 (2) The Director shall by written notice inform a Local Government Council if a
12 regulation promulgated pursuant to Subsection (1) applies to its waters.

13 (3) Any person who uses a vessel or fish processing establishment or which a
14 license is required by the Authority under Subsection (1) without a valid and applicable license
15 or in contravention of its terms or conditions, commits an offense and upon conviction shall be
16 fined not more than \$100,000 or be imprisoned up to six months, or both.

17 (3) Section 413 is amended as follows:

18 **§413. License approval and issuance.**

19 (1) The Authority shall be responsible for approving guidelines and/or promulgating
20 regulations governing the issuance of licenses or authorizations pursuant to this Title.

21 (2) The Director or his designee shall be responsible for issuing all licenses or
22 authorizations in accordance with this Title and guidelines issued under Subsection (1), except

1 for licenses which may be required by a Local Government Council unless so requested in
2 writing by such Council.

3 (3) The Director or his designee shall review each application submitted pursuant to this
4 Title, and may, in his discretion, solicit views from appropriate persons in the Local
5 Government Councils and other stakeholders in the fisheries sector, and hold public hearings
6 where necessary.

7 (4) Applications for licenses shall be in such form as the Authority may require or as may
8 be prescribed, and shall specify, *inter alia*:

9 (a) the name, call sign, country of registration number, regional register number,
10 name and address of the operator, name of the vessel master, bank reference number;

11 (b) the tonnage, capacity, gear type, processing equipment and such other
12 pertinent information with respect to the characteristics of each vessel as the Authority
13 may require;

14 (c) if applicable, the access agreement under which such license is sought, and
15 such additional information as the Authority may require or as may be prescribed to
16 implement and enforce the provisions of this Title; and

17 (d) in the case of fish processing establishments the physical location,
18 intended markets, the species and forms to be processed, preservation methods and other
19 information as governed through Regulation.

20 (4) Section 414 is amended as follows:

21 **§414. License Denial.**

22 (1) The Director shall notify the applicant of the decision to issue or deny a license within
23 a reasonable time of the date of receipt of the application.

1 (2) The Director may approve the application on such terms and conditions and with such
2 restrictions as he or she deems appropriate.

3 (3) A license, or its renewal, may be denied where:

4 (a) the application is not in accordance with the requirements of this Title;

5 (b) the Director is satisfied that information required to be given or reported under
6 this title is false, incomplete or misleading;

7 (c) the owner or charterer is the subject of proceedings under the bankruptcy laws
8 of any jurisdiction or on reasonable grounds appears unable to meet any financial
9 obligations which could arise from fishing activities and reasonable financial assurances
10 determined by the Authority have not been provided;

11 (d) the fishing vessel required safety standards;

12 (e) the fishing vessel required markings; or

13 (f) where the Director believes the operator is not a fit and proper person.

14 (5) Section 418 is amended as follows:

15 **§418. Fees and charges.**

16 (1) There shall be payable in respect of every license issued under this Title fees,
17 royalties or other forms of compensation, and a registration charge may also be payable upon
18 application.

19 (2) The Authority shall determine the fees, royalties or other forms of compensation for
20 licenses issued pursuant to this Title, and other charges it may require in relation to license
21 administration.

22 (3) In determining the level of fees, royalties or other forms of compensation for licenses
23 for fishing and related activities, the Board shall take the following, inter alia, into account:

- 1 (a) the value of the fish species being sought or processed;
- 2 (b) the quantity of the species sought or processed;
- 3 (c) the efficiency of the gear;
- 4 (d) alternative uses of the fishers resources;
- 5 (e) the cost of fishery management and development;
- 6 (f) the cost of observers;
- 7 (g) the cost of inspection and audit of the fish processing establishment;
- 8 (h) the development of the local fishery sector;
- 9 (i) the cost of fisheries research, administration and enforcement; and
- 10 (j) the market situation and external forces.

11 (4) License fees may be classified, *inter alia*, according to the value of species sought,
12 and the length overall, gross tonnage, type of gear or other method related to the harvesting
13 potential of the vessel or fishing gear or in the case of fish processing establishments in relation
14 to the methods of processing and/or preservation.

15 (6) Section 425 is amended as follows:

16 **§425. Fishing or other activity without or in contravention of a license prohibited.**

17 (1) Where a person, establishment or vessel engages in fishing, processing or any other
18 activity described in this Chapter for which a license is required, without a license or in
19 contravention of any of its terms or conditions, that person, or, in the case of a vessel, the
20 operator commits an offense and upon conviction shall be fined:

- 21 (a) in respect of a citizen not acting on behalf of a business enterprise, not less
22 than twenty thousand (\$20,000) and not more than hundred thousand (\$100,000) or
23 imprisonment up to 3 months, or both;

1 (b) in respect of all others, or a person or persons acting for a business enterprise,
2 not less than hundred thousand (\$100,000) and not more than one million (\$1,000,000)
3 and such person shall not be permitted to engage in fishing, or processing or any relevant
4 activity, or if a license has been issued it will be suspended, for a period of at least three
5 months from the date of conviction.

6 Section 5. **Amendments to the Fisheries Enforcement Act (51 MIRC Ch.5)**

7 (1) Part I of the Fisheries Enforcement Act is hereby amended as follows:

8 **PART I - MEASURES TO COMBAT ILLEGAL, UNREPORTED AND UNREGULATED FISHING.**

9 (2) Section 502 of the Act is hereby amended as follows:

10 **§502. Enforcement Responsibility.**

11 (1) The Authority shall have primary responsibility for fisheries enforcement, including:

12 (a) monitoring, control and surveillance of all fishing operations within and
13 beyond the Fishery Waters in accordance with international law;

14 (b) the enforcement of this Title;

15 (c) the inspection, audit and control of processing and export operations; and

16 (d) the implementation of regional and international obligations with regard to
17 monitoring, control and surveillance measures to combat illegal, unreported and
18 unregulated fishing within and outside the Fishery Waters of Marshall Islands.

19 (2) The Authority shall, as appropriate, involve participation by relevant Government
20 departments or offices in fisheries enforcement.

21 (3) The Authority may authorize other entities, agencies, officials or persons in the
22 Marshall Islands, foreign government agencies or persons to perform fisheries enforcement

1 functions in collaboration with or on behalf of the Marshall Islands under terms and conditions in
2 bilateral or multilateral agreements or arrangements.

3 (3) New Sections 503, 504, 505, 506, 507, 508, 509, and 510 are hereby inserted as follows:

4 **§503. Marshall Islands Record of Fishing Vessels.**

5 (1) The Authority shall maintain a record of all fishing vessels entitled to fly the flag of
6 the Marshall Islands that are authorized to fish pursuant to this Title in areas beyond the Fishery
7 Waters. The record of fishing vessels shall be called the Marshall Islands Record of Fishing
8 Vessels.

9 (2) Subject to subsection (3), the record under subsection (1) shall contain the
10 information as set out in Schedule 1 to this Chapter.

11 (3) Despite subsection (2), the Director may require further information to be provided if
12 such information is necessary in order to comply with relevant measures adopted by any regional
13 or sub-regional fisheries management organization or arrangement of which the Marshall Islands
14 is a member.

15 (4) For the avoidance of doubt, the Marshall Islands Record of Fishing Vessels shall be in
16 addition to any requirements for registration of vessels entitled to fly the flag of the Marshall
17 Islands under the Maritime Administration Act (47MIRC Ch.2).

18 (5) All fishing vessels entitled to fly the flag of the Marshall Islands and intending to fish
19 in areas beyond the Fishery Waters of the Marshall Islands shall apply in writing to the Authority
20 through the Director, accompanied by the information required in Schedule 1 to this Chapter, to
21 be recorded on the Marshall Islands Record of Fishing Vessels. Applications for recording shall
22 be made by the owner, or operator, or charterer, or lessee of the fishing vessel.

1 (6) If the Authority is satisfied that the fishing vessel complies with the requirements for
2 recording of a vessel on the Marshall Islands Record of Fishing Vessels as set out in this
3 Chapter, the Authority shall record the vessel on the Record of Fishing Vessels.

4 (7) The Authority shall process every application submitted pursuant to subsection 5 of
5 this section within 14 days of receipt of the application.

6 (8) Applications for recording on the Marshall Islands Record of Fishing Vessels shall
7 not be valid unless the vessel is marked in accordance with the Food and Agricultural
8 Organization of the United Nations' "Specifications for the Marking and Identification of
9 Fishing Vessels," as modified, in Schedule 2 to this Chapter. The Authority may require the
10 vessel to be inspected to ensure the vessel is marked in accordance with the requirements in
11 Schedule 2 to this Chapter. The Authority's power to inspect a vessel under this sub-section may
12 be delegated to other organizations or agencies

13 (9) The Authority may cause to be provided to any foreign government, international,
14 regional or sub-regional fisheries management organization such information on the Marshall
15 Islands Record of Fishing Vessels, additions to the Record, deletions from the Record, the
16 withdrawal of any authorization to fish, information that a vessel is no longer entitled to fly the
17 flag of the Marshall Islands, if such information is required to fulfill any international obligations
18 of the Marshall Islands.

19 (10) The owner, operator, charterer, or lessee of any fishing vessel entitled to fly the flag
20 of the Marshall Islands who knowingly provides false information required in Schedule 1 of this
21 Chapter, shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding
22 two hundred and fifty thousand (\$250,000).

1 (11) The owner, operator, charterer, or lessee of any fishing vessel entitled to fly the flag
2 of the Marshall Islands who engages in fishing outside the Fishery Waters of the Marshall
3 Islands without providing the information required in Schedules 1 and 2 of this Chapter, shall be
4 guilty of an offence and upon conviction shall be liable to a fine not exceeding two hundred and
5 fifty thousand (\$250,000).

6 (12) In addition to any penalty that the courts may impose, the Authority may cancel the
7 Authorization of a fishing vessel fish where the vessel has been found guilty of contravening the
8 requirements under this section.

9 **§504. Authorization to Fish in areas beyond the Fishery Waters.**

10 (1) An Authorization to a vessel to fish in areas beyond the Fishery Waters of the
11 Marshall Islands is required for the owner, operator, charterer, or lessee of any fishing vessel
12 entitled to fly the flag of the Marshall Islands to fish:

13 (a) in any area subject to the jurisdiction of a foreign State except in accordance
14 with the laws, license and any conditions, of that foreign State;

15 (b) in an area subject to a treaty or multilateral access agreement except in
16 accordance with that treaty or agreement;

17 (c) on the high seas except in accordance with a license issued in accordance with
18 section 503 of this Chapter;

19 (d) in an area subject to international conservation and management measures
20 except in accordance with those measures.

21 (2) Applications for authorization to fish in areas beyond the Fishery Waters of the
22 Marshall Islands shall be made in writing to the Authority in the form prescribed in Schedule 4
23 to this Chapter.

1 (3) The Authority shall process every application submitted pursuant to subsection 2 of
2 this section within 14 days of receipt of the application.

3 (4) The Authority shall not issue an Authorization to a Marshall Islands fishing vessel to
4 fish in areas beyond the Fishery Waters of the Marshall Islands unless such vessel is on the
5 Marshall Islands Record of Fishing Vessels and is on the Record of Fishing Vessel maintained
6 by any relevant sub-regional, regional or international fishery management organizations or
7 arrangements to which the Marshall Islands is a member or a cooperating non-member.

8 (5) In issuing an Authorization to Fish under this section, the Authority shall have regard
9 to the record of compliance of the vessel, its owners and operators with conservation and
10 management measures of the Marshall Islands and other States and with those established by
11 sub-regional and regional fisheries management organizations or arrangements.

12 (6) An authorization to fish beyond the Fishery Waters may be issued subject to such
13 conditions as the Authority considers appropriate. Such conditions may relate inter alia to:

14 (a) the areas where fishing is authorized;

15 (b) the season, times, and voyages during which the fishing is authorized;

16 (c) the species, size, age, quantities of fish that may be taken;

17 (d) the method by which the fish may be taken;

18 (e) the types, size and amount of fishing gear that may be used;

19 (f) the transshipment of the fish;

20 (g) the installation and maintenance of any vessel monitoring devices or other
21 equipment;

22 (h) the provision of catch and effort data and other information necessary to manage
23 and control the fishery;

1 (i) measures to give effect to sub-regional, regional and international fisheries
2 conservation and management measures; and

3 (j) compliance with the fisheries laws and regulations of other States.

4 (7) The operator, master, charterer, or lessee, or agent of a fishing vessel which has been
5 issued with an Authorization to Fish beyond the Fishery Waters of the Marshall Islands shall
6 ensure that the vessel carries the Authorization at all times. The Authorization must be clearly
7 displayed in the wheel house where it can be visible to inspectors.

8 (8) The holder of an authorization to fish beyond the fishery waters must duly notify the
9 Authority within 7 working days of the change of ownership of the vessel or operator of the
10 vessel.

11 (9) The Authority may cancel an Authorization issued where the holder of the
12 Authorization was found guilty of an offence against this Title or has a record of Illegal
13 Unreported and Unregulated fishing subsequent to the issuance of the Authorization.

14 (10) Where any vessel is used in contravention of this section or a condition of
15 authorization imposed under this section, the owner, operator, charterer, or lessee and master of
16 such vessel each commits an offence and upon conviction shall be liable to a fine not less than
17 twenty five thousand (\$25,000) and not exceeding two hundred and fifty thousand (\$250,000).

18 **§505. Use of Vessels of other Flags by Marshall Islands nationals beyond the**
19 **Fishery Waters.**
20

21 The Authority may make regulations governing the citizens of the Marshall Islands and
22 body corporate incorporated in the Marshall Islands operating on vessels of other flags beyond
23 the Fishery Waters. Regulations made under this Section may cover, *inter alia*, authorization to

1 operate such vessels and conditions of authorization and compliance with the laws and regulation
2 of other States.

3 **§506. Port State Measures.**

4 (1) For the purpose of promoting the effectiveness of international conservation and
5 management measures adopted by sub regional, regional or global fisheries management
6 organizations, treaties or arrangements and combating Illegal Unreported and Unregulated
7 fishing, the Authority may, in consultation with the relevant agencies involved in port
8 management in the Marshall Islands, prohibit from entering a port of the Marshall Islands a
9 foreign fishing vessel which has been reasonably suspected of having engaged in or supporting
10 fishing in contravention of the conservation and management measures of a regional or sub
11 regional fisheries management organization, unless it can be established that the catch on board
12 has been taken in a manner consistent with the relevant conservation and management measures.
13 Such a prohibition may apply to an individual vessel or to a fleet of vessels.

14 (2) The Authority may make regulations concerning the following matters:

15 (a) the designation and publication of ports in the Marshall Islands to which
16 foreign fishing vessels may be permitted access;

17 (b) the designation of port inspectors;

18 (c) the training and qualifications of port inspectors;

19 (d) establishing the procedures, the contents of and the results to be obtained from
20 an inspection regime, including the adoption of port measures adopted by a sub regional,
21 regional or global fisheries organization, treaty or arrangement;

22 (e) prescribing the powers of inspectors, the mode of conducting an inspection,
23 including the power to inspect any area of the fishing vessel, the catch (whether

1 processed or not), any fishing gear, equipment or other gear and document which the
2 inspector deems necessary to verify compliance with relevant conservation and
3 management measures;

4 (f) requiring the provision of such assistance or information as may be needed in
5 order to undertake inspections;

6 (g) requiring, prior to allowing port access to a foreign fishing vessel, that such
7 vessel provides such notice as may be promulgated by regulation prior to entering its port
8 or its exclusive economic zone for the purpose of port access, including vessel
9 identification, any authorization to fish, information on its fishing trip and vessel
10 monitoring systems, quantities of fish on board and such other documentation or
11 information as may promulgated by regulation made by the Authority;

12 (h) regulating or prohibiting the landing, transshipment, packaging or processing
13 of fish, or re-fuelling or resupplying a vessel, including the prohibition of port access of a
14 vessel which has been identified or reported as having been engaged in or supporting
15 fishing activities in contravention with sub regional, regional or global conservation
16 measures, or where there are reasonable grounds for presuming that a vessel has been
17 engaged in such activity;

18 (i) regulating or prohibiting the port access of a vessel that has been included on
19 the list of vessels maintained by sub-regional, regional or global fisheries organizations
20 that are believed to have engaged in Illegal, Unregulated or Unreported fishing;

21 (j) regulating or prohibiting the landing, transshipment, packaging or processing
22 of fish, or re-fuelling or resupplying a vessel, including the prohibition of port access of
23 a vessel which has been identified or reported as having been engaged in or supporting

1 fishing activities in areas under national jurisdiction in contravention of the laws of a
2 particular country, or fishing on the high seas without an authorization to do so from its
3 flag state or where there are reasonable grounds for presuming that a vessel has been
4 engaged in such activity;

5 (k) authorizing the cooperation and exchange of information, including inspection
6 results with other States and sub regional, regional or global fisheries organizations;

7 (l) providing for a system of appeal against decisions taken in respect of fishing
8 vessels under this section;

9 (m) providing for any other measures that may be agreed to by sub-regional
10 regional or global fisheries organizations, treaty or arrangement.

11 (3) References to ports in this section include offshore terminals and other installations
12 for landing, transshipping, re-fuelling or resupplying vessels.

13 (4) Any person who fails to comply with the provisions of this section or with any
14 regulations made pursuant to this section commits an offence and upon conviction shall be shall
15 be liable to a fine not less than twenty five thousand (\$25,000) and not exceeding two hundred
16 thousand (\$250,000).

17 **§507. Mobile Transceiver Unit Requirements.**

18 (1) The owner or operator of every fishing vessel permitted to fish in the Fishery Waters
19 of the Marshall Islands pursuant to this Title, shall install, maintain and operate a registered
20 mobile transceiver unit at all times while in the Fishery Waters or such other area as may be
21 agreed or designated, and in accordance with -

22 (a) the manufacturer's specifications and operating instructions; and

1 (b) such standards as may be required by any organization of which the Marshall
2 Islands is a member; and

3 (c) such other conditions as may be imposed by the Authority.

4 (2) The requirements in sub-section (1) of this section shall, while in areas beyond the
5 Fishery Waters, apply to every fishing vessel entitled to fly the flag of the Marshall Islands and
6 included on the Marshall Islands Record of Fishing Vessel and authorized to fish beyond the
7 Fishery Waters.

8 (3) The operator of each vessel referred to in subsections (1) and (2) shall ensure that:

9 (a) no person tampers or interferes with the mobile transceiver unit and that the
10 mobile transceiver unit is not altered, damaged, disabled or otherwise interfered with;

11 (b) the mobile transceiver unit is not moved from the required or agreed installed
12 position or removed without the prior written permission of the Director;

13 (c) the mobile transceiver unit is switched on and is operational at all times during
14 the period of validity of the license or authorization; even when the fishing vessel is in
15 its own port;

16 (d) upon notification by the Authority that the vessel's mobile transceiver unit has
17 failed to transmit, the directives of the Authority are complied with until such time that
18 the vessel's mobile transceiver unit is functioning properly; or

19 (e) the mobile transceiver unit is registered as the Authority may direct or as may
20 be prescribed, at the operator's expense.

21 (4) The operator of each vessel referred to in subsections (1) and (2) or his or her
22 authorized agent, upon notification by the Authority that the vessel's mobile transceiver unit has
23 failed to report, shall ensure that reports containing the vessel's name, call sign, position

1 (expressed in latitude and longitude to minutes of arc), and date and time for the report, are
2 communicated to the Authority at intervals of 8 hours or such shorter period as specified by the
3 Authority, commencing from the time of notification of the failure of the mobile transmitting
4 device. Such reports must continue until such time as the mobile transceiver unit is confirmed
5 operational by the Authority.

6 (5) If it is not possible to make any one or more of the further position reports described
7 in sub-section (3), or when the Authority so directs, the master of the vessel must immediately
8 stow the fishing gear and take the vessel directly to a port identified by the Authority, and as
9 soon as possible, report to the Authority that the vessel is being, or has been, taken to port with
10 gear stowed.

11 (6) Any operator, including the master, owner and charterer, who does not comply with
12 subsections (1), (2), (3) or (4) commits an offence and shall be liable on conviction to a fine not
13 less than twenty five thousand (\$25,000) and not exceeding two hundred thousand (\$200,000),
14 and in addition the applicable license or authorization shall be cancelled.

15 (7) The Authority shall implement the necessary administrative and technical measures
16 necessary to monitor the activities of fishing vessels fishing in the Fishery Waters and vessels
17 entitled to fly the flag of the Marshall Islands that are authorized to fish beyond the Fishery
18 Waters. The Authority may enter into arrangements with other States or regional fisheries
19 management organizations and arrangements to this effect.

20 **§508. Vessel Monitoring System – Information.**

21 (1) Ownership of all vessel monitoring system information generated by a mobile
22 transmitting device required and operating under this Title is vested in the Marshall of Islands.

1 (2) All vessel monitoring information shall be classified as confidential information, and
2 shall be subject to such procedures as may be prescribed by regulation.

3 (3) Any person who divulges information from a vessel monitoring system, to any person
4 or persons not authorized to receive such information commits an offence and shall be liable on
5 conviction to a fine not less than fifteen thousand (\$15,000) and not exceeding one hundred
6 thousand (\$100,000).

7 **§509. Mobile Transceiver unit – Evidence.**

8 (1) All information or data obtained or ascertained by the use of a mobile transceiver unit
9 shall be presumed, unless the contrary is proved, to:

10 (a) come from the vessel so identified;

11 (b) be accurately relayed or transferred;

12 (c) be given by the master, owner and charterer of the vessel; and

13 (d) evidence may be given of information and data so obtained or ascertained
14 whether from a printout or visual display unit.

15 (2) The presumption in subsection (1) shall apply whether or not the information was
16 stored before or after any transmission or transfer.

17 (3) A mobile transceiver unit installed and operated in accordance with this Title shall be
18 judicially recognized as notoriously accurate.

19 (4) The presumption set out in subsection (3) shall apply whether or not the information
20 was stored before or after any transmission or transfer.

21 (5) Any person may give a certificate stating –

22 (a) his or her name, address and official position;

1 (b) he or she is competent to read the printout or visual display unit of any
2 machine capable of obtaining or ascertaining information from a mobile transceiver unit;

3 (c) the date and time the information was obtained or ascertained from the MTU
4 and the details of the information obtained;

5 (d) the name and call sign of the vessel on which the mobile transceiver unit is or
6 was located as known to him or her, or as ascertained from any official register, record or
7 other document; and

8 (e) a declaration that there appeared to be no malfunction in the mobile
9 transceiver unit, its transmissions, or other machines used in obtaining or ascertaining the
10 information.

11 **§510. Catch Certification.**

12 (1) In order to support global efforts to combat Illegal Unreported and Unregulated
13 fishing, the Authority shall develop and implement a system of catch certification which shall
14 accompany all exported wild caught seafood products by fishing vessels entitled to fly the flag of
15 the Marshall Islands

16 (2) The certificate implemented under sub-section (1) of this section shall contain:

17 (a) basic information to identify the vessel, such as the name of the fishing vessel,
18 home port and registration number, call sign, license number, Inmarsat number and IMO
19 number (if issued);

20 (b) information on the product, the type of species, catch areas and dates,
21 estimated live weight and verified weight landed, as well as the applicable conservation
22 and management measures and any transshipment at sea;

1 (c) information and declaration on export and import of the fisheries product
2 including the vessel name and flag, flight number, airway bill number, truck nationality
3 and registration number, other transport documents and container number.

4 (3) The master of every fishing vessel entitled to fly the flag of the Marshall Islands shall
5 complete the catch certificate referred to in sub-section (1) of this section.

6 (4) The Authority shall validate each catch certificate, attesting to the veracity of the
7 details of such certificate required in sub-section (2) of this section.

8 (5) All seafood products imported into the Marshall Islands for reprocessing for the
9 purpose of re-export shall be accompanied by a valid certificate similar to the one in subsection 1
10 of this section.

11 (6) A catch certification system developed and implemented by a regional fisheries
12 management organization or arrangement to which the Marshall Islands is a member or a
13 cooperating non-member may be accepted as a valid catch certificate pursuant to this section.

14 (4) The original Sections 503 and 504 are hereby re-numbered and amended as follows:

15 **§511. Appointment of Authorized Officers.**

16 (1) The Authority may, after consultation with the Attorney-General, appoint in writing
17 any person or class of persons as authorized officer for the purposes of enforcing this Title and
18 such persons shall exercise all powers and privileges accorded by this Title.

19 (2) For all monitoring, control and surveillance duties and obligations provided under this
20 Title and all other duties provided under this Title, except any duties arising from the licensing
21 and reporting requirements and the fish processing establishment requirements of this Title,
22 police officers of the Department of Public Safety are deemed to be authorized officers.

1 (3) Any person or class of persons appointed as authorized officer in accordance with an
2 access agreement, a fisheries management agreement or similar cooperative arrangement to
3 which the Republic of the Marshall Islands is party, who is not a citizen or has not been
4 appointed in accordance with Subsection (1), shall have such rights and privileges of a citizen as
5 may be necessary for the performance of his or her duties, and all provisions of this Title relating
6 to authorized officers shall be applicable to such persons.

7 (4) Any person or class of persons appointed as authorized officers pursuant to
8 Subsection (2) may perform duties which include:

9 (a) for an authorized officer of the Republic of the Marshall Islands, to perform
10 fisheries surveillance and law enforcement functions on behalf of the Republic of the
11 Marshall Islands while on board a vessel or aircraft of another party; and

12 (b) for an authorized officer of another party to any agreement referred to in sub-
13 section 3 of this section agreement, to perform fisheries surveillance and law enforcement
14 functions on behalf of the Republic of the Marshall Islands while on board the vessel or
15 aircraft of that other party, and all provisions of this Title relating to authorized officers
16 shall be applicable to such persons carrying out their duties in the areas of national
17 jurisdiction of the Republic of the Marshall Islands.

18 **§512. Powers of Authorized Officers within the Fishery Waters.**

19 (1) For the purposes of enforcing this Title, any authorized officer may:

20 (a) stop, board, remain on board and search any vessel in the Fishery Waters he or
21 she reasonably believes is a fishing vessel, and any fishing vessel registered under the
22 laws of the Republic of the Marshall Islands outside the Fishery Waters, and stop and

1 search any vessel, vehicle or aircraft he or she reasonably believes may be transporting
2 fish or engaging in other activities relating to fishing;

3 (b) require the master or any crew member or other person aboard to inform him
4 of the name, call sign and country of registration of the vessel and the name of the master,
5 owner, charterer and crew members;

6 (c) examine the master or any crew member or other person aboard about the
7 cargo, contents of holds and storage spaces, voyage and activities of the vessel;

8 (d) make such examination and inquiry as may appear necessary to him
9 concerning any vessel, vehicle or aircraft in relation to which any of the powers conferred
10 by this Subsection have been or may be exercised and take samples of any fish or fish
11 product found therein;

12 (e) require to be produced, examine and take copies of any license, logbook,
13 record or other document required under this Title or concerning the operation of any
14 vessel, vehicle or aircraft;

15 (f) make an entry dated and signed by him or her in the logbook of such vessel,
16 vehicle or aircraft;

17 (g) require to be produced and examine any fish, fishing gear or appliance or
18 explosive, poison or other noxious substance;

19 (h) give directions to the master and any crew member of any vessel, vehicle or
20 aircraft stopped, boarded or searched as may be necessary or reasonably expedient for
21 any purpose specified in this Title or to provide for the compliance of the vessel, vehicle
22 or aircraft, or master or any crew member with the conditions of any license;

23 (i) endorse any license;

1 (j) arrest any person who assaults him or her in the exercise of his or her duties
2 under this Title.

3 (k) cut, remove, detain, seize, recall, or destroy any fish, fish product, not fit for
4 human consumption or not suitable for export;

5 (l) indelibly or otherwise mark, brand, dye or label any fish, fish product, seafood
6 or seafood product or package containing any fish, fish product, seafood or seafood
7 product;

8 (m) make or impose any relevant order, instruction, condition or penalty;

9 (n) interrupt, suspend or prohibit actions or operations wherever fish is being cut-
10 up, stored, sold or in any way processed.

11 (2) Where there is probable cause to believe that an offense against this Title is being, or
12 has been committed, an authorized officer may:

13 (a) where there is ample opportunity to obtain a Search Warrant, he or she "shall"
14 obtain such a warrant for the purposes of entering, inspecting and searching any
15 premises, in which he or she has probable cause to believe that an offense has been, or is
16 being committed, or fish taken illegally are being stored or being processed. Where the
17 authorized officer has probable cause to believe that evidence of an offense under this
18 Title is in imminent danger of being concealed, transferred, sold, destroyed, or disposed
19 off in any other manner whatsoever, and further, that no ample opportunity exists to
20 obtain a search warrant, the authorized officer may conduct a search of such premises
21 without a Warrant;

22 (b) stop, enter and search and stay in or on any vehicle or aircraft which he or she
23 reasonably suspects of transporting fish or fish products;

1 (c) take samples of any fish found in any vessel or vehicle inspected or any
2 premises searched under this Title;

3 (d) following hot pursuit in accordance with international law and commenced
4 within the Fishery Waters, stop, board and search outside the Fishery Waters any fishing
5 vessel which he or she has reasonable grounds to believe has been used in the
6 commission of such offense, exercise any powers conferred by this Title in accordance
7 with international law, and bring such vessel and all persons and things on board within
8 the Fishery Waters;

9 (e) seize:

10 (i) any vessel (including its fishing gear, equipment, stores and cargo),
11 vehicle, fishing gear, nets or other fishing appliances or aircraft which he or she
12 has reasonable grounds to believe has been or is being used in the commission of
13 such offense or in respect of which the offense has been committed;

14 (ii) any fish or fish products which he has reasonable grounds to believe
15 have been caught in the commission of an offense or are possessed in
16 contravention of this Title;

17 (iii) any logs, charts or other documents required to be maintained by this
18 Title or under the terms of any license or other authorization or which he or she
19 has reasonable grounds to believe show or tend to show, with or without other
20 evidence, the commission of an offense against this Title; and

21 (vi) anything which he or she has reasonable grounds to believe might be
22 used as evidence in any proceedings under this Title;

23 (f) arrest any person whom he or she has reasonable grounds to believe has

1 committed an offense against this Title.

2 (4) An authorized officer may, in arresting, any person or fishing vessel which he or she
3 has reasonable grounds to believe has done any act in contravention of this Title:

4 (a) use such force as is reasonably necessary in the circumstances to effect the
5 arrest;

6 (b) call upon such person or persons as may be necessary to render assistance in
7 enforcement activities for such time as he may require, and duties owed to authorized
8 officers under this Title shall be owed to such person or persons while acting at the
9 request and under the instructions of such authorized officer.

10 (5) A written receipt shall be given for any article or thing seized under this Section and
11 the grounds for such seizure shall be stated in such receipt.

12 (6) Any person arrested without a warrant under this Section shall be taken to a police
13 station and dealt with in accordance with law.

14 (7) An authorized officer may, for the purposes of enforcing this Title, with or without a
15 warrant or other process:

16 (a) execute any warrant or other process issued by any court of competent
17 jurisdiction; and

18 (b) exercise any other lawful authority.

19 (5) New provisions are hereby inserted immediately following Section 512, to read as
20 follows:

21 **§513. Powers of Authorized Officers beyond the Fisheries Waters.**

22 (1) An authorized officer may exercise any of the powers under this Title beyond the
23 Fisheries Waters of the Marshall Islands in respect of any fishing vessel or any person on board

1 any such vessel and relating to fisheries inspection, compliance or enforcement provided that the
2 exercise of those powers is authorized by a treaty or agreement to which the Marshall Islands is
3 a party or authorized under a conservation and management measure of a regional fisheries
4 management organization or arrangement to which the Marshall Islands is a member.

5 (2) In exercising his or her powers beyond the Fishery Waters, an authorized officer shall
6 comply with the procedures and requirements under such bilateral or multilateral treaties or
7 agreements or conservation and management measures implemented by a regional fisheries
8 management organization or arrangement.

9 (3) The Authority may make regulations providing for additional measures and powers for
10 authorized officers beyond the Fishery Waters of the Marshall Islands.

11 (6) Inserting a new section 514 A as follows:

12 **§514A. Requirements for Seized Product.**

13 An authorized officer must ensure that any seized product is isolated and detained in a
14 manner that ensures the integrity and safety of the product. Options for disposition pending an
15 investigation and decision include burial, burning, release or other means approved by the
16 Director.

17 (7) **Re-numbering of provisions.**

18 (a) The original Section 505 (Requirements for seized vessels, etc) is re-numbered as
19 Section 514.

20 (b) The original Section 506 (Removal of parts from seized vessels, etc.) is re-numbered as
21 Section 515.

22 (c) The original Section 507 (Appointment of Authorized Observers) is re-numbered as
23 Section 516.

1 (d) The original Section 508 (Duties to Authorized Observers) is re-numbered as Section
2 517, with the following amendments in subsections (1) and (6):

3 (1) Any person on board any vessel with a valid and applicable license issued or
4 recognized pursuant to this Title shall permit any authorized observer to board and remain on
5 such vessel for the purposes of carrying out his or her duties and functions. An authorized
6 observer shall exercise scientific, compliance, monitoring and other functions.

7 (6) Any person who contravenes Subsection (1), (2), (3) or (5) commits an offense and
8 upon conviction the shall be fined not less than one hundred thousand (\$100,000) and not more
9 than five hundred thousand (\$500,000) or be imprisoned for up to six months, or both.

10 (8) Inserting a new section 517A as follows:

11 **§517A. Duties of Fish Processing Establishment operators**

12 (1) Each operator shall, in relation to his or her fish processing establishment:

13 (a) comply with Regulations and any conditions applying to the license;

14 (b) comply with the approved standards issued by the Authority;

15 (c) ensure that the operations of his or her fish processing establishment are
16 suitably implemented and resourced to ensure that fish or fish products are fit for their
17 intended purpose;

18 (d) keep records:

19 (i) to demonstrate compliance with these Regulations and any subsequent
20 standards;

21 (ii) to enable authorized officers to trace the movement of fish or fish
22 products from their source to consumers and vice-versa; and

1 (iii) of any other particulars as may be required from time to time by the

2 Authority;

3 (e) provide at all times reasonable access to an authorized officer to inspect the
4 fish processing establishment and records and related documents in whatever form
5 they may be kept;

6 (f) implement programs required by the Authority to ensure that:

7 (i) regular checks on compliance with the requirements are made;

8 (ii) results of the checks are properly recorded and available for
9 inspection;

10 (iii) corrective action is taken within the required time if a check reveals
11 non-compliance.

12 (9) The original Section 509 (Duties to Authorized Officers and Authorized Observers) is
13 amended as follows:

14 **§518. Duties to Authorized Officers and Authorized Observers.**

15 The master and each crew member of any fishing vessel, the driver of any vehicle, the
16 owner, manager and processing staff of a fish processing establishment and the pilot and
17 crew of any aircraft shall immediately comply with every instruction or direction given
18 by an authorized officer or authorized observer as appropriate, and facilitate safe boarding,
19 entry and inspection of the vessel, vehicle or aircraft and any fishing gear, equipment,
20 records, fish and fish products.

21 (1) Every person commits an offense who:

1 (a) assaults, obstructs, resists, delays, refuses boarding to, intimidates or fails to
2 take all reasonable measures to ensure the safety of or otherwise interferes with an
3 authorized officer, or authorized observer in the performance of his or her duties;

4 (b) incites or encourages any other person to assault, resist or obstruct any
5 authorized officer or authorized observer while carrying out his or her powers or duties,
6 or any person lawfully acting under the authorized officer's orders or in his or her aid;

7 (c) uses threatening language or behaves in a threatening or insulting manner or
8 uses abusive language or insulting gestures towards any authorized officer or authorized
9 observer while in the execution of his or her powers of duties, or any person lawfully
10 acting under an authorized officer's orders or in his or her aid;

11 (d) fails to comply with the lawful requirements of any authorized officer or
12 observer;

13 (e) fails to take all reasonable measures to ensure the safety of an authorized
14 officer or authorized observer as appropriate in the performance of his or her duties.

15 (f) furnishes to any authorized officer or authorized observer any particulars
16 which, to his knowledge are false or misleading in any respect;

17 (g) personates or falsely represents himself or herself to be an authorized officer
18 or authorized observer or who falsely represents himself or herself to be a person lawfully
19 acting under an authorized officer's orders or in his or her aid;

20 (h) personates or falsely represents himself or herself to be the master or other
21 officer of a fishing vessel;

22 (i) resists lawful arrest for any act prohibited by this Title;

23 (j) interferes with, delays or prevents by any means, the apprehension or arrest of

1 another person having reasonable grounds to believe that such person has committed an
2 act prohibited by this Title;

3 (k) is in breach of any other duty to an authorized officer or authorized observer
4 required under this Title;

5 and upon conviction shall be fined not less than one hundred thousand (\$100,000) and not more
6 than five hundred thousand (\$500,000), or may be imprisoned up to six months, or both.

7 (4) For the purposes of Subsection (2), any person who does not allow any authorized
8 officer, or any person acting under his or her orders or in his assistance, or an authorized
9 observer to exercise any of the powers conferred on such person by this Title shall be deemed to
10 be obstructing that officer, person or observer.

11 (5) Every person who, being a master, owner, charterer, agent or company established
12 under the laws of the Republic of the Marshall Islands of a fishing vessel which transports an
13 authorized officer, inspector or observer outside the fishery waters and causes him or her to
14 disembark outside the territory or jurisdiction of Republic of the Marshall Islands, commits an
15 offense and shall be jointly and severally liable on conviction to a fine not exceeding two
16 hundred and fifty thousand (\$250,000) plus all costs of repatriation including board and lodging
17 while out of Republic of the Marshall Islands and direct transportation to Republic of the
18 Marshall Islands.

19 (10) The original Section 510 (Identification of Authorized Officers) is hereby re-numbered as
20 Section 519.

21 (11) The Original Section 511 (Transponder) is repealed in its entirety.

22 (12) Section 520 is *Reserved*.

23 (13) Section 522 (**Fish Sample**) is amendment by renumbering it to Section 523.

1 (14) Section 525 is amended as follows:

2 §525. Liability of Operator.

3 In any proceedings under this title, the act or omission of any crew member of a fishing
4 vessel or in association with a fishing vessel or the act and omission of any fish
5 processing establishment employee shall be deemed to be that of the operator of that
6 fishing vessel or fish processing establishment.

7 (15) Section 541 is amended as follows:

8 §541. Jurisdiction of the Court.

9 (1) Any act or omission in contravention of any of the provisions of this Title committed:

10 (a) by any person within the Fishery Waters;

11 (b) outside the Fishery Waters by any citizen or person ordinarily resident in
12 Republic of the Marshall Islands; or

13 (c) outside the fishery Waters by an operator, Captain or Master of a fishing
14 vessel licensed to fish in the Fishery Waters; or

15 (d) by any person on board any fishing vessel registered in the Republic of the
16 Marshall Islands; shall be dealt with and judicial proceedings taken as if such act or
17 omission had taken place in Republic of the Marshall Islands within the jurisdiction of
18 the High Court of the Republic of the Marshall Islands.

19 (2) Where an authorized officer or authorized Observers is exercising any powers
20 conferred on him outside the fishery waters in accordance with this Title, any act or omission of
21 any person in contravention of any of the provisions of this Title, shall be deemed to have been
22 committed within the Fishery Waters.

23 (16) Inserting new section 553A as follows:

§553A. Documentation and Records.

The Authority may require, through Regulations and subsequent standards, for fishing vessels and fish processing establishments to prepare and hold documents and records pertaining to the compliance with this Title.

(17) Section 561 is amended as follows:

§561. Forfeiture of property.

(1) Any fishing vessel or fish processing establishment including its fishing gear, furniture, appurtenances, stores, cargo and aircraft, and all or part all or part of any fish, fish products, fishing gear, vehicle, fish processing establishment or aircraft used in or connected with the commission of any act prohibited by this Title, and where any fish seized in connection with the offense have been sold, the proceeds of the sale of the fish, shall be subject to forfeiture to the Government of the Republic of the Marshall Islands pursuant to a civil proceeding under this Section.

(18) Inserting a new Part XII as follows:

Part XII Complaints, Notices and Investigations**§569. Dissatisfaction with decision of authorized officer**

(1) Any person who is dissatisfied with any requirement, direction or decision given or made under this Act or associated regulations and standards by an authorized officer may deliver notice in writing to the Director of the Authority within twenty one (21) working days from the date of such requirement, direction or decision requesting the Director to reconsider the requirement, direction or decision. Such a complaint shall be on the approved form given in the Regulations to this Act.

1 (2) The Director may, direct an authorized officer to reconsider such requirement,
2 direction or decision, subject to the requirements and standards established by this Act or
3 Regulations.

4 **§570. Precautionary notice.**

5 (1) Where an authorized officer suspects that an activity, matter or thing is in
6 contravention of this Title or is in breach of the conditions of a fish processing establishment
7 license, he or she may issue a notice requiring the relevant operator to comply with any
8 requirement specified in this Act.

9 (2) The notice may require, but not limited to, any of the following:

10 (a) that information be provided in relation to the activity, matter or thing to
11 satisfy the Director that there is no breach of this Act or conditions of the license of a fish
12 processing establishment;

13 (b) that alternative activities or operating techniques be considered and employed
14 to avoid the breach of this Act or conditions of the license of a fish processing
15 establishment;

16 (c) that improvements or alterations be made in relation to the activity, matter or
17 thing to the satisfaction of the Director, to avoid the breach of this Act or conditions of
18 the license of a fish processing establishment; and

19 (d) any other requirement as determined by the Director, to ensure that the
20 activity, matter or thing will not breach this Act or conditions of the license of a fish
21 processing establishment.

22 (3) Any person served with a notice under this Part shall ensure that the requirements
23 stated in the notice are complied with within the time stipulated, and shall satisfy the Director;

1 prior to the expiration to that time, that the activity, matter or thing is not, or is no longer in
 2 contravention of this Part or this Title or conditions of the license of a fish processing
 3 establishment.

4 **§571. Notice to rectify or cease activity**

5 (1) A notice may be issued under this Title whether or a not a precautionary notice has
 6 been served under section 570.

7 (2) Where the Director is of the opinion that there is occurring, or may occur, an act
 8 which involves an immediate threat to health, access to markets or national interest arising out of
 9 fish or fish products, the Director may issue a notice under this Title

10 (3) A notice issued under this section shall:

11 (a) be directed to any person whom it is believed is carrying out the act, or
 12 apparently has control over it;

13 (b) specify the act and the nature of its effect to health, access to markets or
 14 national interest;

15 (c) require that the act cease, or not to be done, until the Director is satisfied that
 16 the threat or risk no longer exists.

17 (4) A notice may be served under this Title notwithstanding any approval, license or
 18 permit that has been granted in relation to the activity.

19 (5) The Director shall not be liable in respect of any loss or damage arising from, or in
 20 any way connected with, the issuing of a notice under this regulation.

21 **§572. Investigations.**

1 (1) The Director shall have the authority to conduct investigations into the operations of
2 any fish processing establishment or in respect of any fish or fish products which are in breach or
3 are suspected of being in breach of this Act.

4 (2) Without affecting any prosecution, the Director may suspend or cancel any license
5 issued under this Act if he or she finds that an operator has breached any of this Act or condition
6 of license of fish processing establishment.

7 (3) The Director may, in his or her discretion, in relation to this regulation:

8 (a) suspend the license until the matter complained of has been rectified to the
9 satisfaction of the Manager; or

10 (d) cancel the license.

11 (4) Any person not satisfied with any decision of the Director under this Act may appeal
12 such decision to the Court, having jurisdiction of the matter, within two (2) months after the
13 decision of the Director.

14 Section 6. Effective Date.

15 These amendments shall take effect on the date of certification in accordance with the
16 provisions of Article IV Section 21 of the Constitution of the Republic of the Marshall Islands,
17 and the Rules of Procedures of the Nitijela.

18
19 **CERTIFICATE**

20 **I hereby certify:**

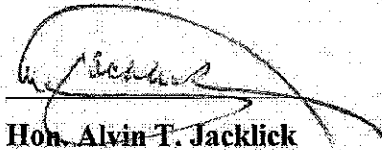
21 1. That Nitijela Bill No. 100ND1 passed by the Nitijela of the Republic of the
22 Marshall Islands on the 29th day of September, 2011; and

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2. That I am satisfied that Nitijela Bill No. 100ND1 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 17th day of October 2011.

Attest:



Hon. Alvin T. Jacklick
Speaker
Nitijela of the Marshall Islands



Lena E. Tiobech
Acting Clerk
Nitijela of the Marshall Islands

Schedule 1:

(Section 502(2))

Marshall Islands Record of Fishing Vessels

INFORMATION TO BE PROVIDED IN AN APPLICATION FOR RECORDING A VESSEL ON THE RECORD OF FISHING VESSELS TO FISH IN AREAS BEYOND THE FISHERY WATERS OF THE MARSHALL ISLANDS

Name of the Fishing Vessel	
WCPFC Identification Number (WIN)	
Previous names (if any)	
Port of registry	
Name and address of the owner or owners and beneficiary owner/owners.	
Name and nationality of the master	
Previous flag (if any)	
International Radio Call sign	
Vessel communication types and numbers (Inmarsat A, B and C numbers and satellite telephone number)	
Color photograph of the vessel	
Where and when the vessel was built	
Type of vessel	

Normal crew complement	
Type of fishing method or methods	
Length	
Moulded depth	
Beam	
Gross registered tonnage	
Power of main engine or engines	
Carrying capacity, including freezer type, capacity and number, and fish hold capacity	
Areas intending to fish	
Details of licenses issued by other coastal States (if applicable).	

1

2

3 Signed

4 Date

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Schedule 2**(Section 503(8))****Vessel Marking Specifications and Standards**

1.1.1 These specifications are intended to implement the FAO Standard Specifications for the Marking and Identification of Fishing Vessels.

1.1.2 These specifications shall apply to the operation of all fishing vessels entitled to fly the flag of the Marshall Islands and authorized to fish beyond the Fishery waters of the Marshall Islands.

2.1 General requirements

2.1.1 The owner, or operator, or charterer, or lessee submitting an application for recording a fishing vessel on the Marshall Islands Record of Fishing Vessels shall ensure that:

(a) the vessel is marked for identification with its International Telecommunication Union Radio Call Signs (IRCS);

(b) the vessels to which an IRCS has not been assigned, is marked either with the characters allocated by the International Telecommunication Union (ITU) to the Marshall Islands or such other characters of national identification as may be required under any bilateral fishery agreements entered into by the Marshall Islands and followed by, as appropriate, the fishing authorization or vessel registration number assigned to the vessel by any regional fisheries management organization to which the Marshall Islands is a member or cooperating non-member. In such cases, a hyphen shall be placed between the nationality identification characters and the license or registration number identifying the vessel.

1 (a) Whichever system is used from 2.1.1. (a) or (b) above, that identifier shall, for the
2 purpose of the Commission for the Conservation and Management of Highly
3 Migratory Fish Stocks in the Western and Central Pacific Ocean (hereafter
4 WCPFC), be called the WCPFC Identification Number (WIN)

5 2.1.2 Apart from the vessel's name or identification mark and the port of registry as may be
6 required by international practice or national legislation, the WIN as specified shall be the only
7 other vessel identification mark consisting of letters and numbers to be painted on the hull or
8 superstructure;

9 **2.2. Markings and other technical specifications**

10 2.2.1 The WIN in the English language shall be displayed prominently at all times:

11 (a) on the vessel's hull or superstructure, port and starboard. Operators may place
12 fixtures that are inclined at an angle to the vessel's side or superstructure provided
13 that the angle of inclination would not prevent sighting of the sign from another
14 vessel or from the air;

15 (b) on a deck, except as provided for in paragraph 2.2.4 below. Should an awning or
16 other temporary cover be placed so as to obscure the mark on a deck, the awning
17 or cover shall also be marked. These marks should be placed athwart ships with
18 the top of the numbers or letters towards the bow.

19 2.2.2 The WIN shall be placed:

20 (a) as high as possible above the waterline on both sides of the vessel and that such
21 parts of the hull as the flare of the bow and the stern are avoided;

22 (b) in a manner that does not allow the marks to be obscured by the fishing gear
23 whether it is stowed or in use;

1 (c) so that they are clear of flow from scuppers or overboard discharges including
 2 areas which might be prone to damage or discoloration from the catch of certain
 3 types of species; and,

4 (d) so that they do not extend below the waterline.

5 2.2.3 Undecked vessels shall not be required to display the WIN on a horizontal surface.
 6 However, where practical, the WIN may be fitted on a board so that it may be clearly seen from
 7 the air.

8 2.2.4 Boats, skiffs and craft carried by the vessel for fishing operations shall bear the same
 9 WIN as the vessel concerned.

10 2.2.5 The operators of vessels shall comply with the following in placing the WIN on the
 11 vessel:

- 12 (a) that block lettering and numbering is used throughout;
- 13 (b) that the width of the letters and numbers is in proportion to the height;
- 14 (c) the height (h) of the letters and numbers is in proportion to the size of the vessel
 15 shall be in accordance with the following:

16 (i) for the WIN to be placed on the hull, superstructure and/or inclined
 17 surfaces:

18

<u>Length of vessel overall (LOA)</u>	<u>Height of letters and numbers in</u>
<u>in metres (m)</u>	<u>metres (m) is not less than:</u>
25 m and over	1.0 m
20 m but less than 25 m	0.8 m

15 m but less than 20 m	0.6 m
12 m but less than 15 m	0.4 m
5 m but less than 12 m	0.3 m
Under 5 m	0.1 m

- 1 (ii) for the WIN to be placed on deck: the height is not less than 0.3 m for all
- 2 classes of vessels of 5 m and over;
- 3 (d) the length of the hyphen is half the height of the letters and numbers;
- 4 (e) the width of the stroke for all letters, numbers and the hyphen is $h/6$;
- 5 (f) the space between letters and/or numbers does not exceed $h/4$ nor be less than $h/6$;
- 6 (g) the space between adjacent letters having sloping sides does not exceed $h/8$ nor be
- 7 less than $h/10$; for example A V.
- 8 (h) the WIN is white on a black background, or black on a white background;
- 9 (i) the background shall extend to provide a border around the WIN of not less than
- 10 $h/6$;
- 11 (j) good quality marine paint is used throughout;
- 12 (k) the WIN meets the requirements of these Specifications where retro-reflective or
- 13 heat generating substances are used; and,
- 14 (l) the WIN and the background are maintained in good condition at all times.

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