

TITLE 26
CONSERVATION AND
RESOURCES

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CHAPTER

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CHAPTER 1 [RESERVED]

Editor's Note: This chapter was formally entitled, Conservation and Resources Enforcement, but was repealed pursuant to S.L. No. 7L-80-11 on January 14, 2011. The enforcement function was then transferred to the newly created Fish and Wildlife Division of the Department of Public Safety.

CONSERVATION & RESOURCES

CHAPTER 2 ENDANGERED SPECIES

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§2-101. Short title. — This chapter is known and may be cited as the “Endangered Species Act of 1975.”

Source: P.L. No. 6-55 §1; 45 TTC §101 (1980)

§2-102. Findings. — The Legislature has determined that certain species of plants and animals are threatened with or in danger of becoming extinct in the state of Pohnpei.

Source: P.L. No. 6-55 §2; 45 TTC §102 (1980)

§2-103. Policy. — The indigenous plants and animals of Pohnpei are of esthetic, ecological, historical, recreational, scientific, and economic value and it is the policy of the state of Pohnpei to foster the well-being of these plants and animals by whatever means necessary to prevent the extinction of any species or subspecies from our islands or the water surrounding them.

Source: P.L. No. 6-55 §3; 45 TTC §103 (1980)

§2-104. Administration. — This chapter will be administered by the Director of the Department of Land and Natural Resources through the Division of Forestry. The administration of this chapter will include the authority to set up conservation programs aimed at conserving endangered and threatened species, including research programs to adequately define which species are in fact endangered or threatened, and including, when necessary, the acquisition of land or aquatic habitat or interest therein for the conservation of resident endangered or threatened species.

Source: P.L. No. 6-55 §4; 45 TTC §104 (1980); S.L. No. 5L-14-00 §3-55, 10/1/00; S.L. No. 7L-80-11 §10, 1/14/11

§2-105. Definitions. — As used in this chapter, unless the context otherwise requires:

(1) “Animal” means any species of organism in the animal kingdom including, but not restricted to, mammals, birds, reptiles, amphibians, fish, clams, crustaceans, and corals.

(2) “Commercial activity” means all activities of industry and trade, including, but not limited to, buying or selling of commodities, and activities conducted for the purpose of facilitating such buying or selling.

(3) “Director,” when used alone, means the Director of the Department of Land and Natural Resources.

(4) “Endangered species” means any species that is in danger of extinction throughout all or a significant portion of its range.

(5) “Export” means to remove from any land or water area under the jurisdiction of Pohnpei to any other place in the world.

(6) “Import” means to land on, bring into or attempt to land on, bring into or introduce into any place subject to the jurisdiction of Pohnpei.

(7) “Or parts thereof” means, in the case of animals and fish, hide, hair, bone, skeleton, teeth, feathers, skin, scales, tissues or internal organs. In the case of plants, the term means any root, leaf, stem, trunk, bark, fiber, seed, fruit, flower, tissue or extract.

(8) “Person” means any individual, corporation, partnership, trust, association or any other private entity, or any officer, employee, agent, department or instrumentality of the Government of Pohnpei, or any local government therein.

(9) “Plant” means any species of organism in the plant kingdom including, but not restricted to, trees, shrubs, flowers, grasses, algae, and fungi.

(10) “Pohnpei” means the state of Pohnpei.

(11) “Possession” means the personal holding of any endangered or threatened species of plant or animal or parts thereof by any person, or possession of that species on his or her property, land, vehicle, home, place of business or place of work.

(12) “Species” means any species or subspecies of scientifically described plant or animal.

(13) “Take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such activity.

(14) “Threatened species” means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

Source: P.L. No. 6-55 §5; 45 TTC §105 (1980); S.L. No. 5L-14-00 §3-55, 10/1/00

§2-106. Prohibited acts. — It is prohibited for any person to take, engage in commercial activity with, hold possession of or export any threatened or endangered species of plant or animal or parts thereof, so listed in this chapter or in any regulation issued in accordance with this chapter, except in accordance with the exceptions listed in §2-107.

Source: P.L. No. 6-55 §6; 45 TTC §106 (1980)

§2-107. Exceptions. —

(1) This chapter shall not apply to the taking, possession of or export of species of endangered or threatened plants and animals or parts thereof for scientific purposes, provided the person or persons involved apply for and are issued a permit for such activity by the Director of the Department of Land and Natural Resources in accordance with regulations governing the issuance of such permits.

(2) This chapter shall not apply to any species of endangered or threatened plant or animal if that plant or animal becomes a public nuisance or public safety factor, provided that any remedial action be taken only by the Pohnpei Government and in accordance with regulations issued in accordance with this chapter for this purpose.

(3) This chapter shall not apply to those species of endangered or threatened plants and animals or parts thereof which have been taken under authority of Subsection (1) of this section and raised successfully in commercial quantities under controlled conditions of aquaculture, mariculture, game farming, agriculture or horticulture, provided that the individuals or quantity lots of these species or parts thereof are identified and identifiable as having been raised under these controlled conditions, such identification to be in accordance with regulations issued under this chapter.

(4) This chapter shall not apply in those cases where the Director has determined that the taking from certain islands of certain species of endangered or threatened plants or animals for subsistence food or for old traditional uses does not further endanger the species involved; PROVIDED, that the species or parts thereof involved are not subjected to commercial activity nor exported; PROVIDED FURTHER, that this exception will only apply to the bona fide indigenous inhabitants of the islands excepted by the Director.

(5) This chapter shall not apply to any person in innocent possession of any species of endangered or threatened plant or animal or parts thereof, except that such plants or animals or parts thereof will be confiscated by the state and disposed of in accordance with regulations issued under this chapter.

(6) This chapter will not apply to any nonliving species of endangered or threatened plant or animal or parts thereof, if a person was in possession of same prior to this chapter becoming law; and PROVIDED that the person gives adequate evidence of such prior possession in accordance with criteria contained in regulations issued in accordance with this chapter.

Source: P.L. No. 6-55 §7; 45 TTC §107 (1980); S.L. No. 5L-14-00 §3-55, 10/1/00

§2-108. Regulations. — The Director of the Department of Land and Natural Resources shall issue regulations, subject to the approval of the Governor, applying to this chapter and including a listing of the species of endangered and threatened plants and animals of Pohnpei. These regulations shall have the force and effect of law.

Source: P.L. No. 6-55 §8; 45 TTC §108 (1980); S.L. No. 5L-14-00 §3-55, 10/1/00

§2-109. Importation of endangered species. — In anticipation of international cooperation and reciprocation, it is prohibited to import into Pohnpei any species of endangered or threatened plant or animal or parts thereof that is listed by the convention on international trade in endangered species of wild fauna and flora. This list may be a part of the regulations applying to this chapter.

Source: P.L. No. 6-55 §9; 45 TTC §109 (1980)

§2-110. Importation of exotic plants and animals. — Since exotic plants and animals not already established in Pohnpei can cause ecological upsets, compete with, prey upon, and introduce serious or devastating diseases that could further endanger our indigenous plants and animals or drive them to extinction, it is prohibited to import such exotic plants and animals or parts thereof into Pohnpei except under permit by the Director as defined in the regulations authorized by this chapter, except that beneficial insects and biological control microorganisms may be imported in accordance with Pohnpei Government plant and animal quarantine laws.

Source: P.L. No. 6-55 §10; 45 TTC §110 (1980)

§2-111. Confiscation of plants, equipment, etc. — Any endangered species of plant or animal or parts thereof held by any person in contravention of any of the other sections of this chapter, may be confiscated by the Pohnpei Government and disposed of in accordance with the regulations applying to this chapter; and further, any gun, weapon, spear, knife, trap, net, fishing gear, boat, engine or vehicle used for the purpose of violating any of the provisions or regulations of this chapter may be confiscated and disposed of by the Pohnpei Government in accordance with the regulations applying to this chapter.

Source: P.L. No. 6-55 §11; 45 TTC §111 (1980)

§2-112. Penalties. — Any person found guilty of violating any of this chapter shall be imprisoned for a period of time not to exceed one year, or fined not more than \$10,000, or both such fine and imprisonment.

Source: P.L. No. 6-55 §12; 45 TTC §112 (1980)

CONSERVATION & RESOURCES

CHAPTER 3 SOIL AND WATER CONSERVATION

Section

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§3-101. Short title. — This chapter is known and may be cited as the “Soil and Water Conservation Act of 1992.”

Source: S.L. No. 3L-27-92 §1, 11/19/92

§3-102. Legislative findings and intent. —

(1) The Pohnpei Legislature hereby finds that there is a need within the state of Pohnpei to establish plans and policies which will promote soil and water conservation by preventing erosion and thus conserving and improving the use of the state’s land and water resources.

(2) The Legislature further finds that there is a need to establish a soil and water conservation district and to create a soil and water conservation board with respect thereto to assist the state in the development of relevant, comprehensive, and integrated soil and water conservation plans and policies for private and public lands, inclusive of those lands affected by Chapter 4 Subchapter I, and to enable the state when it so desires to participate in United States of America federal conservation programs.

(3) It is the intent of the Legislature that the Soil and Water Conservation Board created by this chapter shall serve as an advisory body to Pohnpei in the formulation of such plans and policies and will provide support in these matters to the Department of Land and Natural Resources, which shall maintain its role as the primary soil and water conservation agency of Pohnpei.

Source: S.L. No. 3L-27-92 §2, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

§3-103. Definitions. — As used in this chapter, unless the context clearly requires otherwise, the following words shall have the following meanings:

(1) “Board” means the Soil and Water Conservation Board created by §3-108.

(2) “Cooperator” means any landowner or occupier of land who enters into a special contract regarding cooperative soil and water conservation projects with the Soil Conservation Service of the United States of America Department of Agriculture, through the Board.

(3) “Department” means the Department of Land and Natural Resources.

(4) “Director” means the Director of the Department of Land and Natural Resources.

(5) “District” means the Soil and Water Conservation District established by §3-104.

(6) “Farm land owner and occupier” means a person who is an owner or operator of land used for the purpose of raising livestock and producing field crops, fruits or other agricultural products.

(7) “Land owner or occupier of land” means a person who has title to, or in the case of leased land, the person who holds possession of leaseholds on land.

Source: S.L. No. 3L-27-92 §3, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

§3-104. Soil and Water Conservation District. — There is hereby established, of and for the state of Pohnpei, a Pohnpei Soil and Water Conservation District, the boundaries and area of which shall be co-extensive with the boundaries and area of the state. The District herein established shall be administered and managed by the Department of Land and Natural Resources in accordance with the requirements of this chapter and policies adopted by the advisory body created by §3-108.

Source: S.L. No. 3L-27-92 §4, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

§3-105. Cooperation and coordination. —

(1) In its management of the District, the Department and the Board shall cooperate with the Land Use Planning and Zoning Commission, the Pohnpei Public Lands Trust Board of Trustees, the Land Grant Program of the College of Micronesia, the Office of Transportation and Infrastructure, the Pohnpei Transportation Authority, the environmental protection agencies of Pohnpei and the Federated States of Micronesia, and other public entities and public interest groups whose activities impact on the conservation of soil and water within the District.

(2) Any project proposed within the District by the Department or the Board which involves the responsibilities of another state agency shall have that agency's review and approval prior to implementation.

(3) The activities and operations of other state agencies that impact on the conservation of soil or water within the District shall be reviewed by the Department and the Board to assure compatibility with conservation plans and programs.

Source: S.L. No. 3L-27-92 §5, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

§3-106. District plans. — The Soil and Water Conservation Board shall, taking into account the requirements and restrictions of Chapter 4 Subchapter I, and acting in conjunction with the Department of Land and Natural Resources and other affected state agencies, develop and recommend long-range plans, annual work plans, and other plans relative to land utilization and the conservation of soil and water resources within the District, which plans shall be submitted to the Department for approval. The Department shall promptly review and provide its determination in writing on plans submitted to it by the Board as well as the plans of other entities for which the Department's approval is required by Pohnpei law or the terms of the assistance or financial arrangement through which the plan or any activity or program thereunder that impacts on the conservation of soil and water resources within the District is funded.

Source: S.L. No. 3L-27-92 §6, 11/19/92

§3-107. General powers of the Department of Land and Natural Resources. — The Department shall, consistent with this chapter, coordinate the District projects and programs through advice and consultations and shall disseminate information throughout Pohnpei concerning District activities, projects, and programs. The Department shall keep records of its official actions, and may perform such acts as may be necessary to carry out its responsibilities under this chapter, that shall include but not be limited to:

(1) Delegation of powers or responsibilities provided to the Department under this chapter to any member, agent or employee of the Department or to a member of the Soil and Water Conservation Board created by §3-108, as the Director may determine necessary;

(2) Assignment of the staff members and personnel of other state agencies to the Department upon request of the Director, insofar as appropriations and resources permit, to assist the Department in carrying out its responsibilities under this chapter;

(3) Delegation to other state agencies and cooperative bodies and contracting to advisors and consultants, where permissible under law, the authority to make surveys, reports, and studies on the conservation of soil and water within the District;

- (4) Utilization of the services of the Department of Public Safety to carry out and enforce policies, laws, regulations, and directives established with respect to the management of the District;
- (5) Rendering of technical, administrative, clerical, and other forms of assistance to the Soil and Water Conservation Board in carrying out its projects, programs, and responsibilities;
- (6) Obtaining of assistance from the Federated States of Micronesia, the United States of America, and other public entities and international organizations for the promotion and enhancement of conservation projects and programs within the District; and
- (7) Applying for and accepting grants, loans when authorized by law, contributions and appropriations from any source, and soliciting, acquiring, and using funds, services or materials granted, appropriated or donated for projects or programs within the District.

Source: S.L. No. 3L-27-92 §7, 11/19/92

§3-108. The Soil and Water Conservation Board. —

(1) There is hereby established for Pohnpei, a Pohnpei Soil and Water Conservation Board that shall be composed of seven members. The Governor shall appoint seven persons to the Board who have experience or an educational background in agriculture, forestry, land or environmental conservation. All appointees approved by the Governor shall serve on the Board with the advice and consent of the Pohnpei Legislature.

(2) Members of the Board shall be appointed to serve for terms of three years. No member may be appointed for more than two consecutive three-year terms.

(3) Members of the Board shall serve at the pleasure of the Governor. Vacancies shall be filled for the remainder of the unexpired terms in the same manner as the original appointment.

Source: S.L. No. 3L-27-92 §8, 11/19/92

§3-109. Board meetings and procedures. —

(1) Within 15 days following the appointment and approval by the Legislature of the initial Board, the Director of the Department of Land and Natural Resources shall call an organizational meeting. Annually thereafter, the Board shall hold a meeting for the purpose of electing its officers for the ensuing year.

(2) The Board shall hold regular meetings every other month and may hold special meetings upon the request of any member of the Board. The Board shall hold at least one public meeting each calendar quarter.

(3) The Board shall adopt its own bylaws for the conduct of its business, subject to this chapter.

(4) The Board shall organize by electing one of its members as Chairman and another as Vice-Chairman. The Board shall also designate from among its members a Secretary to keep the minutes and records of the Board.

(5) Any four members of the Board shall constitute a quorum, and unless a greater majority is required by this chapter or the bylaws, a concurrence of a majority of members present shall be necessary for any official action taken by the Board.

(6) Membership on the Board shall be deemed a public service for which no additional compensation shall issue, but members may be paid for expenses incurred in the performance of Board business following rates and procedures for Pohnpei officers and employees as established by law and applicable regulations.

Source: S.L. No. 3L-27-92 §9, 11/19/92

§3-110. Powers and duties of the Board. — The Board organized under this chapter shall have, in addition to other authority granted under this chapter, the following powers and duties:

(1) To provide for and encourage surveys, investigations, and research relating to soil and water conservation, and to publish and disseminate information concerning such subjects;

(2) To provide for and encourage demonstrations relative to the control and prevention of erosion and conservation of soil and water resources and carry out preventive control measures on publicly owned lands within the District and with the consent of the occupiers of the lands;

(3) To cooperate with and enter into agreements with, and to furnish aid to, any agency or occupier of lands within the District as it is feasible to do, for specific soil and water conservation activities not conflicting with or duplicating other activities of the Department or other cooperating agencies. Such agreements shall be subject to such conditions as the state may deem necessary;

(4) To review conservation plans prepared by farm land owners and occupiers, which are a precondition for a contract between them and donor agencies, and to make recommendations on the acceptability of farm land owners' and occupiers' plans based upon their compatibility with District conservation plans. The Board may also, when requested, make recommendations on the proposed contracts to be entered into with respect thereto;

(5) To hire clerical help, employees, and to acquire and dispose of personal property such as equipment or machinery to introduce soil conservation practices to the agricultural community;

(6) To implement projects and programs such as flood control, irrigation, and/or soil conservation;

(7) To construct, improve, and maintain structures such as sediment ponds and earthen dams, following the requirements of Pohnpei law and proper engineering standards and specifications, necessary for carrying out the purposes of soil and water conservation;

(8) To develop conservation plans for cooperators within the District at their request;

(9) As a condition to the extending of benefits or the performance of work upon lands, the Board may require contributions or materials or other commitments of any cooperator for conferring such benefits, or may impose any other reasonable conditions. Such contributions might be labor for the planting of trees or payment for specific erosion control materials secured by the Board for the benefit of its cooperators; and

(10) To apply for and accept grants, loans, contributions, appropriations, property, and assistance from any source, private or public (foreign, federal or local), to enter into, and carry out contracts or agreements in connection therewith, and to use or expend these resources in carrying on its operations and for the purposes of this chapter. A separate account shall be established in the general fund of Pohnpei for the funds received by the Board, including the yearly appropriation from the Pohnpei Government. Funds of the District will be subject to audit according to law and regulations.

Source: S.L. No. 3L-27-92 §10, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

§3-111. Limitations on Board activities. — Board activities shall be limited to the following types of land within the Soil and Water Conservation District:

(1) Public and private lands which are designated as agricultural, watershed or conservation areas by law or on Master Land Use Plans adopted by the state; PROVIDED that if there be no such plan for the area under consideration, then such areas as are designated as such in writing by the Director of the Department of Land and Natural Resources.

(2) Public lands leased for agricultural activities.

(3) Public lands used for other purposes.

Source: S.L. No. 3L-27-92 §11, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

§3-112. Finances of Board. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei and such funds of the Pohnpei Treasury as may be appropriated in the Comprehensive Budget Act such sums as may be annually determined therein for the purpose of financing the operations, activities, projects, and programs of the Soil and Water Conservation Board created by this chapter. Such sums so appropriated shall be in addition to monies otherwise made available to the Board under this chapter.

(2) The Board shall operate on the same fiscal year as the Pohnpei Government. Unless otherwise required by the providing agency, all monies received by the Board shall be administered and

expended by the Board in accordance with the Financial Organization and Management Act, Title 11 Chapter 2, as amended, and in accordance with such terms as may be required by the provider of such monies. The Chairman of the Board shall submit an annual report to the Governor and the Legislature on or before October 15 on the administration and expenditure of all monies received by the Board from every source for the previous fiscal year.

(3) All sums appropriated from the Pohnpei Treasury under Subsection (1) of this section for a fiscal year not expended or obligated for expenditure within that fiscal year shall revert to the respective fund from which appropriated.

(4) The Department and other state agencies shall annually forecast their expected expenditures for administrative responsibilities under this chapter and incorporate such forecasts in their annual budget. The Department shall assist the Board in the formulation of its budget and append the Board's submission to the Department's annual budgetary submission to the Governor and the Legislature.

Source: S.L. No. 3L-27-92 §12, 11/19/92; S.L. No. 5L-14-00 §3-11, 10/1/00

CONSERVATION & RESOURCES

CHAPTER 4 FOREST CONSERVATION

SUBCHAPTER I WATERSHED FOREST RESERVE AND MANGROVE PROTECTION

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SUBCHAPTER I WATERSHED FOREST RESERVE AND MANGROVE PROTECTION

§4-101. Short title. — This subchapter is known and may be cited as the “Pohnpei Watershed Forest Reserve and Mangrove Protection Act of 1987.”

Source: P.L. No. 1L-128-87 §1, 7/8/87

§4-102. Purpose. — The purpose of this subchapter is to create and provide for the protection and maintenance of an effective watershed forest reserve, to protect important watershed areas, and to provide for the conservation and management of mangrove forests.

Source: P.L. No. 1L-128-87 §2, 7/8/87

§4-103. Findings. — The Legislature finds that:

(1) There are many thousands of hectares of public trust lands with highly erodible soils, that should not be cleared of forest cover and/or used for domestic and farm purposes because such uses endanger the watersheds of Pohnpei;

(2) There are in Pohnpei’s forests, unique and valuable plants and animals that require legal protection to assure their continued survival;

(3) Mangrove forests provide the basis for healthy fisheries, and are thus of benefit to all the people of Pohnpei; and

(4) The conservation, protection, and wise management of Pohnpei’s forests in perpetuity is of material benefit to all the people of Pohnpei.

Source: P.L. No. 1L-128-87 §3, 7/8/87

§4-104. Definitions. — Unless the context otherwise requires, for purposes of this subchapter:

(1) “Board” means the Board of Directors of the Pohnpei Environmental Protection Agency or its successor in law.

(2) “Chief” means the Chief of the Division of Forestry of the Department of Land and Natural Resources.

(3) “Director” means the Director of the Department of Land and Natural Resources.

(4) “Highly erodible or very highly erodible soils” means soils defined by the USDA Soil Conservation Service (SCS) in the 1982 report, “Soil Survey of Ponape, Federated States of Micronesia” as having a high or very high potential for being eroded by water. Specifically, they are as follows:

SCS# _____

301 Dolokei-Foaseng Association, 30-60% slopes

303 Dolokei-Foaseng Association, 30-60% slopes, cobbly

306 Foaseng-Dolokei Association, 60-100% slopes

308 Foaseng Variet silt loam, 30-60% slopes

318 Tolonier-Dolon Association, 30-60% slopes

319 Tolonier-Dolon Association, 60-100% slopes

These soils are shown approximately on the map bounded by a red line.

(5) “Important watershed area” means an area that, as of 1985, was already inhabited on highly erodible soils and that will require special care to avoid polluting river systems, or increasing other associated hazards.

(6) “Mangrove forest” means a salt-tolerant tidal fringe ecosystem of trees, other plants, and animals.

(7) “Permit” means a written instrument allowing a specified use in a watershed forest reserve, or important watershed area issued by the Director.

(8) “Polluting liquids” means any synthetic liquid substance which will or may get into ground or surface water, such as gasoline, oil, brake fluid, pesticides, laboratory chemicals or any liquid substance deemed unsafe for the health of a watershed by the Director.

(9) “Solid waste” means any refuse composed of metal, plastic, glass, wood or wood fibers, synthetic material or any non-liquid substance deemed unsafe for the health of a watershed by the Director.

(10) “Watershed forest reserve” means a large, contiguous area of highly or very highly erodible soils that is protected from development and retained in forest cover to provide long-term water supply for Pohnpei.

Source: P.L. No. 1L-128-87 §4, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00; S.L. No. 7L-80-11 §11, 1/14/11

§4-105. Establishment of a watershed forest reserve. — Pursuant to §4-114, the Pohnpei Public Lands Trust Board of Trustees is hereby empowered, authorized, and instructed to dedicate and vest the control and use rights in the following delineated public trust lands to the state government, Department of Land and Natural Resources, to be managed as a watershed forest reserve: all public lands within the green line on the USGS topographic map.

(1) Boundary marking and maintenance will be necessary to assure enforcement of this subchapter. The Division of Forestry, with the assistance of surveyors from the Division of Surveying and Mapping, will establish the boundary on the ground and describe it in metes and bounds within 18 months following the effective date of this subchapter. Maintenance of the boundary will be the responsibility of the Division of Forestry.

(2) Uses permitted within the watershed forest reserve, under permit from the Director, are as follows:

(a) Growing of certain crops;

(b) Research on plants, animals, and natural processes;

- (c) Recreation such as hiking, camping in designated areas, and sightseeing;
 - (d) Gathering of wild plants;
 - (e) Harvesting of timber, under supervision of the Chief; PROVIDED that watershed protection is the principal concern for use of the land, and any timber harvesting so permitted is planned and conducted so as to assure watershed protection; and
 - (f) Other such uses as may be deemed compatible with watershed protection as authorized in writing by the Director.
- (3) Uses specifically forbidden within the watershed forest reserve are as follows:
- (a) Permanent occupancy of any kind, or the building of structures such as houses, sheds or barns;
 - (b) Any use of pesticides or other chemicals, unless specifically permitted after appropriate environmental review;
 - (c) Building of roads or trails, unless permitted in writing by the Director after appropriate environmental review;
 - (d) Cutting of any trees, except as may be authorized under permit;
 - (e) Clearing by the use of fire, or any other use of fire not authorized by written permit; and
 - (f) Grazing of livestock.

Source: P.L. No. 1L-128-87 §5, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00; S.L. No. 7L-80-11 §12, 1/14/11

§4-106. Important watershed areas. — The Legislature finds that the lands lying between the green and red lines on the USGS topographic map are on soils designated as erodible or highly erodible by the Soil Conservation Service, are partly occupied by farms and homesteads, and are important watershed areas to all the people of Pohnpei.

(1) The Division of Forestry, with the assistance of surveyors from the Division of Surveying and Mapping, will establish the boundary corresponding to the mapped red line on the ground and describe it in metes and bounds, assuring that the line is entirely on public lands, within two years of the date of final approval of this subchapter[*effective date is July 8, 1987*]. Maintenance of the boundary will be the responsibility of the Division of Forestry.

(2) In order to assure the future protection of these important watershed areas, the following restrictions shall apply within them:

- (a) No additional building of roads or structures is permitted after the date that this subchapter becomes law;
- (b) No rebuilding or improvement of structures now in existence is permitted;
- (c) The Board shall strictly enforce all regulations pertaining to location and design of toilets, septic tanks, drain fields, piggeries, fire, use of chemicals, and other pertinent regulations within these areas;
- (d) All disposal of solid waste shall be at authorized dump sites located outside of the important watershed area; dumping of solid wastes within the area is forbidden;
- (e) Any dumps currently existing within this area shall be cleaned up within one year of the effective date of this subchapter[*effective date is July 8, 1987*], by those who created them or by the Office of Transportation and Infrastructure; and
- (f) It is at all times forbidden to dump polluting liquids on the ground or to dispose of them by any manner within the area.

(3) The Board shall monitor a representative sample of these areas to see how well the above restrictions, and the enforcement of them, work to protect the important watershed areas. Within three years of the effective date of this subchapter[*effective date is July 8, 1987*], and every three years thereafter, the Board shall submit a report to the Legislature on the status of watershed protection in these areas, together with recommendations for any improvements deemed necessary. The Director

shall concur in this report, or shall state in writing to the Governor any differences with it.

Source: P.L. No. 1L-128-87 §6, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00; S.L. No. 7L-80-11 §13, 1/14/11

§4-107. Mangrove forests. — Broad goals for the mangrove forests of Pohnpei are to conserve these forests for the maximum sustainable benefit to people, and to minimize those nonsustainable or conversion activities that lead to the destruction of the forests. Cooperation between the Department of Land and Natural Resources and the Board will be necessary to meet these broad goals.

(1) Within two years of the effective date of this subchapter [*effective date is July 8, 1987*], the Director shall make a study to determine which mangrove areas of Pohnpei, if any, should be designated as Pohnpei mangrove forest reserves. The Director's report will include recommendations for protection and management of any areas so designated.

(2) Upon passage of this subchapter and filing of regulations, the following restrictions shall apply to all mangrove forests on Pohnpei:

(a) All cutting of trees is prohibited except as permitted in writing by the Director, through the Chief of the Division of Forestry;

(b) All dredging, road building, and other major land-disturbing activities affecting mangrove forests, whether privately or publicly sponsored, will require approval and a permit from the Director, and environmental review will be required for all such projects prior to approval;

(c) The building of new houses, sheds or other structures will be allowed only if the proponent can show a valid deed for the property to be built upon, or if the Pohnpei Public Lands Trust Board of Trustees and the Director agree that a permit can be issued without significantly harming the mangrove forest; PROVIDED that if either disagrees, the permit will be denied; and

(d) All use of chemical pesticides and herbicides, and the dumping of solid waste or polluting liquids is prohibited in mangrove forests except as may be permitted by the Director after appropriate environmental review.

Source: P.L. No. 1L-128-87 §7, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00; S.L. No. 7L-80-11 §14, 1/14/11

§4-108. General provisions. —

(1) The Director shall make and prescribe rules and regulations for the use of watershed forest reserves, important watershed areas, and mangrove forests. Promulgation of initial regulations by the Director, for the implementation of this subchapter shall be completed within 90 days after the effective date of this subchapter [*effective date is.....*]. Copies of the Department regulations pursuant to this subchapter shall be available for inspection at the offices of the Director and the Chief of the Division of Forestry.

(2) The Director and the Chief shall, to the maximum extent possible, cooperate and coordinate with the Board, water authorities, and with all other agencies or organizations, public or private, that are concerned with forest resources, and with the College of Micronesia-FSM.

(3) Public understanding and acceptance of this subchapter are important to the success of its objectives. The Director shall work with the College of Micronesia-FSM and the Pohnpei Department of Education in curriculum development and training for grade school and high school level teachers, and in extension education for adults. Areas of education that need to be emphasized are:

(a) General conservation of soil, water, and natural systems such as forests, mangroves, and lagoons;

(b) Watershed concepts and importance;

(c) Specific education regarding this subchapter;

(d) Wildfire prevention and responsible use of fire; and

(e) The recognition, appreciation, and protection of native species.

(4) The enforcement of this subchapter shall be as follows:

(a) Patrol of the areas and their boundaries established by this subchapter, and reporting of violations, will be the responsibility of the Department of Public Safety, Division of Fish and Wildlife. All other law enforcement agencies on Pohnpei are also specifically authorized and encouraged to enforce this subchapter.

(b) Taking legal action against reported violators shall be the responsibility of the Office of the Attorney General.

(5) Penalties for violation of certain provisions of this subchapter are as follows:

(a) Anyone who violates §4-105(2) or §4-106(2) of Title 26 shall be subject to a fine of not more than \$500, a term of not more than six months in jail for each offense, and liability for restoration of the site(s) to as near original condition as possible.

(b) Violators of §4-105(3) of Title 26, regarding prohibited uses in a watershed forest reserve, and §4-107(2) of Title 26, regarding prohibited uses in mangrove forests, shall be subject to a fine of not more than \$1,000 and a jail term of not more than one year for each offense, and liability for restoration of the site(s) to as near its original condition as possible; except that violation of §4-105(3)(d) of Title 26, and §4-107(2)(a) of Title 26, shall carry a fine of up to \$1,000 per tree so cut, consistent with Subchapter II of this chapter.

Source: P.L. No. 1L-128-87 §9, 7/8/87; S.L. No. 5L-14-00 §3-45, 10/1/00; S.L. No. 7L-80-11 §4, 1/14/11

§4-109. Authorization for appropriation; administration. — There is hereby authorized to be appropriated annually from the general fund of Pohnpei such sums as are deemed necessary to implement this subchapter. The sums herein authorized for appropriation shall be administered and expended by the Governor solely for the purpose of this subchapter. The Governor shall report to the Legislature on or before October 15 following each fiscal year wherein sums are appropriated under the authorization of this section. All sums appropriated for a fiscal year remaining unexpended or unobligated for expenditure at the end of the fiscal year shall revert to the general fund of Pohnpei.

Source: P.L. No. 1L-128-87 §8, 7/8/87

SUBCHAPTER II FOREST MANAGEMENT

§4-110. Short title. — Subchapter II is known and may be cited as the “Forest Management Act of 1979.”

Source: D.L. No. 4L-203-79 §1, 8/28/79

§4-111. Purpose. — To create and maintain an effective and comprehensive system of regulation of and assistance to the development of forest land.

Source: D.L. No. 4L-203-79 §2, 8/28/79

§4-112. Definition. — Unless the context otherwise requires, for the purpose of this subchapter:

(1) “Director” means the Director of the Department of Land and Natural Resources of the Pohnpei State Government.

(2) “Pohnpei forester” means the Chief of the Division of Forestry.

Source: D.L. No. 4L-203-79 §3, 8/28/79; S.L. No. 5L-14-00 §3-13, 10/1/00; S.L. No. 7L-80-11 §15, 1/14/11

§4-113. Pohnpei Forester; duties. — The Governor shall appoint a Pohnpei Forester whose duties shall include:

(1) Serving as Chief of the Division of Forestry;

(2) Gathering, compiling, and tabulating information and statistics concerning the area, location, character, quality, and quantity of forests;

(3) The care, custody, and control of the forestry stations of Kolonia and Madolenihmw and other experimental or demonstration areas as established by the Director for the purposes of and in order to determine suitable tree species and record the performance thereof;

(4) The care, custody, and control (subject to the direction and control of the Director) of the lands which may be set aside as watershed reserves and forest reserves;

(5) Developing of ways and means of enhancing, increasing, and utilizing the forests and forest resources by design and construction of a forest transportation system, determining suitable logging methods, and promoting utilization technology;

(6) Devising methods of prevention, control, and extinguishment of fires in rural and forested areas; and

(7) Cooperating with private groups or individuals in the promoting of good forestry concepts and practice through financial, technical or related assistance.

Source: D.L. No. 4L-203-79 §4, 8/28/79; S.L. No. 7L-80-11 §16, 1/14/11

§4-114. Forest reserves. —

(1) The Legislature may from time to time, with the advice of the Pohnpei Public Lands Trust Board of Trustees, set apart any government lands as forest reserve land.

(2) A forest reserve shall be maintained and protected by the Division of Forestry so as to maximize the benefits to the public of timber, water, wildlife, and forage.

(3) The setting aside of a forest reserve shall be preceded by a public hearing as described in §4-119.

(4) When, as determined by the state forester, the trees, or any other products growing or produced on any part of a forest reserve or other property under the custody and control of the Division of Forestry, become suitable for marketing or cutting, the same may be sold at public auction or in such other manner as the Director may authorize.

(a) Prior to any sale of timber or other forest resource under this subsection, the state forester shall be required to prepare a detailed management plan for the timber stand or other resource together with sufficient and necessary administrative and procedural provisions as the Director may require in order that the interest of the public in and to the forest resources shall be protected.

(b) All monies collected from the sale of products thereof or accruing to any forest reserve shall be collected by the Director of Treasury and Administration and deposited in the general fund.

(5) The cutting, killing, girdling, chopping, injuring, or otherwise damaging or the removal of any timber, young tree growth, or the products of tree growth on any forest reserve of public land, except as authorized by law or by permission from the Division of Forestry is prohibited.

Source: D.L. No. 4L-203-79 §5, 8/28/79; S.L. No. 5L-14-00 §3-13, 10/1/00; S.L. No. 7L-80-11 §17, 1/14/11

§4-115. Watershed reserves. —

(1) The Legislature may, with the advice of the Pohnpei Public Lands Trust Board of Trustees, from time to time set aside as a watershed reserve any watershed or part of a watershed public land, from which:

(a) The domestic water supply of a city, town or community is or may be obtained; and

(b) Water infiltrates into artesian or ground water aquifers from which the domestic water supply of a city, town or community is or may be obtained.

(2) The Director shall promulgate regulations for the management and protection of watershed reserves so as to insure to the public the continuous and uninterrupted availability of uncontaminated domestic water supplies.

(3) The Pohnpei Public Lands Trust Board of Trustees may acquire by purchase, gift, dedication, exchange or eminent domain as authorized by law, private lands lying within a proposed watershed reserve.

(4) The Director may recommend to the appropriate Land Planning Commission that lands within a watershed be zoned so as to protect the watershed.

Source: D.L. No. 4L-203-79 §6, 8/28/79

§4-116. Forest nursery. — It shall be the obligation of the Division of Forestry to maintain a nursery or nurseries for the production of seeds, seedlings or plants, as appropriate, which shall be available for forest planting on state lands, forest reserves or watershed reserves.

Source: D.L. No. 4L-203-79 §7, 8/28/79; S.L. No. 7L-80-11 §18, 1/14/11

§4-117. Rural fire protection. —

(1) The Division of Forestry shall develop and implement plans and programs for the prevention, control, and suppression of wild fires in rural areas.

(2) The Pohnpei Forester shall be ex-officio chief rural fire warden and shall be responsible for coordinating the work of local fire wardens.

(3) The Pohnpei Forester shall be responsible for preparing plans for and implementing the organization, equipping, staffing, and training of rural fire control crews, either Division of Forestry employees or community volunteers, as necessary.

Source: D.L. No. 4L-203-79 §8, 8/28/79; S.L. No. 7L-80-11 §1, 1/14/11

§4-118. Public forestry assistance. —

(1) The Pohnpei Forester and staff shall be available during normal working hours, for consultation with private landowners, groups or individuals on all matters relating to forestry.

(2) The Pohnpei Forester may assist the private land owner, or processor, in all phases of forest and tree management and operations by supplying technical and related assistance as available.

Source: D.L. No. 4L-203-79 §9, 8/28/79

Note: D.L. No. 4L-203-79 §10 appropriations provision has been omitted.

§4-119. General provisions. —

(1) *Regulations.* The Director may make and prescribe rules and regulations appropriate to implement this subchapter and in accordance with the procedural requirements of Title 8 Chapter 1; PROVIDED that such rules and regulations are consistent with this subchapter and other laws of the state.

(2) *Coordination.* The Director and the Pohnpei Forester shall, to the maximum extent possible, cooperate and coordinate with all agencies or organizations, public or private, which are concerned with forest resources. The Director may recommend to the Pohnpei Public Lands Trust Board of Trustees the advisability of setting aside of public lands as forest reserves or watershed reserves. Should the Pohnpei Public Lands Trust Board of Trustees approve the recommendation, it shall submit the recommendation to the Legislature.

(3) *Enforcement.* The Department of Public Safety, Division of Fish and Wildlife shall have primary responsibility for enforcement of this subchapter.

(4) *Penalties.* Any person convicted of violating any regulation issued by the Director applying to this subchapter shall be guilty of a misdemeanor and subject to a fine of not more than \$500, imprisonment for not more than six months, or both such fine and imprisonment.

Source: D.L. No. 4L-203-79 §11, 8/28/79; S.L. No. 7L-80-11 §5, 1/14/11

SUBCHAPTER III CONTROL AND USE OF MANGROVE AND UPLAND FORESTS

§4-120. Delegation of authority. — All rights, title, and interest in the mangrove and upland forests in Pohnpei now in the public domain are and shall remain in the government of the state of Pohnpei. Subject to the guidance of the Governor, the immediate supervision and control of the forests within each local jurisdiction is delegated to the chief executive of the local government wherein the forests lie.

Source: PDC §11-202(a), 3/71

§4-121. Authorization of ordinances. — Local councils are hereby authorized to enact ordinances providing for the regulation, control, and taxation of mangrove and upland forests within each local jurisdiction. Such ordinances shall be subject to veto by the Governor. This authorization shall include the establishment of areas where mangrove or upland trees may be cut, removed or used by private persons or businesses, the issuing of permits and permit fees for the cutting of trees, and the establishment of excise taxes and other charges within the power of the local governments as authorized by the Legislature.

Source: PDC §11-202(b), 3/71

§4-122. Disposition of revenues. — Revenues from cutting and use of trees from the forests in the public domain will accrue to the treasury of the local government wherein the mangrove or upland forests lie.

Source: PDC §11-202(c), 3/71

§4-123. Penalties. — Local councils are hereby authorized to establish such penalties for violations of ordinances regulating or taxing the use or sale of mangrove or upland trees as is within their powers.

Source: PDC §11-202(d), 3/71

CHAPTER 5

MARINE SANCTUARY AND WILDLIFE REFUGE SYSTEM

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§5-101. Short title. — This chapter is known as the “Marine Sanctuary and Wildlife Refuge Act of 1999.”

Source: S.L. No. 4L-115-99 §1, 7/23/99

§5-102. Legislative findings. — The Legislature finds that certain areas of the terrestrial and marine environment possess conservation, cultural, recreational, ecological, historical, research, educational, or aesthetic qualities which give them special national and international significance, and that protection of these special areas is necessary for the social, cultural, and economic well-being of future generations.

Source: S.L. No. 4L-115-99 §2, 7/23/99

§5-103. Purpose. — The purpose of this chapter is to identify and designate ecologically significant areas of the terrestrial and marine environment as state marine sanctuaries and wildlife refuges; to provide authority for comprehensive and coordinated conservation and management of these terrestrial and marine areas, and activities affecting them, in a manner which complements existing regulatory authorities; to support, promote, and coordinate scientific research on, and monitoring of, the resources of these areas, especially long-term monitoring and research; to enhance public awareness, understanding, appreciation, and wise use of the environment; to facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these areas not prohibited pursuant to other authorities; to develop and implement coordinated plans for the protection and management of these areas with appropriate agencies, national, state and municipal governments, and other public and private interests concerned with the continuing health and

resilience of these areas; to create models of, and incentives for, ways to conserve and manage these areas; to cooperate with global programs encouraging conservation of the environment; and to maintain, restore, and enhance living resources by providing places for species that depend upon these areas to survive and propagate.

Source: S.L. No. 4L-115-99 §3, 7/23/99

§5-104. Definitions. — As used in this chapter, unless the context requires otherwise:

(1) “Conservation” means activities involving protection, maintenance, preservation, storing up and saving of marine, watershed and forest resources.

(2) “Director” means the Director of the Department of Land and Natural Resources.

(3) “Fish” means any species of mammal, fish, amphibian, mollusk, crustacean, arthropod, invertebrate, coral or other animal that inhabits the freshwater or marine environment, and includes any part, product, egg or offspring thereof; or freshwater or marine plants or algae, including seeds, roots, products, and any other parts thereof; and any other living freshwater or marine resource, including bacteria and fungi.

(4) “Fishing” means:

(a) The actual or attempted searching for, chasing of, catching, taking or harvesting of fish;

(b) Any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;

(c) The placing, searching for or recovery of fish aggregating devices or associated equipment such as radio beacons;

(d) Aircraft use relating to the activities described in this subsection, except for flights in emergencies involving the health or safety of crew members, or of the safety of the vessel;

(e) Transshipping fish to or from any vessel;

(f) Storing, processing or transporting fish;

(g) Refueling or supplying fishing vessels; or

(h) Any operations in support of or in preparation for any activity described in this subsection.

(5) “Non-commercial” means not intended or designed to procure profit, reward or compensation in exchange for products or services rendered.

(6) “Person” means any individual, corporation, partnership, association or other entity, and any governmental entity including, but not limited to, the Federated States of Micronesia or any of the states of the Federated States of Micronesia, or any political subdivision thereof, and any foreign government, subdivision of such government, or any entity thereof.

(7) “Subsistence fishing” means fishing undertaken by the citizens of Pohnpei to ensure the livelihood of the immediate or extended family as may be further defined by regulation.

(8) “Subsistence use” means activities undertaken by citizens of Pohnpei to ensure the livelihood of the immediate or extended family as may be further defined by regulation.

(9) “System” refers to the aggregate marine sanctuaries and wildlife refuges established by this chapter or designated by future statutes, as provided herein.

(10) “Take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such activity.

Source: S.L. No. 4L-115-99 §4, 7/23/99; S.L. No. 5L-14-00 §3-17, 10/1/00; S.L. No. 7L-79-11 §2, 1/14/11

§5-105. Establishment of the State Marine Sanctuary and Wildlife Refuge System. — There is hereby established the Pohnpei State Marine Sanctuary and Wildlife Refuge System which shall be subject to this chapter and shall be administered by the Director of the Department of Land and Natural Resources.

(1) Areas to be included in the System shall be designated by law; PROVIDED, HOWEVER, that all areas currently designated as marine sanctuaries, wildlife refuges, areas for the protection and conservation of fish and/or wildlife, and all wildlife management areas as of the effective date of this

chapter [July 23, 1999] shall be included within the System. All areas within the System shall remain part of the System until otherwise specified by law.

(2) For all public lands located above the mean high tide mark that are designated to be included within the System, the Pohnpei Public Lands Trust Board of Trustees is hereby empowered and authorized to vest control and use rights to the state government, Department of Land and Natural Resources, to be managed as provided for herein.

Source: S.L. No. 4L-115-99 §5, 7/23/99; S.L. No. 5L-14-00 §3-17, 10/1/00

§5-106. Administration of State Marine Sanctuary and Wildlife Refuge System. —

(1) In administering the System, the Director is authorized:

(a) To enter into contracts with any person for the provision of facilities for the management of the area and such public accommodations that are not inconsistent with the primary purpose for which the area was established. No facility may be developed in any area of the System unless it is compatible with the use of the area;

(b) To accept donations of funds and to use such funds to acquire or manage lands, waters or interests therein, and to accept any gift, device, grant or other conveyance of title to, or any interest in, real property, or other tangible goods, to be added to or used in connection with the System; and

(c) To acquire lands, waters or interests therein by exchange of public lands for private lands, or for interests in public lands which the Director finds suitable for disposition, or by eminent domain.

(2) Within 60 days of the designation of an area to be included within the System, the Director shall issue such regulations as are necessary for the proper administration of the area and as are consistent with the purposes of the establishment of the System. In developing the regulations under this subsection, the Director shall consult with the traditional leaders and the leaders of the local municipal government for the area in which the designated area is located.

Source: S.L. No. 4L-115-99 §6, 7/23/99

§5-107. Prohibited activities within the State Marine Sanctuary and Wildlife Refuge System. —

(1) Within the boundaries of an area designated as part of the System:

(a) No person shall disturb, injure, cut, burn, remove, destroy or possess any part of the real or personal property of the state, including mangrove and forested areas, natural growth and minerals, in any area of the System;

(b) No person shall take or possess any fish, bird, mammal or other wild vertebrate or invertebrate animals or part, or nest, or egg thereof within any such area unless otherwise allowed by regulations issued under this chapter;

(c) No person shall engage in fishing, unless otherwise allowed by regulations issued under this chapter;

(d) No person shall engage in dredging, mining or other removal of minerals, rock, sand, coral or other natural resources;

(e) No person shall use or possess, any explosive, toxic chemical, firearm, bow and arrow or other weapon, or any trap capable of taking fish, birds, mammals or any other types of wildlife, unless otherwise permitted by regulations issued under this chapter; and

(f) No person shall enter, use or otherwise occupy any area of the System for the purpose of engaging in any activity prohibited under this section, unless such activities are otherwise permitted under this chapter or regulations issued under this chapter.

(2) Commercial exploitation of resources within the boundaries of the System is prohibited. Qualified institutions and individuals shall be permitted to conduct nondestructive forms of scientific

investigation within the state reserve system, upon receiving the prior written approval from the Director pursuant to regulations issued under this chapter.

Source: S.L. No. 4L-115-99 §7, 7/23/99

§5-108. Permit required. —

(1) Notwithstanding §5-107, the Director is authorized, under such regulations as he may prescribe, to permit the use of areas within the System for non-commercial recreational hunting and fishing, subsistence fishing, public recreation and accommodations, and scientific research whenever such uses are compatible with the purposes for which such areas were established.

(2) If the material provisions of any permit issued are violated by the permit holder, in addition to any other remedies allowed by law, the Director may revoke or suspend the permit permanently or for a specified period of time pursuant to procedures established by regulations.

Source: S.L. No. 4L-115-99 §8, 7/23/99

§5-109. Inventory of features of area. — Within 60 days after the designation of an area, the Director shall prepare an inventory of each area's scenic, natural, and cultural features, including, but not limited to, ecological, archaeological, historical, and geological features.

Source: S.L. No. 4L-115-99 §9, 7/23/99

§5-110. General plan. — Following the designation of an area, and prior to the development of any new facilities in any area, the Director shall prepare a general plan for the area. The general plan shall consist of elements that will evaluate and define the proposed land uses, facilities, concessions, operation of the area, any environmental impacts, and the management of resources, and shall serve as a guide for the future development, management, and operation of the area. No new facility may be developed in any area of the System unless compatible with the purposes for which the area was designated.

Source: S.L. No. 4L-115-99 §10, 7/23/99

§5-111. Funding. — There is hereby authorized from the general fund of the Treasury of Pohnpei or such other Treasury Fund as may be identified in the Comprehensive Budget Act, a sum or sums to be determined annually in the Comprehensive Budget Act for the purposes of funding the System established under this chapter.

Source: S.L. No. 4L-115-99 §11, 7/23/99

§5-112. Civil penalties. — Any person who violates any provision of this chapter, the regulations promulgated under this chapter, or a permit issued under this chapter shall be liable to pay a civil penalty of not more than \$20,000 for each violation. In determining the amount of the penalty, the gravity of the violation, prior violations, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation shall be considered.

Source: S.L. No. 4L-115-99 §12, 7/23/99

§5-113. Criminal penalties. — In addition to any action which may be brought under this chapter, any person who knowingly violates this chapter, regulations promulgated under this chapter, or a permit issued under this chapter shall be fined not more than \$50,000, or imprisoned for not more than one year, or both.

Source: S.L. No. 4L-115-99 §13, 7/23/99

§5-114. Separate offenses. — For the purpose of imposing civil and criminal penalties under this chapter, each day of a continuing violation shall constitute a separate offense.

Source: S.L. No. 4L-115-99 §14, 7/23/99

§5-115. Injunctive relief. — The Attorney General may bring actions for relief under §§5-112 or 5-113 and for equitable relief to enjoin an imminent or continuing violation of this chapter, regulations promulgated under this chapter or a permit issued under this chapter.

Source: S.L. No. 4L-115-99 §15, 7/23/99

§5-116. Liability of vessels in rem. — Any vessel used in the commission of a violation of this chapter, regulations promulgated under this chapter or a permit issued under this chapter shall be liable in rem for any civil penalty or criminal penalty imposed.

Source: S.L. No. 4L-115-99 §16, 7/23/99

§5-117. Civil suits by private persons. —

(1) Any person may commence a civil suit on his own behalf to enjoin any person who is alleged to be in violation of §5-107.

(2) No action under this section may be commenced if the Attorney General has commenced and is diligently prosecuting a civil or criminal action to require compliance under the law.

(3) In any suit brought under this section, the Attorney General may intervene as a matter of right.

(4) The court in issuing any final order in any suit brought pursuant to Subsection (1) of this section may award costs of litigation, including reasonable attorney and witness fees to the prevailing party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person or class of persons may have under any statute, or common law to seek any other relief.

Source: S.L. No. 4L-115-99 §17, 7/23/99

§5-118. Establishment of Oroluk Marine Sanctuary. —

(1) There is hereby established the Oroluk Marine Sanctuary.

(2) The purposes of the Oroluk Marine Sanctuary shall be to preserve and protect for future generations the unique and unspoiled coral reef system of Oroluk Atoll and the significant bird and turtle nesting and feeding areas found in and around the area.

(3) The Oroluk Marine Sanctuary shall be comprised of all lands of Oroluk Atoll located below the mean high tide mark of the lagoon area and all areas outside the lagoon to a depth of 600 meters.

(4) The Director shall survey and identify biologically significant areas above the mean high tide mark for inclusion within the Oroluk Marine Sanctuary. Such areas shall include, but are not necessarily limited to:

(a) Nesting sites for marine turtles; and

(b) Nesting sites for marine and migratory birds.

(5) The Director shall promulgate regulations granting the Oroluk Marine Sanctuary the highest level of protection available within the System. The regulations shall, at a minimum, accomplish the following:

(a) Restrict subsistence fishing to full-time residents of Oroluk Atoll only; and

(b) Ensure the protection of bird and turtle nesting and feeding areas.

Source: S.L. No. 4L-115-99 §18, 7/23/99

§5-119. Establishment of Minto Reef Marine Sanctuary. —

(1) There is hereby established the Minto Reef Marine Sanctuary.

(2) The purposes of the Minto Reef Marine Sanctuary shall be to preserve and protect for future generations the unique and unspoiled coral reef system of Minto Reef and the significant bird and turtle nesting and feeding areas found in and around the area.

(3) The Minto Reef Marine Sanctuary shall be comprised of all lands of Minto Reef Atoll located above and below the mean high tide mark consisting of the lagoon area and all areas outside the lagoon to a depth of 600 meters.

(4) The Director shall promulgate regulations granting the Minto Reef Marine Sanctuary the highest level of protection available within the System. The regulations shall, at a minimum, accomplish the following:

- (a) Prohibit subsistence fishing within the Sanctuary; and
- (b) Ensure the protection of bird and turtle nesting and feeding areas.

Source: S.L. No. 4L-115-99 §19, 7/23/99

§5-120. Establishment of Kehpera Marine Sanctuary. —

(1) There is hereby established the Kehpera Marine Sanctuary.

(2) The purposes of the Kehpera Marine Sanctuary shall be to preserve and protect the unique coral reef and marine life resources surrounding the area of Kehpera Island. The areas surrounding Kehpera Island serve as sites for the aggregation and spawning of many species of reef fish that are of critical economic and cultural importance to the people of Pohnpei. Protection of these spawning sites is necessary to ensure the protection of Pohnpei's fish stocks and the people that depend on them.

(3) The Kehpera Marine Sanctuary shall be composed of all reefs and submerged lands below the mean high-water mark beginning at the most south westerly corner of the Sanctuary site with the coordinate value of Northing 61,162.318; Easting 69,798.017 thence N50-22-10E 143.45 meters to a corner with the coordinate value of Northing 61,253.815; Easting 69,908.499 thence N60-02-27E 168.39 meters to a corner with the coordinate value of Northing 61,337.909; Easting 70,054.393 thence N60-58-20E 258.32 meters to a corner with the coordinate value of Northing 61,463.252; Easting 70,280.261 thence N57-55-25E 291.43 meters to a corner with the coordinate value of Northing 61,618.015; Easting 70,527.201 thence N16-31-44E to a corner with the coordinate value of Northing 61,679.159; Easting 70,545.346 thence N46-27-42W 174.08 meters to a corner with the coordinate value of Northing 61,799.073; Easting 70,419.153 thence N18-50-08W 1,021.03 meters to a corner with the coordinate value of Northing 62,765.426; Easting 70,089.512 thence N40-30-24W 229.85 meters to a corner with the coordinate value of Northing 62,940.184; Easting 69,940.218 thence N50-38-03W 427.23 meters to a corner with the coordinate value of Northing 63,211.164; Easting 69,609.920 thence N82-24-07W 394.20 meters to a corner with the coordinate value of Northing 63,263.286; Easting 69,219.182 thence S17-22-17W 492.13 meters to a corner with the coordinate value of Northing 62,793.606; Easting 69,072.250 thence S15-07-58W 237.15 meters to a corner with the coordinate value of Northing 62,565.797; Easting 69,006.354 thence S12-25-29W 525.86 meters to a corner with the coordinate value of North 62,052.183; Easting 68,893.509 thence S45-28-03E 1,268.86 meters to the true beginning corner.

(4) The Director shall promulgate regulations governing the Kehpera Marine Sanctuary. The regulations shall, at a minimum, accomplish the following:

- (a) Prohibit subsistence fishing within the boundaries of the Sanctuary;
- (b) Prohibit the destruction of mangrove areas and bird nesting sites; and
- (c) Ensure the protection of other wildlife and marine habitats within the Sanctuary.

Source: S.L. No. 4L-115-99 §20, 7/23/99; S.L. No. 7L-28-09, §1, 2/17/09

§5-121. Establishment of Enipein Marine Park. —

(1) There is hereby established the Enipein Marine Park.

(2) The purpose of the Enipein Marine Park is to protect and preserve the unique marine and watershed resources of the Enipein Marine Park area and to promote education, research, and tourism in the state of Pohnpei; PROVIDED that the Department of Land and Natural Resources shall survey or cause to be surveyed and delineated an area of 139 hectares to be called the no take Zone, which shall have the highest level of protection, and an area of 377 hectares to be called the Subsistence Use Zone, which shall permit subsistence activities.

(3) The Director shall establish the boundaries of Enipein Marine Park by regulations within 90 days of the effective date of this chapter [*effective date is July 23, 1999*].

(4) The Director shall promulgate regulations governing Enipein Marine Park. The regulations shall, at a minimum, accomplish the following:

- (a) Prohibit the destruction of mangrove areas and bird nesting sites;
- (b) Ensure the protection of other wildlife and marine habitats within the Park; and
- (c) Provide for the regulation of subsistence fishing and use activities within the Subsistence Use Zone.

Source: S.L. No. 4L-115-99 §21, 7/23/99; S.L. No. 7L-79-11 §3, 1/14/11

§5-122. Establishment of Pwudoï Marine Sanctuary. —

(1) There is hereby established the Pwudoï Marine Sanctuary.

(2) The purpose of the Pwudoï Marine Sanctuary is to protect and preserve the unique marine and watershed resources of the Pwudoï Marine Sanctuary area and to promote education, research, and tourism in the state of Pohnpei.

(3) The Director shall establish the boundaries of Pwudoï Marine Sanctuary by regulations within 90 days of the effective date of this chapter [*effective date is July 23, 1999*].

(4) The Director shall promulgate regulations governing Pwudoï Marine Sanctuary. The regulations shall, at a minimum, accomplish the following:

- (a) Prohibit the destruction of mangrove areas and bird nesting sites; and
- (b) Ensure the protection of other wildlife and marine habitats within the Sanctuary.

Source: S.L. No. 4L-115-99 §22, 7/23/99

§5-123. Establishment of Nahmw en Nangih Stingray Sanctuary. —

(1) There is hereby established the Nahmw en Nangih Stingray Sanctuary.

(2) The purpose of the Nahmw en Nangih Stingray Sanctuary shall be to preserve and protect the ecologically significant areas used by species of rays (*Order Myliobatidiformes*) in the waters of Pohnpei. The areas surrounding Nahmw en Nangih serve as sites for the aggregation and feeding of these species of rays and are of significant economic and cultural importance to the people of Pohnpei. Protection of these sites is necessary to ensure the protection of these species and for the enhancement of the economic and cultural well-being of the people of Pohnpei.

(3) The Director shall establish the boundaries of Nahmw en Nangih Stingray Sanctuary by regulations within 90 days of the effective date of this chapter [*effective date is July 23, 1999*].

(4) The Director shall promulgate regulations governing Nahmw en Nangih Stingray Sanctuary. The regulations shall, at a minimum, accomplish the following:

- (a) Prohibit the taking or harming of any species of ray (*Order Myliobatidiformes*) within the boundaries of the Sanctuary; and
- (b) Ensure the protection of the marine habitat within the Sanctuary.

Source: S.L. No. 4L-115-99 §23, 7/23/99

§5-124. Establishment of Kisin nahmw en Nangih Stingray Sanctuary. —

(1) There is hereby established the Kisin nahmw en Nangih Stingray Sanctuary.

(2) The purpose of the Kisin nahmw en Nangih Stingray Sanctuary shall be to preserve and protect the ecologically significant areas used by species of rays (*Order Myliobatidiformes*) in the waters of Pohnpei. The areas surrounding Kisin nahmw en Nangih serve as sites for the aggregation and feeding of these species of rays and are of significant economic and cultural importance to the people of Pohnpei. Protection of these sites is necessary to ensure the protection of these species and for the enhancement of the economic and cultural well-being of the people of Pohnpei.

(3) The Director shall establish the boundaries of Kisin nahmw en Nangih Stingray Sanctuary by regulations within 90 days of the effective date of this chapter [*effective date is July 23, 1999*].

(4) The Director shall promulgate regulations governing Kisin nahmw en Nangih Stingray Sanctuary. The regulations shall, at a minimum, accomplish the following:

(a) Prohibit the taking or harming of any species of ray (*Order Myliobatidiformes*) within the boundaries of the Sanctuary; and

(b) Ensure the protection of the marine habitat within the Sanctuary.

Source: S.L. No. 4L-115-99 §24, 7/23/99

§5-125. Establishment of Nahtik Marine Sanctuary. —

(1) There is hereby established the Nahtik Marine Sanctuary.

(2) The purposes of the Nahtik Marine Sanctuary shall be to preserve and protect the unique coral reef and marine life resources surrounding the area of Nahtik Island. The areas surrounding Nahtik Island serve as sites for the aggregation and spawning of many species of reef fish that are of critical economic and cultural importance to the people of Pohnpei. Protection of these spawning sites is necessary to ensure the protection of Pohnpei's fish stocks and the people that depend on them.

(3) The Nahtik Marine Sanctuary shall be composed of all lands below the mean high tide mark beginning at a point situated at the southern part of Kitti municipality known as Nahtik Island commencing at Station 70 (N 59902.00, E 79902.00) of Laiap Island; thence South 79 degrees 50 minutes 52 seconds East for a distance of 875 meters to the point of beginning; thence northeasterly along the edge of the reef; thence following the edge of the reef; thence to the point of beginning. Said reservation containing an area of about 190,501 square meters, more or less. Computed coordinates of the beginning point is Northing 59747.768, and Easting 80763.300. The direction from Station 70 to point of beginning is based from Grid 1970.

(4) The Director shall promulgate regulations governing the Nahtik Marine Sanctuary. The regulations shall, at a minimum, accomplish the following:

(a) Prohibit all forms of fishing within the boundaries of the Sanctuary except for scientific purposes certified in writing by the Director.

Source: S.L. No. 4L-115-99 §25, 7/23/99

Note: §25 was inserted by S.L. No. 5L-35-01 §1, 4/23/01.

§5-126. Establishment of Dekehos Marine Sanctuary. —

(1) There is hereby established the Dekehos Marine Sanctuary.

(2) The purposes of the Dekehos Marine Sanctuary shall be to preserve and protect the unique coral reef and marine life resources within the areas of the Dekehos Marine Sanctuary. The area within the boundaries of the Sanctuary shall serve as site for the aggregation and spawning of many species of reef fish that are of critical economic and cultural importance to the people of Pohnpei. Protection of this aggregation and spawning site is necessary to ensure the protection of Pohnpei's fish stocks for the people that depend on them.

(3) That portion of the outside reef situated at northeastern part of Pohnpei main island has been designated for reservation and described as follows: commencing from point 1 N 06 59.513, E 158 18.337; thence point 2 N 06 59.922, E 158 18.380; thence point 3 N 07 01.055, E 158 18.091; thence point 4 N 07 01.428, E 158 17.474; thence point 5 N 07 00.824, E 158 17.059; thence to the point of beginning. Said boundary descriptions include a reservation of 50 meters outside the perimeter boundary and reference to the map attached to S.L. No. 5L-52-01.

(4) The Director shall promulgate regulations governing Dekehos Marine Sanctuary. The

regulations shall, at a minimum, accomplish the following:

(a) Prohibit all forms of fishing within the boundary of Dekehos Sanctuary.

Source: S.L. No. 4L-115-99 §26, 7/23/99

Note: §26 was inserted by S.L. No. 5L-52-01 §1, 11/15/01.

§5-127. Establishment of Palipohn Depehk Marine Sanctuary. —

(1) There is hereby established the Palipohn Depehk Marine Sanctuary.

(2) The purposes of the Palipohn Depehk Marine Sanctuary shall be to preserve and protect the unique coral reef and marine life resources within this area of the Palipohn Depehk Marine Sanctuary. This area within the boundary of the Sanctuary shall serve as site for the aggregation and spawning of many species of reef fish that are of critical economic and cultural importance to the people of Pohnpei. Protection of this aggregation and spawning sites are necessary to ensure the protection of Pohnpei's fish stocks for the people that depend on them.

(3) That mostly eastern portion of Dehpehk Island has been designated for reservation and the boundary description is as follows: beginning at point 1 N 06.56.267, E 158 18.047; thence point 2 N 06 56.407, E 158 18.177; thence point 3 N 06 56.646, E 158 18.299; thence point 4 N 06 56.863, E 158 18.419; thence point 5 N 06 57.923, E 158 18.621; thence point 6 N 06 58.017, E 158 18.436; thence point 7 N 06 57.763, E 158 18.210; thence to the direction of Station 60 at point of low watermark; thence point 8 N 06 56.368, E 158 17.861; thence to the point of beginning.

(4) The Director shall promulgate regulations governing Palipohn Depehk Marine Sanctuary. The regulations shall, at a minimum, accomplish the following:

(a) Prohibit all forms of fishing within the boundary of the Palipohn Depehk Marine Sanctuary.

Source: S.L. No. 4L-115-99 §27, 7/23/99

Note: §27 was inserted by S.L. No. 5L-52-01 §2, 11/15/01.

§5-128. Establishment of Sapwitik Marine Sanctuary. —

(1) There is hereby established the Sapwitik Marine Sanctuary.

(2) The purposes of the Sapwitik Marine Sanctuary shall be to preserve and protect the unique coral reef and marine life resources surrounding the area of Sapwitik Island. The area surrounding Sapwitik Island serves as site for the aggregation and spawning of reef fish locally known as *Kioak*, which specie of reef fish is of critical economic and cultural importance to the people of Pohnpei. Protection of this spawning site is necessary to ensure the protection of Pohnpei's fish stocks and the people that depend on them.

(3) The Sapwitik Marine Sanctuary is located on the northern part of the main island of Pohnpei and shall be composed of all reefs and submerged lands below the mean high watermark beginning at Station No. 2, as shown on the USGS photographic map edited 1983, having a coordinate of northing 07 00.45, easting 158 13.471; thence southeasterly to Station No. 9, having coordinate of northing 07 00.152, easting 158 13.536; thence southeasterly to Station No. 10, having coordinate of northing 07 00.460 easting 158 13.803; thence southeasterly to Station No. 11, having coordinate of northing 07 00.561 easting 158 13.723; thence northeasterly to Station No. 12, having coordinate of northing 07 00.467 easting 158 13.246; thence northwesterly to Station No. 13, having coordinate of northing 07 00.324 easting 158 13.085; thence northwesterly to Station No. 14, having coordinate of northing 07 00.109 easting 158 13.085; thence northwesterly to Station No. 15, having coordinate of northing 06 59.946 easting 158 13.238; thence northwesterly to Station No. 1, having coordinate of northing 07 00.045 easting 158 13.471; to the point of beginning at Station No. 1.

(4) The Director shall promulgate regulations governing the Sapwitik Marine Sanctuary. The regulations shall, at a minimum, accomplish the following:

(a) Prohibit all forms of fishing within the boundaries of the Sanctuary except for scientific purposes certified in writing by the Director.

Source: S.L. No. 4L-115-99 §28, 7/23/99

Note: §28 was inserted by S.L. No. 5L-60-02 §1, 1/18/02.

§5-129. Establishment of Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary. —

(1) There is hereby established the Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary.

(2) The purpose of the Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary shall be to preserve and protect the coral reef and the marine life resources surrounding the area of Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Islands on Pakin Atoll. The areas surrounding Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Islands shall serve as a site for the aggregation and spawning of all reef fish and other marine life resources for the people who depend on them.

(3) The Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary shall be composed of all reefs and submerged lands below the mean high watermark of Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Islands.

(4) The Director shall promulgate regulations governing the Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary. The regulations shall, at a minimum, accomplish the following:

(a) Prohibit all forms of fishing within the boundaries of the Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary except for scientific purposes certified in writing by the Director; and

(b) Identify the precise location of the Kehrot, Sapangin, Painpwil, Mwahnid, and Wahulap Marine Sanctuary.

Source: S.L. No. 7L-79-11 §1, 1/14/11

§5-130. Establishment of Senpehn/Lehdau Mangrove Forest Reserve. —

(1) There is hereby established the Senpehn/Lehdau Mangrove Forest Reserve.

(2) The Senpehn/Lehdau Mangrove Forest Reserve shall be considered a mangrove forest reserve for purposes of 26 PC 4-107 or its successor in state law.

(3) The purposes of the Senpehn/Lehdau Mangrove Forest Reserve shall be to preserve and protect for future generations the unique mangrove, marine and watershed resources of the Senpehn/Lehdau Mangrove Forest Reserve area, and to promote education, research and tourism for the state of Pohnpei, and to protect and preserve its natural attraction for visitors so they can appreciate and enjoy the natural historical value of this unspoiled mangrove forest reserve.

(4) The Senpehn/Lehdau Mangrove Forest Reserve shall be comprised of all lands, waters, and mangrove forest area located below the mean high tide mark and above the mean low tide mark of the area and shall be surveyed and delineated or cause to be surveyed and delineated by the Director of the Department of Land and Natural Resources, pursuant to the Madolenihmw, Menintiensapw Resolution No. 23-05.

(5) The Director shall promulgate regulations and shall include the rules and regulations promulgated by the Community Conservation Officers (CCO) of Sections III and IV of Madolenihmw Municipality granting the Senpehn/Lehdau Mangrove Forest Reserve the highest level of protection available within the system. The regulations shall, at a minimum, accomplish the following:

(a) Restrict commercial fishing and subsistence fishing;

(b) Ensure the protection of mangrove, marine and watershed habitats and nesting and feeding areas;

(c) Ensure the protection of the trees and plants of the Mangrove Forest Reserve; and

(d) Ensure the protection of other habitats and their niches as well as the natural beauty, cultural values and historical importance of the Mangrove Forest Reserve.

Source: S.L. No. 7L-79-11 §4, 1/14/11

§5-131. Establishment of Nanwap Marine Protection Area. —

(1) There is hereby established the Nanwap Marine Protection Area.

(2) The purpose of the Nanwap Marine Protection Area shall be to preserve and protect for future generations the unique and unspoiled coral reef system, the clean and clear lagoon and the open deep ocean as a place for aggregation and spawning of many species of fish that are of critical economic and cultural importance to the people of Pohnpei. The protection of spawning sites is necessary to ensure the protection of Pohnpei's fish stock for the people who depend on them.

(3) The Nanwap Marine Protection Area shall be comprised of all areas outside the barrier reef to a depth of 600 meters, and all of the barrier reef located above and below the mean high tide mark consisting of all of the lagoon areas and all the fringing reef areas located above and below the mean high tide mark of the lagoon barrier reefs locally known as Ohio, Nahri and Resires; PROVIDED that the Director shall clearly identify the precise boundaries of the Nanwap Marine Protection Area by regulation within 90 days of the effective date of this act.

(4) The Director shall promulgate regulations granting the Nanwap Marine Protection Area the highest level of protection available within the system. The regulations shall, at a minimum, prohibit subsistence fishing and commercial fishing within the Nanwap Marine Protection Area.

Source: S.L. No. 7L-79-11 §5, 1/14/11

CONSERVATION & RESOURCES

CHAPTER 6 MARINE AND AQUATIC RESOURCES

SUBCHAPTER I MARINE RESOURCES CONSERVATION

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SUBCHAPTER I MARINE RESOURCES CONSERVATION

PART A GENERAL PROVISIONS

§6-101. Short title. — Subchapter I shall be known and may be cited as the “Marine Resources Conservation Act of 1981.”

Source: S.L. No. 2L-106-81 §1-1, 12/17/81

§6-102. Definitions. —

(1) “Director” means the Director of the Department of Land and Natural Resources, or his successor in state law.

(2) “Pohnpei Fisheries Officer” shall mean the Director of the Department of Land and Natural Resources, or his designee.

Source: S.L. No. 2L-106-81 §1-2, 12/17/81; S.L. No. 5L-14-00 §3-31, 10/1/00; S.L. No. 7L-80-11 §20, 1/14/11

§6-103. Realization of revenues. — All revenues realized through the administration of this subchapter shall be deposited in the general fund of Pohnpei as the realization of general revenues. The Director of the Department of Treasury and Administration shall maintain a separate accounting for all such revenues so deposited for inclusion in his periodic reports to the Legislature on the status of the general fund. Monies so deposited shall, to the extent deemed practicable by the Legislature, be appropriated for conservation measures relative to the marine life of this state.

Source: S.L. No. 2L-106-81 §7-1, 12/17/81

§6-104. Rules and regulations. — The Director of the Department of Land and Natural Resources, in consultation with the Pohnpei Fisheries Officer, is empowered to issue and promulgate rules and regulations for the implementation and enforcement of this subchapter, inclusive of forms and procedures for the issuance of permits and licenses required by this subchapter, which upon approval

of the Governor and compliance with the Administrative Procedures Act, Title 8 Chapter 1, or its successor, shall carry the force and effect of law.

Source: S.L. No. 2L-106-81 §7-2, 12/17/81; S.L. No. 5L-14-00 §3-31, 10/1/00

§6-105. Other conservation laws not affected. — To the extent this subchapter is not inconsistent with existing state laws, such laws shall remain in full force and effect in this state.

Source: S.L. No. 2L-106-81 §7-3, 12/17/81

§§6-106 – 6-110. [RESERVED]

PART B BLACK CORAL

§6-111. Definitions for Part B. — For the purpose of this part, definition of terms used shall be as follows unless the context specifically denotes otherwise:

(1) “Black coral” shall be considered *Antipathes dichotoma*, *Antipathes ulex* or any other *Antipatharia* species.

(2) “Processed” shall be that state in which black coral has been changed from its natural state by means of mechanical or human alteration to sizes not to exceed six inches across in any direction.

(3) “Raw” shall be that state in which black coral appears in its natural form prior to human or mechanical alteration.

Source: S.L. No. 2L-106-81 §3-1, 12/17/81

§6-112. Black coral exemption. — This part shall not apply to black coral harvested without the state and brought into this state in raw or processed form; PROVIDED that there shall be a presumption that all black coral found within the state shall have been harvested from within the state.

Source: S.L. No. 2L-106-81 §3-2, 12/17/81

§6-113. Prohibitions regarding black coral. — The harvesting of black coral without a permit or otherwise taking or tampering with black coral for personal accumulation, use or the sale or transfer of black coral to any one other than a processor licensed under this part is prohibited.

Source: S.L. No. 2L-106-81 §3-3, 12/17/81

§6-114. Processing license. — Any person, inclusive of corporations, partnerships, cooperatives, and other forms of business association, hereinafter referred to as “processor,” wishing to engage in the commercial manufacturing of black coral including purchasing, processing or any other commercial activity for the purpose of resale shall, as a condition precedent to engaging in such commercial activity in this state, apply in writing to the Director of the Department of Land and Natural Resources for action within 30 days thereafter, for the receipt of a processing license to engage in or conduct such commercial activity. The applicant shall submit such application on a form provided therefor by the Director and shall include thereon the name, address, and nature of the commercial activity involved. Each application shall be accompanied by a fee of \$50 that shall be non-refundable unless the license is denied. A license shall be valid until December 31 of the year for which it is issued. Denial or failure of the Director to grant a license under this section may be appealed to a court of competent jurisdiction.

Source: S.L. No. 2L-106-81 §3-4, 12/17/81; S.L. No. 5L-14-00 §3-31, 10/1/00

§6-115. Commercial harvesting. — Any person, inclusive of corporations, partnerships, cooperatives, and other forms of business association, hereinafter referred to as “harvester,” wishing to

engage in the commercial harvesting of black coral for sale or transfer to processors duly licensed under §6-114 shall, as a condition precedent to engaging in such commercial activity in this state, apply in writing to the Director of the Department of Land and Natural Resources for action within 30 days thereafter, for the receipt of a harvesting permit to engage in or conduct such commercial activity. The applicant shall submit such application on a form provided therefor by the Director and shall include thereon the name, address, and nature of the commercial activity involved. Each application shall be accompanied by a fee of \$20 that shall be non-refundable unless the permit is denied. A permit shall be valid until December 31 of the year for which it is issued. Denial or failure of the Director to grant a license under this section may be appealed to a court of competent jurisdiction.

Source: S.L. No. 2L-106-81 §3-5, 12/17/81

§6-116. Black coral season and area to be designated – rules and regulations for harvesting . —

(1) The season for harvesting black coral by a duly permitted harvester shall be open 12 months of the year; PROVIDED, that the Director of the Department of Land and Natural Resources may, upon consultation with the Pohnpei Fisheries Officer, close the season for such period of time as deemed advisable, or may designate certain reefs or sections thereof that shall be closed from the harvesting of black coral, notwithstanding the fact that the season is open. In the event that the season is closed, or in the event that designated reefs or sections thereof are closed, public notice shall be given by announcement on the public radio station, by posting in writing in the predominant vernacular at the local government office of the respective local jurisdictions directly affected and filing a copy of each designation with the Clerk of the Supreme Court not less than 10 days before the closing of the season or closing of reefs or sections thereof.

(2) Any duly permitted harvester may harvest black coral, except when prohibited by Subsection (1) of this section; PROVIDED, that all harvesters shall file a quarterly report with the Pohnpei Fisheries Officer detailing the volume of black coral harvested, the disposition of said black coral, and the areas from which said black coral was harvested. Failure to file such report shall result in a three-month suspension of the harvester's permit.

Source: S.L. No. 2L-106-81 §3-6, 12/17/81; S.L. No. 5L-14-00 §3-31, 10/1/00

§6-117. Transfer to processors. — No manufacturer may receive black coral harvested in this state from any person not possessing a harvester's or processor's permit, nor shall any manufacturer receive any black coral known to be harvested during a closed season or from a restricted area. Processors shall maintain an annual record of all acquisitions of black coral including therewith the date of each transaction and the name and permit number of the transferor.

Source: S.L. No. 2L-106-81 §3-7, 12/17/81

§6-118. Right of inspection. — The granting of a license for the privilege of manufacturing black coral and the granting of a permit to harvest black coral shall carry with it the authority of the state government and any designated employee thereof to inspect any operation dealing with the harvesting of black coral, to inspect any transfer of black coral from a harvester to a processor and between processors, and records thereof, as provided for in this part, to inspect the black coral in its raw and processed state as held by a processor under this subchapter, and to inspect the final manufactured form before it is sold or otherwise transferred from the manufacturer to another party.

Source: S.L. No. 2L-106-81 §3-8, 12/17/81

§6-119. Transfers by processors. — No processor of black coral in the state may sell or otherwise transfer black coral which has not been processed as defined by this part, except to another processor within the state duly licensed under this part.

Source: S.L. No. 2L-106-81 §3-9, 12/17/81

§6-120. Criminal penalties. — Any person found in violation of this part or any rule or regulation issued hereunder shall be guilty of an offense against the state and upon conviction thereof shall be imprisoned for a period of time not to exceed one year, or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 2L-106-81 §3-10, 12/17/81

§6-121. Civil penalties. — In addition to any criminal penalties prescribed in §6-117:

(1) Any person found harvesting or otherwise interfering with the growth of black coral, or found selling, transferring, possessing or manufacturing black coral in violation of this subchapter, or of rules and regulations issued pursuant hereto shall be subject to a civil penalty of three times the current market value of the black coral so affected thereby.

(2) Any processor licensed under this subchapter, or person purporting to act as a processor of black coral within this state, found in possession of, or having received, manufactured or transferred black coral known to be harvested in violation of this part shall be subject to a civil penalty of three times the current market value of the black coral so unlawfully possessed, manufactured or transferred.

(3) Conviction of a processor or harvester under §6-120 shall automatically revoke his license or permit hereunder; PROVIDED he may lawfully dispose of such black coral legally possessed upon revocation thereof. No processor or harvester convicted under this subchapter may be eligible for a processing license or harvesting permit hereunder for three years following said conviction.

(4) All unlawfully harvested or possessed black coral shall be forfeited to the state government for appropriate disposition. Upon finding by a designated employee of the state government that more than ten percent (10%) of a test stock of black coral held by a harvester or processor is unlawfully possessed, the government may impound the entire holding of the harvester or processor pending a full and thorough investigation of all such holdings of the harvester or processor to ensure compliance with this subchapter.

Source: S.L. No. 2L-106-81 §3-11, 12/17/81

§§6-122 – 6-130. [RESERVED]

PART C BUMPHEAD PARROTFISH

§6-131. Definition of “bumphead parrotfish.” — For the purpose of this part, “bumphead parrotfish” shall mean *bolibometopon muraticus*, or, in Pohnpeian, “kemeik.”

Source: S.L. No. 2L-106-81 §4-1, 12/17/81

§6-132. Taking bumphead parrotfish for sale, prohibited. —

(1) The taking, by any means, of bumphead parrotfish for sale shall be prohibited.

(2) No person, inclusive of corporations, partnerships, cooperatives or any other form of business association, shall offer bumphead parrotfish for sale, allow bumphead parrotfish to be sold or possess bumphead parrotfish for sale.

Source: S.L. No. 2L-106-81 §4-2, 12/17/81

§6-133. Criminal penalties. — Any person found in violation of this part, or any rule or regulation issued hereunder, shall be guilty of an offense against the state and upon conviction thereof shall be imprisoned for a period of time not to exceed one year, or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 2L-106-81 §4-3, 12/17/81

§6-134. Civil penalties. — In addition to any criminal penalties prescribed in §6-133:

(1) Any person found offering for sale or selling bumphead parrotfish in violation of this subchapter, or of rules and regulations issued pursuant hereto shall be subject to a civil penalty of five times the market value of the bumphead parrotfish so offered for sale, or sold.

(2) All bumphead parrotfish offered for sale, or being held for sale shall be forfeited to the state government for appropriate disposition.

Source: S.L. No. 2L-106-81 §4-4, 12/17/81

§§6-135 – 6-140. [RESERVED]

PART D MANGROVE CRABS

§6-141. Definitions of “mangrove crab”. — For purposes of this part, the following definitions shall apply:

(1) “Mangrove crab” means *seylla serrata*, or, in Pohnpeian, “elimong.”

(2) “Cultured mangrove crab” means mangrove crab produced through aquaculture techniques by cultured mangrove crab producers duly licensed and permitted pursuant to the laws of the state of Pohnpei.

Source: S.L. No. 2L-106-81 §6-1, 12/17/81; S.L. No. 7L-22-09 §1, 1/16/09

§6-142. Taking mangrove crab with eggs, prohibited. — The taking, by any means, or the possession of a mangrove crab which is carrying eggs except for immediate inspection on location where found and return unharmed to its environment shall be prohibited at all times; Provided, however, that duly licensed and permitted cultured mangrove crab producers may capture and utilize for spawning purposes such sexually mature female mangrove crab as may be necessary from time to time to establish and maintain brood stock for cultured mangrove crab aquaculture projects in the state of Pohnpei. The Department of Land and Natural Resources shall promulgate regulations governing mangrove crab farming. The regulations at the minimum shall accomplish the following:

(1) Protect the mangrove crab of Pohnpei; and

(2) Establish inspection procedures regarding the business activities of cultured mangrove crab producers.

Source: S.L. No. 2L-106-81 §6-2, 12/17/81; S.L. No. 7L-22-09 §2, 1/16/09

§6-143. Criminal penalties. — Any person found in violation of this part or any rule or regulation issued hereunder, shall be guilty of an offense against the state and upon conviction thereof shall be imprisoned for a period of time not to exceed one year, or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 2L-106-81 §6-3, 12/17/81

§6-144. Civil penalties. —

(1) In addition to any criminal penalties prescribed in §6-143 any person found taking, in possession of, mangrove crabs that are carrying eggs, other than for brood stock culturing purposes as provided in §6-142, shall be subject to a civil penalty of ten times the market value of the crabs carrying eggs.

(2) All such crabs, taken or possessed in violation of Subsection (1) of this section, that are carrying eggs shall be forfeited to the state government, and where possible, such crabs shall be returned to their natural environment and released.

Source: S.L. No. 2L-106-81 §6-4, 12/17/81; S.L. No. 7L-22-09 §3, 1/16/09

§§6-145 – 6-150. [RESERVED]**PART E GROUPER**

§6-151. Definition of “grouper.” — For the purpose of this part, the term “grouper” shall mean any fish of the following species: *cephalopholis*, *epinephelus*, *plectranthias*, *promicrops* or *variola*; or, in Pohnpeian, the term “grouper” shall include, but not be limited to, “maud,” “mwanger,” “sammerip,” “sawi” or “sawipwiliet.”

Source: S.L. No. 2L-106-81 §5-1, 12/17/81

§6-152. Prohibitions on taking or sale of grouper. —

(1) The taking, by any means, of grouper for sale during the months of March and April shall be prohibited.

(2) No person, inclusive of corporations, partnerships, cooperatives or any other form of business, shall offer grouper for sale, allow grouper to be sold or possess grouper for sale, during the months of March and April.

(3) Any business which may legally have a stock of grouper on hand at the end of February, and wishes to hold those fish through the closed season of March and April, may do so; PROVIDED:

(a) That declaration of intent to possess and hold such grouper through March and April is made, in writing, to the Pohnpei Fisheries Officer and that such declaration will include the name of the business, name of owner, weight and number of pieces being held, and location where the grouper are being held.

(b) That such grouper as are being held will be available for inspection by a representative of the state government so designated and that the grouper will be available for inspection at any and all times during the months of March and April.

Source: S.L. No. 2L-106-81 §5-2, 12/17/81

§6-153. Criminal penalties. — Any person found in violation of this part or any rule or regulation issued hereunder shall be guilty of an offense against the state and upon conviction thereof shall be imprisoned for a period of time not to exceed one year, or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 2L-106-81 §5-3, 12/17/81

§6-154. Civil penalties. — In addition to any criminal penalties prescribed in §6-153:

(1) Any person found offering grouper for sale, or selling grouper in violation of this subchapter or of rules and regulations issued pursuant hereto shall be subject to a civil penalty of five times the market value of the grouper so offered for sale, or sold.

(2) All grouper offered for sale, or being held for sale, during March or April shall be forfeited to the state government for appropriate disposition, except for the exemption under §6-152(3).

Source: S.L. No. 2L-106-81 §5-4, 12/17/81

§§6-155 – 6-160. [RESERVED]

PART F TROCHUS

§6-161. Definitions. — For the purposes of this subchapter, the term “trochus” shall be considered *trochus niloticus*. The names *trochus maximus*, *tectus niloticus*, and *tectos maximus* shall be considered names synonymous with *trochus niloticus*.

Source: S.L. No. 2L-106-81 §2-1, 12/17/81

§6-162. Trochus exemption. — This part shall not apply to trochus harvested without the state and brought into this state for use, sale or other disposition; PROVIDED that there shall be a presumption that all trochus found within the state shall have been harvested from within the state.

Source: S.L. No. 2L-106-81 §2-2, 12/17/81

§6-163. Powers and duties of Director. — The Director of the Department of Land and Natural Resources is hereby granted the following powers and duties concerning the harvesting and marketing of trochus. Such powers and duties shall be exercised and implemented in accordance with such rules and regulations as may be promulgated pursuant to §6-104, and with the aim of balancing the exploitation of trochus as an economic resource and the preservation of trochus as a renewable resource. The Department of Land and Natural Resources shall have the power and duty to:

(1) Establish seasons for the harvesting of trochus that may vary from year to year or from area to area, such that harvesting may be partially or completely limited or prohibited within a given time frame or within a designated location;

(2) Prohibit the harvesting of trochus during any given calendar year or years;

(3) Designate, change, and monitor protected areas of the reef where the harvesting of trochus may be limited or prohibited;

(4) Limit the size of the trochus that may be lawfully harvested, to include maximum and minimum limits;

(5) Establish procedures for the announcement of harvesting seasons and other notices and information; PROVIDED that the announcements shall be made in such a manner as will reasonably notify all interested parties;

(6) Permit only persons who are citizens of the Federated States of Micronesia and permanent residents of the state of Pohnpei to harvest or sell trochus in the state of Pohnpei; PROVIDED that if the local market demonstrates, after a reasonable time, an inability to purchase all of the legally available trochus, sale may be opened to parties that are not citizens and permanent residents of the state of Pohnpei; PROVIDED FURTHER that the state has the authority to purchase trochus and sell to local businesses where determined to be necessary to protect and support the local manufacturing community;

(7) Prescribe the permissible method or methods for harvesting or transporting trochus, and for preparing the trochus for use or sale;

(8) Require the harvesters to supply reports or other information including, but not limited to, the time, place, and method of harvest for the purpose of surveying and studying the trochus, and to insure compliance with this subchapter and the rules and regulations promulgated hereunder;

(9) When necessary, establish quota systems for the number of trochus that may be harvested;

(10) Regulate the times, places, and methods for the sale, transfer, delivery, and shipment of the trochus, and where necessary, establish penalties for the illegal harvesting or sale of trochus;

(11) Adopt procedures for the disposal, through sale or otherwise, of trochus confiscated during the enforcement of this subchapter. Proceeds from such sale shall be deposited in a separate account and shall be only for the purpose of reseeding the trochus;

(12) Recommend, when necessary, to protect local manufacturing interests and upon approval by Legislature resolution, ban the exportation of unprocessed trochus and trochus shell, so that only

products from trochus and trochus shell may be exported from the state. As used in this subsection, the phrase “local processors” shall include citizens, corporations, partnerships or associations of the Federated States of Micronesia and noncitizens authorized to conduct business in Pohnpei under the Foreign Investors Permit Act, Title 37 Chapter 7. Local processors shall be limited to those that use the trochus shell in Pohnpei to make or manufacture products including, but not limited to, buttons, button blanks, jewelry, handicrafts, and souvenirs. In adopting a ban on exportation, the Department shall take all necessary steps to ensure that harvestors are paid a fair market price for their product. The Department shall require local processors to pay the fair market rate if a ban is imposed. This rate may be established by adoption of prices set by appropriate international commissions;

(13) Where necessary to support the local manufacturing community, ban import of buttons or other manufactured products of trochus to Pohnpei; and

(14) Establish and implement such other policies, procedures, and requirements to achieve a desirable balance between the exploitation of trochus as an economic resource and the preservation of trochus as a renewable resource.

Source: S.L. No. 2L-106-81 §2-3, 12/17/81; S.L. No. 5L-14-00 §3-31, 10/1/00

Notes: 1. S.L. No. 2L-132-89 §1, 2/2/91 repealed §2-3 and inserted a new §2-3. 2. S.L. No. 2L-201-91 §1, 7/2/91 amended the effective date of S.L. No. 2L-132-89 to 7/2/91. However, the effective date of Subsection (12) was unaffected and remained at 10/18/89.

Extended legislative history: S.L. No. 2L-106-81 §2-3, 12/17/81; S.L. No. 2L-106-81 §2-3(1) was amended by S.L. No. 2L-152-82 §1, 11/22/82 and subsequently repealed.

§6-164. Marketing license. — Any person, inclusive of corporations, partnerships, cooperatives, and other forms of business association, hereinafter referred to as “marketer,” wishing to engage in the commercial purchase or handling of trochus for commission, or sale, processing or other commercial purpose shall, as a condition precedent to engaging in such commercial activity in this state, apply in writing to the Director of the Department of Land and Natural Resources for action within 30 days thereafter, for receipt of a marketing license to engage in or conduct such commercial activity. The applicant shall submit such application on a form provided therefor by the Director and shall include thereon the name, address, and nature of commercial activity involved. Each application shall be accompanied by a fee of \$100 that shall be non-refundable unless the license is denied. A license shall be valid until December 31 of the year for which it is issued. Denial or failure of the Director to grant a license under this section may be appealed to a court of competent jurisdiction.

Source: S.L. No. 2L-106-81 §2-4, 12/17/81

§6-165. Authorized times and places for trochus transfer. — The Director shall declare and give public notice of specific times and places for the purchase or other transfer of trochus to marketers licensed under §6-164. Designation of time shall be during normal working hours at places open to public access for the commercial transfer of trochus to the marketer.

Source: S.L. No. 2L-106-81 §2-5, 12/17/81

§6-166. Transfers to marketers. — No marketers may receive nor may any person transfer to a marketer any trochus at a time or place not so designated by this subchapter, under the size restrictions set by §6-163(4), or known to be harvested out of season or from a restricted area.

Source: S.L. No. 2L-106-81 §2-6, 12/17/81

§6-167. Right of inspection. — The granting of a license for the privilege of marketing trochus shall carry with it the authority of the state government, and any designated employee thereof, to inspect any transfer of trochus to a marketer under this subchapter, to inspect the trochus held by a marketer under this subchapter, and to inspect transfers by the marketer of trochus to aircraft or marine vessels for removal from this state, to ensure compliance with this subchapter. A marketer shall, not less than 48 hours prior to a transfer of trochus to an aircraft or marine vessel for removal from this state, notify

the Pohnpei Fisheries Officer of such intended transfer and the time and place thereof, and thereafter of any changes in such scheduling within a reasonable time prior to such transfer to allow for the inspection thereof.

Source: S.L. No. 2L-106-81 §2-7, 12/17/81

§6-168. Criminal penalties. — Any person found in violation of any provision of this part or any rule or regulation issued hereunder shall be guilty of an offense against the state, and upon conviction thereof shall be imprisoned for a period of not more than one year, or fined not more than \$1,000, or both such fine and imprisonment.

Source: S.L. No. 2L-106-81 §2-8, 12/17/81

§6-169. Civil penalties. — In addition to any criminal penalties prescribed by §6-168:

(1) Any person found harvesting or otherwise interfering with the growth of trochus in violation of this subchapter or of rules and regulations issued pursuant hereto shall be subject to a civil penalty of three times the current market value of trochus so unlawfully harvested or interfered with.

(2) Any marketer licensed under this subchapter, or person purporting to act as a marketer of trochus within this state, found in possession of or having received or transferred trochus under the legal size permitted for harvesting, or known to be harvested out of season or from a restricted area, or which has been received at any other time or place than that designated under §6-165, shall be subject to a civil penalty of three times the current market value of the trochus so unlawfully possessed, received or transferred.

(3) Conviction of a marketer under §6-168 shall automatically revoke his license hereunder; PROVIDED that he may lawfully dispose of such trochus legally possessed upon revocation thereof. No marketer convicted under this subchapter may be eligible for a marketing license hereunder for three years following said conviction.

(4) All unlawfully harvested or possessed trochus shall be forfeited to the state government for appropriate disposition. Upon a finding by a designated employee of the state government that more than ten percent (10%) of a test sample of trochus held by a marketer is unlawfully possessed, the government may impound the entire holdings of the marketer pending a full and thorough investigation of all such holdings of the marketer to ensure compliance with this subchapter.

Source: S.L. No. 2L-106-81 §2-9, 12/17/81

Note: S.L. No. 2L-106-81 §2-10 superseding provision has been omitted.

§6-170. [RESERVED]

SUBCHAPTER II MARINE AND AQUATIC RESOURCES MISCELLANEOUS

PART G BLACK-LIP MOTHER-OF-PEARL OYSTER SHELL

§6-171. Control of pinctada margaritifera (black-lip mother-of-pearl oyster shell). — No pinctada margaritifera, commonly known as black-lip mother-of-pearl oyster shell, shall be taken from the first day of August to the thirty-first day of December inclusive; PROVIDED, that no such shell may be taken at any time which is less than six inches in minimum diameter, measured along the longest dimension across the outside of the shell; and PROVIDED FURTHER, that such shells, of any size, may be taken at any time for scientific purposes when specifically authorized by the Governor.

Source: TTC §783 (1966); 45 TTC §4 (1970); P.L. No. 4C-57 §4; 45 TTC §4 (1980); P.L. No. IC-19 §1

§6-172. Penalties for violation of part. — A person violating any of the provisions of this part for which a different penalty is not otherwise provided shall, upon conviction thereof, be imprisoned for a

period not exceeding six months, or fined not more than one hundred dollars, or both such fine and imprisonment.

Source: TTC §§774 & 784 (1966); 45 TTC §5 (1970); P.L. No. 4C-35 §6; 45 TTC §5 (1980)

§§6-173 – 6-180. [RESERVED]

PART H FRESHWATER SHRIMP

§6-181. Harvesting freshwater shrimp with explosives, poisons, chemicals, and other substances prohibited. —

(1) No person shall knowingly catch or harvest freshwater shrimp by means of explosives, poisons, chemicals or other substances which kill freshwater shrimp or other aquatic life, nor shall any person knowingly possess or sell any freshwater shrimp or other aquatic life caught or harvested by means of explosives, poisons, chemicals or other substances which kill freshwater shrimp or other aquatic life. The terms “poisons,” “chemicals,” and “substances” include, but are not limited to, hypochlorous acid or any of its salts, including bleaches commonly sold under various trade names, such as Clorox and Purex, and bleaching powders, preparations containing rotenone, tephrosin or plant material from *Barrington asiatica*, *Coculus ferrandianus*, *Hura crepitans*, *Piscidia erythrina*, *Tephrosia purpurea*, and *Wikstremia*.

(2) No person shall knowingly place or cause to be placed, in any fresh waters of Pohnpei State, explosives, poisons, chemicals or other substances with the intent to kill freshwater shrimp or other aquatic life.

Source: D.L. No. 3L-40-72 §1, 11/29/72

§6-182. Penalty. — Any person who violates §6-181 shall, upon conviction thereof, be fined not more than \$100, or imprisoned for not more than six months, or both such fine and imprisonment.

Source: D.L. No. 3L-40-72 §2, 11/29/72

§§6-183 – 6-190. [RESERVED]

PART I SPONGES

§6-191. Control of sponges. — No sponges artificially planted or cultivated shall be taken or molested, except by permission of the Governor.

Source: TTC §782 (1966); 45 TTC §3 (1970); 45 TTC §3 (1980)

§6-192. Penalties for violation of part. — A person violating any of the provisions of this part for which a different penalty is not otherwise provided shall, upon conviction thereof, be imprisoned for a period not exceeding six months, or fined not more than one hundred dollars, or both such fine and imprisonment.

Source: TTC §§774 & 784 (1966); 45 TTC §5 (1970); P.L. No. 4C-35 §6; 45 TTC §5 (1980)

§§6-193 – 6-200. [RESERVED]

PART J TURTLES

§6-201. Limitations on taking of turtles. —

(1) No hawksbill turtles or sea turtles shall be taken or intentionally killed while on shore, nor shall their eggs be taken.

(2) No hawksbill turtle shall be taken or killed except whose shell is at least twenty-seven inches when measured over the top of the carapace shell lengthwise; no green turtle shall be taken or killed except whose shell is at least thirty-four inches when measured over the top of the carapace shell lengthwise.

(3) No sea turtle of any size shall be taken or killed from the first day of June to the thirty-first day of August inclusive, nor from the first day of December to the thirty-first day of January inclusive.

(4) Notwithstanding any provisions of this section to the contrary, taking of sea turtles and their eggs shall be allowed for scientific purposes when specifically authorized by the Governor.

Source: TTC §781 (1966); 45 TTC §3 (1970); P.L. No. 4C-57 §§1 – 3; 45 TTC §2 (1980)

§6-202. Penalties for violation of part. — A person violating any of the provisions of this part for which a different penalty is not otherwise provided shall, upon conviction thereof, be imprisoned for a period not exceeding six months, or fined not more than one hundred dollars, or both such fine and imprisonment.

Source: TTC §§774 & 784 (1966); 45 TTC §5 (1970); P.L. No. 4C-35 §6; 45 TTC §5 (1980)

§§6-203 – 6-210. [RESERVED]

PART K EXPORTING

§6-211. Export of mangrove crabs, coconut crabs, and lobsters, prohibited. — It shall be unlawful for any person, whether acting individually or as agent for any corporation, association, partnership or other organization to willfully export for sale or exchange for value, or participate in the exportation for sale or exchange for value, of any mangrove crab, coconut crab or lobster from Pohnpei; Provided, however, that duly licensed and permitted cultured mangrove crab producers may export for sale cultured mangrove crab harvested by such producer from their approved aquaculture facilities.

Source: D.L. No. 2L-223-71 §1, 6/16/71; D.L. No. 4L-76-77 §1, 5/6/77; S.L. No. 7L-22-09 §4, 1/16/09

§6-212. Penalty. — Anyone who violates §6-211, shall, upon conviction thereof, be imprisoned for a period not to exceed two years, or fined not more than \$1,000, or both such fine and imprisonment.

Source: D.L. No. 2L-223-71 §2, 6/16/71

§§6-213 – 6-220. [RESERVED]

PART L SPECIAL PROHIBITIONS ON FISHING

§6-221. Prohibition on fishing with explosives, poisons, chemicals, etc. —

(1) Except as provided in Subsection (3) of this section, no person shall knowingly catch any fish or other marine life by means of explosives, poisons, chemicals or other substances which kill fish or

marine life, nor shall any person knowingly possess or sell any fish or any other marine life caught by means of explosives, poisons, chemicals or other substances which kill fish or marine life. The terms “poisons,” “chemicals” or “substances” include but are not limited to hypochlorous acid or any of its salts, including bleaches commonly sold under various trade names, such as Clorox and Purex, and bleaching powders, preparations containing rotenone, tephrosin or plant material from *Barrington asiatica*, *Coculus ferrandianus*, *Hura crepitans*, *Piscidia erythrina*, *Tephrosia purpurea*, and *Wikstremia*.

(2) Except as provided in Subsection (3) of this section, no person shall knowingly place or cause to be placed, in any waters of Pohnpei, explosives, poisons, chemicals or other substances with the intent to kill fish or other marine life.

(3) The provisions of Subsections (1) and (2) of this section shall not apply where the Governor:

(a) Has granted written permission to use the means prohibited in Subsection (1) of this section; or

(b) Has determined that the:

(i) Purpose of obtaining the fish or other marine life is to avoid the waste or loss of such fish or marine life; and

(ii) Consumption or sale of fish or other marine life caught by any means, the use of which is prohibited in Subsection (1) of this section, is not harmful or hazardous to health and human life.

(4) Nothing in this section shall be construed to prevent any person from catching any fish or other marine life by the use of local roots, nuts or plants which have the effect of stupefying but which do not kill fish or other marine life.

(5) Any person who violates any of the provisions of this section shall, upon conviction thereof, be fined not less than one hundred dollars or more than two thousand dollars, or imprisoned for not less than six months or more than two years, or both such fine and imprisonment.

Source: TTC §780 (1966); 45 TTC §1 (1970); P.L. No. 4C-35 §§1 – 5; 45 TTC §1 (1980)

§6-222. Penalties for violation of part. — A person violating any of the provisions of this part for which a different penalty is not otherwise provided shall, upon conviction thereof, be imprisoned for a period not exceeding six months, or fined not more than one hundred dollars, or both such fine and imprisonment.

Source: TTC §§774 & 784 (1966); 45 TTC §5 (1970); P.L. No. 4C-35 §6; 45 TTC §5 (1980)

PART M STATISTICS

§6-223. Intent of part. — It is recognized that marine resources constitute a major portion of Pohnpei’s natural resources, and that the development and proper management of these resources requires detailed statistical data in order to evaluate the conditions of particular fisheries. At the present time, the gathering of such statistical information is not being carried out properly. The inshore stock of live bait fish is essential for the harvesting of skipjack tuna, and this stock of live bait can be readily overfished by allowing too many boats to harvest it. Therefore, in order to prevent such overfishing, it is the intent of this part to provide for the compilation of detailed information relating to the daily harvest of live bait in Pohnpei State. The proper management of this resource will benefit all the people of this state now and in the future.

Source: D.L. No. 3L-33-72 §1, 6/15/72

§6-224. Catch statistics regarding live bait and skipjack tuna. — All vessels licensed to fish for live bait and skipjack tuna in Pohnpei must provide the Governor and the Administrator, Office of

Economic Affairs, such information as prescribed by the Administrator, Office of Economic Affairs, no later than the end of the first week following the end of each month. Such information shall include, but is not limited to, the following categories:

- (1) Type of fish harvested;
- (2) Location at which harvested;
- (3) Method of harvesting;
- (4) Size of fish harvested;
- (5) Amount of fish harvested; and
- (6) Time of harvesting.

Source: D.L. No. 3L-33-72 §2, 6/15/72; S.L. No. 5L-14-00 §3-14, 10/1/00

§6-225. Penalty. — Any licensed company, corporation, individual or vessel supplying misleading or fraudulent information or failing to report such information as provided in §6-223, by the end of the first week following each month, shall have its right to harvest bait and tuna from Pohnpei State

cancelled, and shall be subject to a fine of not less than \$500, or a prison sentence of not less than six months nor more than one year, or both such fine and imprisonment.

Source: D.L. No. 3L-33-72 §3, 6/15/72; S.L. No. 5L-14-00 §3-14, 10/1/00

CHAPTER 7 [RESERVED]

CHAPTER 8 LAND RESOURCES

Section

Part A Birds

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PART A BIRDS

§8-101. Unlawful to hunt or kill Pohnpei lorikeet; penalties. —

(1) It shall be unlawful for any person to hunt or kill Pohnpei lorikeet within the state of Pohnpei.

(2) Every person who violates Subsection (1) of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500, or imprisoned for not more than one year, or both such fine and imprisonment.

Source: S.L. No. 2L-90-81 §§2 & 3, 11/9/81

Note: The Pohnpei lorikeet is further identified in 1 PC 6-107 (S.L. No. 2L-90-81, §1).

§§8-102 – 8-110. [RESERVED]

§8-111. Killing of owls; penalties. — The killing of owls by any method is prohibited. Any person violating this section shall, upon conviction thereof, be punished by imprisonment for a period not to exceed 30 days, or by a fine not to exceed \$25, or both such fine and imprisonment.

Source: PDC §11-201, 3/71

§§8-112 – 8-120. [RESERVED]

§8-121. Pigeon hunting; penalties. — Pigeon hunting in Pohnpei State shall be lawful only during the month of December of each year. Any person violating this section shall, upon conviction thereof, be punished by imprisonment for a period not to exceed 30 days, or a fine not to exceed \$25, or both such fine and imprisonment.

Source: PDC §11-200, 3/71

§§8-122 – 8-130. [RESERVED]

PART B [RESERVED]

CHAPTER 9 [RESERVED]

CONSERVATION & RESOURCES

CHAPTER 10 CONSERVATION AND RESOURCES FINANCES

Section

10-101 Agriculture and marine resources development matching funds: authorization for appropriation; administration

§10-101. Agriculture and marine resources development matching funds: authorization for appropriation; administration. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei or such fund of the Treasury into which Compact of Free Association capital account monies are deposited a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of matching Congress of the Federated States of Micronesia grants for agricultural and marine resource development in Pohnpei.

(2) The sums herein authorized for appropriation shall be administered and expended by the Director of the Department of Land and Natural Resources, upon the approval of the Governor, solely for the purpose stated in Subsection (1) of this section. The Director of the Department of Land and Natural Resources shall report to the Legislature on or before October 15 each fiscal year on all matters concerning the expenditure of the sums appropriated under the authorization of this section. The sums herein authorized for appropriation shall remain available until fully expended.

Source: S.L. No. 1L-107-86 §§1 & 2, 10/15/86; S.L. No. 1L-143-87 §§1 & 2, 7/14/87; S.L. No. 1L-194-87 §1, 10/29/87

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